
Recommendations regarding Bill 13 – An Act to amend the Education Act with respect to bullying and other matters

and Bill 14 – An Act to designate Bullying Awareness and Prevention Week in Schools and to provide for bullying prevention curricula, policies and administrative accountability in schools

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Summary

The following is a brief outline of Egale's response to the current text of Bills 13 and 14. While Egale agrees with the spirit and intent behind much of the text of Bill 13, we feel that the bill contains multiple instances of ambiguous and incorrect language which may diminish its impact and lead to extensive difficulties in implementation.

Egale finds Bill 14 seriously weakened by its generic treatment of bullying conditions and its failure to address some of the key social causes, conditions and implications of bullying (e.g. homophobia, transphobia, and biphobia). Prof. Elizabeth Saewyc's (UBC) work in BC shows that rates of suicide have been steadily declining in BC for the general population of grade 8 to 12 students over the last ten years period where schools have developed generic anti-bullying programs – but not for LGBTQ students. Generic policies do not work for LGBTQ youth. For a detailed response to Bill 14, specifically addressing the dangers of adopting certain sections, Egale refers the Committee to the presentation and report submitted by the Ontario GSA Coalition, of which Egale is a member.

Issues of Concern within Bill 13

1) Inclusion and Reference to Trans Communities

a) While it is clear from the preamble to Bill 13 that the amendments therein are intended to directly address bullying and exclusion of trans individuals in schools, references to gender identity and gender expression are not used consistently throughout the bill.

This issue is exacerbated by the inconsistent usage of the terms sex and gender.

Egale recommends the inclusion of the terms “gender identity” and “gender expression” within the following sections:

SECTION / AMENDMENT	SUGGESTED TEXT
Preamble	“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, gender identity or gender expression;”
1. (1) Subsection 1 (1)(b) of the Education Act	“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, gender identity or gender expression; (“intimidation”)”
3. (1) Subsection 169.1 (1)(a.1)of the Act	“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, gender identity or gender expression;”

Note: For French text we encourage the use of the terms “l’orientation sexuelle ou l’identité de genre” instead of “identités sexuelles” as used in amendment 9 to section 303.1, subsection d.

b) When referring to members of the trans community, it is important to utilize the correct and inclusive language. The preamble to Bill 13 includes outdated and incorrect language.

Egale recommends removing the terms “transgendered” and “intersexed” and replacing these with “transgender” and “intersex” as follows:

USAGE IN BILL 13

“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 LBGTIQ (lesbian, gay, bisexual, transgendered, transsexual, two-spirited, intersexed, queer and questioning) people;”

CORRECT USAGE

“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 LBGTIQ (lesbian, gay, bisexual, transgender, transsexual, two-spirited, intersex, queer and questioning) people;”

Extensive definitions and information on correct language are available from the organization Trans Pride Canada, and can be found on their website at
<http://transpride.ca/assets/trans-style-guide.pdf>

2) Addressing Transphobia and Biphobia

a) Trans individuals are often the subject of harassment, assaults, and discrimination specifically focussed on their real (or perceived) identity as a trans person. The motivation for this behaviour is now referred to as transphobia, defined as:

“Unreasoning hatred and suspicion or fear of anyone whose gender identity and gender expression does not conform to society’s expectations for one of her/his/zirs biological sex”

The phrase “gender-based violence” is ambiguous and is not commonly understood to include violence perpetrated against trans people on the basis of their gender identity or expression. As such, Egale recommends the explicit inclusion of the term “transphobia” in addition to “gender based violence” and “homophobia.”

b) Bisexual individuals can also face harassment, assault, and discrimination due to various stereotypes and generalizations often specifically targeting their identities. The term used to refer to those attitudes is biphobia, defined as:

“Fear or intolerance toward bisexuality, either from straight people or institutions or from within the gay and lesbian community.”

While references to homophobia can encompass some elements of discrimination against bisexuals and their communities, we recommend the explicit inclusion of the term “biphobia” alongside both “homophobia” and “transphobia” so as to be fully inclusive.

Egale recommends the inclusion of the terms “transphobia” and “biphobia” within the following sections:

SECTION / AMENDMENT	SUGGESTED TEXT
Preamble	“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 and biphobia;”
4. Amendment to Subsection 300.0.1 (2)	“To encourage a positive school climate and prevent inappropriate behaviour, including bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia and biphobia.”
7. (3) Amendment to Subsection 301 (6)(a)(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 and biphobia.”

3) Cyber-bullying

Bill 14, includes further information and more explicit language regarding cyber-bullying, which we recommend including in Bill 13.

“Cyber-bullying

(1.2) Without limiting the generality of the definition of “bullying” in subsection (1), bullying includes bullying, known as cyber-bullying, that is done through any form of electronic means using any technique, 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 posted content or messages; and
- (c) communicating material to more than one person or posting material on an electronic medium that may be accessed by one or more persons.”

The Senate Committee on Human Rights is currently holding public hearings on cyberbullying.

4) Supporting Educators

While Bill 13 does, in several instances, refer to support networks and tools for educators to use to address inequality and exclusion, there is limited detail regarding their exact nature. There are several areas in Bill 13 where this lack of detail is problematic and can be improved so as to empower all members of school communities (especially LGBTQ and allied individuals) to feel included and equal within Ontario's education system.

a) References to School Climate Surveys

The amendments to section 169.1 of the Education Act do not clarify the meaning of “school climate” nor do they require school climate surveys to explicitly include the prohibited grounds for discrimination mentioned within the bill (including gender identity, gender expression, and sexual orientation). This lack of clarity leaves boards without the guidance required to develop

effective survey tools that would allow them to engage their school community and fulfill their duties as specified in both the Education Act and the amendments proposed by Bill 13.

b) References to specific Training for Educators

Bill 13 lacks reference to training and development for educators. Egale recommends explicitly including:

- i) Mandatory equity, inclusivity, and safer schools training with explicit LGBTQ content for all pre-service educators, as delivered through Faculties of Education;
- ii) Mandatory Additional Qualifications (AQ) courses on equity, inclusivity, and safer schools training with explicit LGBTQ content for educators already in service; and
- iii) Mandatory focus of one of three yearly Professional Development days on equity, inclusivity, and safer schools with explicit LGBTQ content. This PD would provide educators with support for the proposed Anti-Bullying Week.

Egale recently trained every principal, vice principal, guidance counsellor and administrator in Newfoundland and Labrador. This fall all 5,000 teachers will also be trained. First in Canada.

5) Accountability Structures

Bill 13 does not include mechanisms by which boards, individual schools and educators can be held accountable if they fail to comply with legislated duties regarding equity, inclusivity, and safer schools. Some key areas in which accountability mechanism are required include:

- a) Boards' accountability to the Ministry;
- b) Boards' accountability to their educators and students;
- c) Boards' accountability to their individual school communities; and
- d) Schools' accountability to boards.

Accountability mechanisms do not have to be newly created, but can instead be incorporated into existing mechanisms. Students should be specifically asked in climate surveys about their board's performance regarding equity, inclusion, and safer schools policy, and its implementation. Boards should then publish the results of these surveys publically while setting goals and tracking progress through yearly reporting.

Bill 13 should mention the options available to students, educators, parents, and other members of the school community should they believe a board has failed to comply with any of the legislated duties laid out in the bill.

6) Board Support for Pupil Activities and Organizations

Egale applauds specific reference to the name “gay-straight alliance” within this amendment. Egale also acknowledges that not all groups will be called a GSA, as demonstrated in the addition of “or another name.” However, given the controversy regarding the naming of safer space clubs in general, we recommend the Amendment to Section 303.1 (d) of the Education Act read as follows:

“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 chosen by the pupils involved in the organization.”