

***FOSTERING A POSITIVE LEARNING AND WORKING
ENVIRONMENT IN OUR SCHOOLS***

***Discussion Paper:
How the public school system addresses bullying***

INTRODUCTION

This discussion paper provides an overview of the role of legislation and policy in dealing with bullying in New Brunswick in relation to other jurisdictions. It also highlights promising school district and school-based initiatives across the Province aimed at preventing and addressing bullying.

Bullying is not a new problem in our schools. Bullying, no matter the form it takes, is an extremely corrosive and insidious threat faced by many students in schools across Canada. It not only impacts the students directly involved but it also poisons the environment of the school and negatively impacts on the school population as a whole.

Bullying is an issue that is not easily resolved; otherwise, it would have been resolved long ago. It is a complex behaviour with a variety of possible causes and consequences. Further, bullying reaches far beyond the school. It is a phenomenon that has been amplified through social media and various technologies that facilitate and extend bullying outside of school. It is an issue that is evident across many layers of society. In this context, a response to bullying needs to be consistent, comprehensive and adaptive to the unique circumstances of each incident.

It is the Department's belief that the [Education Act](#) and relevant policies and practices provide the foundation necessary to address bullying effectively. Schools and districts across the Province have put in place a number of excellent and promising initiatives, some of which are highlighted in this document. And while we have made great strides in addressing bullying, there is room for improvement. With the involvement of concerned individuals such as you, we can strengthen this approach with the best interests of all students at heart.

ENGAGING IN THE SUMMIT

This document will serve as a starting point for the *Summit on Bullying – Fostering a Positive Learning and Working Environment in Our Schools* on June 17th 2010. It is meant to clarify what is being done so that we can move forward together with a common understanding of the current context. We invite you to read it and bring suggestions on how we can work collaboratively to support and foster a positive school environment.

Participation at this event will be by invitation only. There will be a strong student voice at the Summit and a cross representation of stakeholders from around the province such as parents, school personnel, community organizations, government partners and interested citizens. The diverse range of experiences and perspectives will serve to inform and widen our approach to the complex issue of bullying.

ENGAGING THE PUBLIC IN THE SUMMIT

The Department of Education would like to obtain the views of all interested groups and individuals and not just those invited to attend the Summit. If you are not attending the session on June 17th, we encourage you to submit your comments to Summit-Sommet@gnb.ca or by mail at:

Attention: Anti-Bullying Summit
Department of Education
PO Box 6000
Place 2000
250 King Street
Fredericton, NB, E3B 5H1

Feedback will help inform our schools and the system as a whole as to how to better address bullying.

PRINCIPLES

The Department of Education believes that a positive learning and working environment is central to a student's well-being and educational success. Our strategy to foster this environment is guided by the following principles:

- Every child has the right to be safe.
- A positive school environment is one where students have a sense of belonging, security and well-being.
- Bullying has serious implications far beyond the doors of our schools.
- Bullying requires a community-wide response that engages all members of the community including youth, families, service providers and schools.
- Anti-bullying efforts need to extend beyond the bully and the victim to include: peers, schools, parents, communities, and society.

BACKGROUND

In December 2009, the Department released the updated [Policy 703 - Positive Learning and Working Environment](#) after a year-long consultation process with Department learning specialists, school district and school personnel, District Education Council (DEC) chairs, the New Brunswick Teachers' Association, l'Association des enseignantes et des enseignants francophones du Nouveau-Brunswick, the New Brunswick Teachers' Federation (anglophone and francophone) as well as unions representing teacher's assistants, bus drivers and custodians. In addition, the New Brunswick Association for Community Living was consulted.

Students were also engaged in the development of the [Provincial Student Code of Conduct guidelines](#).

In April 2010, [Bill 52](#) was introduced in the Legislature to propose that specific definitions of bullying and harassment be codified in the [Education Act](#). The intent was to provide a common provincial definition of these terms as they apply to the school system. In addition, the Bill proposed that bullying and harassment, based on these definitions, are cause for a student's suspension and that when a student is suspended for these causes, they must participate in educational programs that highlight the negative consequences associated with bullying and harassment.

In response to the issues raised by [Bill 52](#), the Department of Education committed to an open public discussion on the current context of bullying in public schools.

How do the New Brunswick [Education Act](#) and [Policy 703](#) enable anti-bullying measures?

In New Brunswick, legislation and policy work in tandem to provide the tools necessary to address bullying. School personnel are responsible for addressing bullying in a comprehensive manner based on the requirements of the [Education Act](#) and the standards established in policy. Legislation, policy, programs and services work together to:

- Define the roles and responsibilities of key players in the school system
- Educate students and the school community about bullying
- Protect and support students targeted by inappropriate behaviour
- Work with those who perpetrate acts of bullying to make them accountable for their behaviour
- Address underlying reasons as to why they resort to such behaviours.

While school personnel do what they can in the school environment, our response must go beyond the school. Responding to bullying and inappropriate behaviour is a shared responsibility between the school system, parents and our community partners.

Education Act

All provinces and territories have legislation that provides the broad authority for their respective education systems. In New Brunswick, the [Education Act](#) provides the overall framework for the authority and responsibility of individuals in the public school system. Specifically, the Act gives the authority to the superintendent, the principal and the

teacher to maintain a safe and orderly environment. Bullying falls under this authority.

Principals, as the educational leaders of their school, have the overall responsibility to ensure steps are taken to create and maintain a safe, positive and effective learning environment. Finally, teachers are responsible under the Act to model good behaviour and to attend to the health and well-being of each student.

As such, administrators have the authority to act in cases of bullying and harassment. The relevant sections in the Act are written in such a way as to provide principals and teachers with the flexibility and discretion necessary to apply the interventions and consequences they feel are appropriate based on the specifics of the individual situation. The standards and requirements that provide additional direction to schools are found in policy.

Suspension is also addressed in the [Education Act](#). It provides the authority to school administrators to use this tool when necessary. There is no list of offending behaviours listed in the Act. Instead, suspension is addressed generally in the Act in order to respect the school administrator's professional discretion to employ this measure as appropriate. In addressing bullying, suspension is but one of a wide range of interventions employed at the school level to address inappropriate behaviour. This includes, for example, behaviour contracts, restorative justice, restriction of privileges and reflection work.

The [Education Act](#) also defines the roles of parents, students, teachers and principals in relation to interacting in a positive manner. This means that fostering a positive environment is not just the responsibility of school administrators and students. It is a shared responsibility between the school, students, parents and the local community. These relationships are essential to addressing bullying and harassment in our schools. It is not the sole responsibility of any one group to ensure that bullying never occurs again.

It is our collective response, as citizens and community members, that sends the message, reinforced through legislation, policy and practice, that bullying is never acceptable, no matter its form and no matter the individuals involved.

Finally, the [Education Act](#) also gives District Education Councils (DECs) the legislated responsibility to oversee policy development at the district level. As such, DECs may implement policies that are consistent with, or even stricter than, the provincial framework, in response to local conditions and communities. DEC policies are equally binding to school personnel in the particular school district. Similarly schools have the authority to oversee policy development at the school level.

Policy 703 - Positive Learning and Working Environment

As mentioned above, New Brunswick uses a provincial policy framework to further define the responsibilities established in legislation. These policies establish the provincial standards and requirements for the public education system. School personnel must follow the policies; they are not optional.

Based on the legislated authority defined in the [Education Act](#) that superintendents, principals, teachers and students must create and maintain a positive learning environment, provincial [Policy 703 Positive Learning and Working Environment](#) defines the requirements and standards that foster and facilitate a positive learning and working environment, including ways to address bullying and other inappropriate behaviours in New Brunswick schools. The [Education Act](#) legally binds the Department, DEC's, school districts and schools to implement provincial policies.

Policy 703 has been in place since 1999 and has been revised twice since that time. This policy defines serious misconduct and behaviours not tolerated in school while also highlighting positive behaviours we want to see in schools. It is guided by principles of good citizenship, respect and civility.

In 2009, the policy underwent extensive revisions in response to concerns over bullying, cyberbullying and harassment as well as concerns for the safety of teachers and their right to a positive working environment. These concerns were reflected in a commitment made in [When kids come first](#) to revise Policy 703 to place an emphasis on:

- Parental involvement
- Dispute resolution
- Student safety
- The prevention of bullying, cyberbullying and harassment in school and on buses
- Inclusive education
- A [Provincial Student Code of Conduct](#).

How was the policy strengthened?

- If an administrator has determined that bullying has occurred, it is now considered to be serious misconduct that will result in a suspension. The discretion is left to the school administrator to determine when bullying has occurred and to apply the appropriate interventions. The previous policy placed bullying in the category of "behaviours not tolerated" in schools. This policy change sends a clear message that bullying is not acceptable.

- Cyberbullying has been added to Policy 703 in recognition of this form of bullying.
- Any discipline or intervention is to be corrective and aimed at helping the student learn appropriate, productive behaviours in support of a positive school environment. This addresses the concern that, in some cases, discipline is simply punitive rather than educational.
- Emphasis is placed on both the victims and the bullies, recognizing the needs of both parties when a negative situation arises.
- The [Provincial Student Code of Conduct Guidelines](#) stress the importance of encouraging positive behaviours, addressing and managing inappropriate behaviours as well as the development of a re-entry plan into the classroom for students who have been removed as a disciplinary measure.

During the consultation process, stakeholders expressed that they needed a certain amount of flexibility in order to properly address the serious conduct issues present in our schools.

More than simply addressing inappropriate behaviours, Policy 703's overall aim is to foster and encourage a positive school environment. This means focussing on those positive behaviours that encourage kids to care for themselves and one another, engage them in their school community and be respectful and responsible. This is done through the development of a School Positive Learning and Working Environment Plan and each school is required to have one in place. These plans focus on the positive as well as plan for the negative behaviours that sometimes occur. They include information such as:

- The expectations, roles and responsibilities of staff, students, parents and volunteers
- A School Code of Conduct based on the elements of the [Provincial Student Code of Conduct](#)
- An overview of the interventions, supports and consequences used when inappropriate behaviour occurs
- Direction for managing certain behaviours and strategies aimed at conflict resolution.

The policy also provides direction regarding the prevention of and intervention into student misconduct as well as misconduct by parents or visitors on school grounds.

The most recent revisions to the policy were released December 17th 2009. The policy, in its current form, has only been in place six months. Generally, a new or revised policy should be in place for at least a full school year before its impact can be felt.

What is happening in our schools to address bullying?

A wide range of measures aimed at addressing bullying have been implemented in New Brunswick schools. Research indicates that a multi-faceted approach involving a continuum of interventions, combined with educating students, parents, the local community and school personnel about bullying, are essential to minimizing its occurrence. In addition, school administrators must have the authority and the flexibility to respond to bullying in order to determine the most appropriate outcome based on the individual situation.

Bullying affects the whole community and needs a community-based response. While the education system should play a leadership role, it is necessary for parents, community partners, non-governmental organizations, municipalities, and other government departments to be part of the solution.

Prevention education starts in the early grades in school. Compulsory curriculum such as [You and Your World](#) and [Personal Development and Career Planning](#) reflect the importance of self-esteem, respect and positive behaviours. Students learn how to recognize bullying and other negative behaviours and learn how to manage these situations. Schools have Student Codes of Conduct that encourage a consistent message about acceptable behaviours. In addition, a wide variety of programs are available through our schools.

For example:

- The [Canadian Red Cross](#) offers peer facilitator training through their "[Beyond the Hurt](#)" program that sees students learning about bullying and then educating each other on how to address the issue in their school.
- Restorative justice efforts are employed in many schools to prevent and address bullying.
- The [LINK program](#) provides a listing of services available to students in their community. Many address bullying and provide support to students in distress.
- Youth Crime Watch relies on the principles of good citizenship and emphasizes that young people need to take an active role in addressing the problems around them, such as bullying and violence.
- Making Waves is a violence prevention program.
- Training is available for teachers on bullying and violence. The Choice Theory is a program that helps teachers help victims and bullies as well as other students experiencing difficult situations.
- Many schools develop "in-house" programs to prevent and address bullying. These programs use mentors or facilitators to manage problematic behaviours that occur.

Related legislation

It is also important to note that other legislation comes into play when the issue of bullying and harassment is being dealt with in a school, such as:

- The [Criminal Code of Canada](#) (federal) – is a codification of the criminal offences and procedures in Canada. Many of the behaviours we associate with bullying could be considered criminal offences under the Code.
- The [Trespass Act \(New Brunswick\)](#) – describes how individuals can be legally prohibited from frequenting specific properties. Schools may use this tool in dealing with unwanted visitors to school property.
- The [Youth Criminal Justice Act](#) (federal) – is the statute that covers the prosecution of youths for criminal offenses. The spirit of the *Act* intends for a number of solutions besides criminalizing the behaviour be applied in order to avoid incarcerating young people.

Other provinces and territories

The majority of provinces deal with bullying in much the same way as New Brunswick. Manitoba and Ontario are the only two provinces where bullying is specifically addressed in legislation. Other provinces and territories, such as British Columbia, Alberta, Saskatchewan, Québec, Nova Scotia, New Brunswick and Newfoundland and Labrador, use provincial legislation to establish the authority of school personnel and to address student conduct, school rules, the process surrounding a suspension (while not providing a list of behaviours that warrant a suspension – with the exception of the Northwest Territories) and the roles and responsibilities of teachers, principals and other school administrators.

Policy versus legislation

Legislation – be it an Act or a regulation – is essentially a long-term legally binding policy that governs a particular topic (e.g. health, public safety, environment, education). It establishes the legal and regulatory framework to implement policy decisions and directions. Each section of an Act is carefully crafted to provide a precise authority or direction. At the same time the wording must be flexible enough to not unintentionally tie the hands of those who are named to carry out the direction laid out in an Act.

An Act enshrines the values and principles that tend to remain stable over time. Our emphasis on inclusion is one example. Policy establishes the framework within which programs and services operate. It gives a

department the flexibility to respond to emerging trends, issues and questions quickly and thoroughly.

An Act also includes things that should be protected against arbitrary changes, such as the governance structure and the appeals process. When a government would like to bring changes to an Act, the process is such that it must be opened up for debate and reviewed by all members of the Legislative Assembly. This is a necessary and desirable safety mechanism, but one that is also unable to respond to new and emerging issues that require a swift and evolving response. It is generally accepted that new, or modifications to, legislation should only be proposed when it is absolutely required to establish, in law, the authority or the requirement for specified action(s) and there is no other viable option to accommodate the proposal.

A 2000 study from Harvard University¹ warns against defining bullying and its consequences in legislation because it found where this was the case, school administrators no longer used literal interpretations of the legislation and were no longer willing to use the discretionary clause. Instead they invented highly creative interpretations of the legislation and used them to arbitrarily suspend children for incidents that could have been very easily handled using alternative methods. This finding was experienced in Ontario after it legislated bullying in its Act.

The New Brunswick public school system has a framework in place to address bullying. It provides the necessary authorities to the appropriate people so that they may act. Further, programs and services are in place and are continually reviewed to ensure their relevancy. Policy 703, in conjunction with these programs, addresses the issue of bullying in a comprehensive manner:

- Establishes the expected behaviours and responsibilities of persons in the school system
- Defines behaviours that are inappropriate in the school system
- Suspension is the consequence for bullying but it is in conjunction with other interventions aimed at addressing bullying
- Additional interventions and measures are in place aimed at educating both the victim and the perpetrator of the consequences of their actions as well as how these actions can be replaced with positive behaviours.

¹ Opportunities Suspended: the Devastating Consequences of Zero Tolerance and School Discipline Policies. Report from a National Summit on Zero Tolerance [Proceedings], Harvard Civil rights Project, Cambridge, MA (2000).

CONCLUSION

This paper is the starting point for the Summit's discussion on bullying. It serves to focus our dialogue on bullying as well as on the interactions with local schools and their communities providing support to our students.

Specifically, the Summit will bring individuals together to tackle important questions. Participants should come to the summit prepared to discuss the following questions:

1. What are the challenges facing students, teachers, parents, local law enforcement and the local community in addressing bullying?
2. Should the Department of Education define bullying or provide guidelines on what is considered bullying?
3. How will we know that efforts to address bullying are effective?
4. How can students, schools, parents, community organizations and local law enforcement work together to make schools safer?
5. How can students, parents, community organizations and local law enforcement help schools address bullying that happens outside the school and school hours, in the community but impacts on the school environment?
6. How can the Department of Education, school districts, and schools work collaboratively to better communicate with students, teachers, parents, other school personnel, and the local community about what is being done in our schools and what are our shared roles and responsibilities in addressing and preventing bullying in our schools?

The goal of the Summit is to have an open and informed discussion on bullying and how it is addressed in our school system. By engaging you in this dialogue, we hope to inform you of our current practice and to learn from you any potential suggestions on how we can enhance our policies and practices.

APPENDICES

- a. Excerpts from the *Education Act*
- b. [Policy 703 – Positive Learning and Working Environment](#)