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[Français](#)[Explanatory Note](#)

## CHAPTER 5

**An Act to amend the Education Act with respect to bullying and other matters***Assented to June 19, 2012*

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](http://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, gender identity, gender expression, 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;

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, transgender, transsexual, two-spirited, intersex, 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, transphobia or biphobia;

Acknowledge that an open and ongoing dialogue among the principal, school staff, parents and students is an important component in creating a positive school climate in which everyone feels safe and respected;

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 aggressive and typically repeated behaviour by a pupil where,

- (a) the behaviour is intended by the pupil to have the effect of, or the pupil ought to know that the behaviour would be likely to have the effect of,
  - (i) causing harm, fear or distress to another individual, including physical, psychological, social or academic harm, harm to the individual’s reputation or harm to the individual’s property, or
  - (ii) creating a negative environment at a school for another individual, 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, gender identity, gender expression, race, disability or the receipt of special education; (“intimidation”)

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

**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.

**Cyber-bullying**

(1.0.0.2) For the purposes of the definition of “bullying” in subsection (1), bullying includes bullying by electronic means (commonly known as cyber-bullying), including,

- (a) creating a web page or a blog in which the creator assumes the identity of another person;
- (b) impersonating another person as the author of content or messages posted on the internet; and
- (c) communicating material electronically to more than one individual or posting material on a website that may be accessed by one or more individuals.

**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)**

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, gender identity, gender expression, 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 and staff, and parents and guardians of 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 under subsection (2.1), a board shall not collect any name or any identifying number, symbol or other particular assigned to a person.

**4. Subsection 170 (1) of the Act is amended by adding the following paragraph:****professional development programs, bullying and school climate**

7.1 establish and provide annual professional development programs to educate teachers and other staff of the board about bullying prevention and strategies for promoting positive school climates;

**5. Subsection 170 (1) of the Act is amended by adding the following paragraph:****programs, interventions and other supports, bullying**

7.2 provide programs, interventions or other supports for pupils who have been bullied, pupils who have witnessed incidents of bullying and pupils who have engaged in bullying, and the programs, interventions and other supports may be provided by social workers, psychologists or other professionals who have training in similar fields, as determined by the board;

**6. 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, transphobia or biphobia.
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.

**7. The Act is amended by adding the following section:**

**Bullying Awareness and Prevention Week**

**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.

**8. (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 subsections:**

**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.

**Principal’s duty to investigate**

(3) A principal shall investigate any matter reported under subsection (1).

**Informing reporter**

(4) After investigating a matter reported under subsection (1), the principal shall communicate the results of the investigation to,

- (a) if the matter was reported by a teacher, that teacher; or
- (b) if the matter was reported by an employee who is not a teacher, that employee unless, in the principal’s opinion, it would not be appropriate to do so.

**Same**

(5) The principal shall not disclose more personal information under subsection (4) than is reasonably necessary for the purpose of communicating the results of the investigation.

**9. (1) Subsection 300.3 (1) of the Act is repealed and the following substituted:**

**Notice to parent or guardian**

(1) Subject to subsections (2) and (3), if the principal of a school believes that a pupil of the school has been harmed as a result of an activity described in subsection 306 (1) or 310 (1), the principal shall, as soon as reasonably possible, notify,

- (a) the parent or guardian of the pupil who the principal believes has been harmed; and
- (b) the parent or guardian of any pupil of the school who the principal believes has engaged in the activity that resulted in the harm.

**(2) Subsection 300.3 (4) of the Act is repealed and the following substituted:**

**Same**

(4) When notifying a parent or guardian of a pupil under clause (1) (a), the principal shall disclose,

- (a) the nature of the activity that resulted in harm to the pupil;
- (b) the nature of the harm to the pupil;
- (c) the steps taken to protect the pupil's safety, including the nature of any disciplinary measures taken in response to the activity; and
- (d) the supports that will be provided for the pupil in response to the harm that resulted from the activity.

**(3) Subsection 300.3 (5) of the Act is amended by striking out "under this section" and substituting "of a pupil under clause (1) (a)".**

**(4) Section 300.3 of the Act is amended by adding the following subsections:**

**Same**

(6) When notifying a parent or guardian of a pupil under clause (1) (b), the principal shall disclose,

- (a) the nature of the activity that resulted in harm to the other pupil;
- (b) the nature of the harm to the other pupil;
- (c) the nature of any disciplinary measures taken in response to the activity; and
- (d) the supports that will be provided for the pupil in response to his or her engagement in the activity.

**Same**

(7) When notifying a parent or guardian of a pupil under clause (1) (b), the principal shall not disclose the name of or any other identifying or personal information about a pupil who has been harmed as a result of the activity, except in so far as is necessary to comply with subsection (6).

**Parent's right to provide comments**

(8) When notifying a parent or guardian under this section, the principal shall invite the parent or guardian to have a discussion with the principal about the supports that will be provided for his or her child.

**10. (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 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 shall establish policies and guidelines with respect to disciplining pupils, which must include 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, transphobia or biphobia,

(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 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 shall establish policies and guidelines with respect to bullying prevention and intervention in schools, which must include policies and guidelines respecting,

(a) training for all teachers and other staff;

(b) resources to support pupils who have been bullied;

- (c) strategies to support pupils who witness incidents of bullying;
- (d) resources to support pupils who have engaged in bullying;
- (e) procedures that allow pupils to report incidents of bullying safely and in a way that minimizes the possibility of reprisal;
- (f) procedures that allow parents and guardians and other persons to report incidents of bullying;
- (g) the use of disciplinary measures within the framework described in clause (6) (a) in response to bullying;
- (h) procedures for responding appropriately and in a timely manner to bullying;
- (i) matters to be addressed in bullying prevention and intervention plans established by boards under section 303.3.

**Same, collection of information**

(7.2) The Minister may establish policies and guidelines requiring boards to collect specified information relating to behaviour, discipline and safety in schools.

**Same, s. 314.5 reports**

(7.3) The Minister may establish policies and guidelines with respect to the reports required under subsection 314.5 (1), including policies and guidelines respecting the form and content of the reports and the times at which they must be submitted.

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**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.

**11. (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,

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

specify.

**12. The Act is amended by adding the following section:**

**Board support for certain pupil activities and organizations**

**303.1** (1) Every board shall support pupils who want to establish and lead activities and organizations that promote a safe and inclusive learning environment, the acceptance of and respect for others and the creation of a positive school climate, including,

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

**Same, gay-straight alliance**

(2) For greater certainty, neither the board nor the principal shall refuse to allow a pupil to use the name gay-straight alliance or a similar name for an organization described in clause (1) (d).

**Same, interpretation**

(3) Nothing in this section shall be interpreted to require a board to support the establishment of an activity or organization in a school unless there is at least one pupil who wants to establish and lead it.

**Inclusive and accepting name**

(4) The name of an activity or organization described in subsection (1) must be consistent with the promotion of a positive school climate that is inclusive and accepting of all pupils.

**Same**

(5) A board shall comply with this section in a way that does not adversely affect any right of a pupil guaranteed by the *Canadian Charter of Rights and Freedoms*.

**13. The Act is amended by adding the following sections:**

**Model provincial bullying prevention and intervention plan**

**303.2** (1) The Minister shall develop a model bullying prevention and intervention plan to assist boards in establishing bullying prevention and intervention plans under section 303.3.

**Communication to boards**

(2) The Minister shall make the model bullying prevention and intervention plan available to every board.

**Board's bullying prevention and intervention plan**

**303.3** (1) Every board shall establish a bullying prevention and intervention plan for the schools of the board and require its schools to implement the plan.

**Contents of plan**

(2) The bullying prevention and intervention plan shall address any matter specified in the policies or guidelines made under clause 301 (7.1) (i).



**Consultation**

(3) When establishing the bullying prevention and intervention plan, a board shall solicit the views of the pupils, teachers and staff of the board, the volunteers working in the schools, the parents and guardians of the pupils, school councils and the public.

**Communication of plans, board**

(4) A board shall make its bullying prevention and intervention plan available to the public by posting it on the board's website or, if the board does not have a website, in another manner that the board considers appropriate.

**Same, principal**

(5) A principal of a school shall make the board's bullying prevention and intervention plan available to the public by posting it on the school's website or, if the school does not have a website, in another manner that the principal considers appropriate.

**Review of plan**

(6) A board shall periodically review its bullying prevention and intervention plan and shall solicit the views of those listed in subsection (3).

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

7.1 Bullying, if,

- i. the 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, gender identity, gender expression, or any other similar factor.

**15. The Act is amended by adding the following section:****Reporting re suspensions and expulsions****Board's duty to report**

**314.5** (1) Every board shall submit annual reports to the Minister, in accordance with the policies or guidelines under subsection 301 (7.3), respecting suspensions and expulsions.

**Minister's duty to post information**

(2) After receiving the reports required by subsection (1), the Minister shall post on the ministry's website information about the number of reported suspensions and expulsions.

**Commencement**

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

**Same**

**(2) Section 7 comes into force on the day this Act receives Royal Assent.**

**Short title**

**17. The short title of this Act is the *Accepting Schools Act, 2012*.**

[Français](#)

[Explanatory Note](#)

[Back to top](#)