



EFC

The Evangelical Fellowship
of Canada

**Ontario's Bill 13,
The Accepting Schools Act, and Anti-Bullying Initiatives:
What You Need To Know**

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Contents

Introduction	3
A. Bill 13, <i>Accepting Schools Act</i>	3
1. What is Bill 13, the Accepting Schools Act?	3
2. Does Bill 13 apply to publicly funded schools?	3
3. How does Bill 13 apply to private schools?.....	3
4. Is the implementation of Gay-Straight Alliances mandatory?.....	4
5. What are the legal challenges associated with Bill 13?	5
6. How does Bill 13 affect the ability of religious groups to rent public space in school for services?.....	5
B. Impact on Catholic Schools and Boards.....	5
1. How does Bill 13 violate the rights of Catholic schools and boards?	5
2. What is the Respecting Difference policy paper?	6
3. How does OCSTA recommend that Catholic schools establish student clubs to address LGBT bullying?	6
4. Does the Respecting Difference paper address parental authority?.....	7
5. How can Roman Catholics have their own school boards in Ontario?.....	7
6. What are separate school boards?	7
C. Bill 14, <i>Anti-Bullying Act</i>	8
1. What are the differences between Bill 13 and Bill 14?.....	8
D. Bullying Education and Prevention.....	8
1. Are there anti-bullying policies or laws already in place in Ontario?	8
2. Alternatively, how could the issue of bullying be addressed in schools?.....	9
3. Won't teaching children about sexuality and bullying from a faith-based perspective lead to discrimination?.....	9
E. Parental Rights in Education	10
1. What are parents' rights in the education context?.....	10
F. Position of the EFC	10
1. What is the EFC's position on Bill 13, Accepting Schools Act?.....	10
Schedule "A": Comparing Bill 13 to Bill 14.....	12
Schedule "B": The EFC's Open Letter to Members of the Ontario Legislature.....	15
Schedule "C": Media Release on Bill 13.....	18

Introduction

There has been significant confusion surrounding the introduction and debate of Bill 13, the *Accepting Schools Act* and Bill 14, the *Anti-Bullying Act*. While the bills share similar purposes, the impact and reach of the bills could not be more different.

Bill 13, if passed, will have a significant and negative impact on religious schools and boards and faith-informed families. The bill would set a new, lower standard in the province of Ontario, for respect of its citizens' constitutional rights to religious and associational freedoms and parental authority. It would also likely ensure years of costly, tax-payer funded litigation as parents and schools fight to regain lost ground and reclaim their rights.

In the name of diversity and respect for others, Bill 13 proposes that the Government of Ontario enforce select perspectives and belief systems, seeking to render the school system increasingly homogenous, rather than encouraging proper respect for each Ontarian child and their unique cultural and religiously informed perspective and up-bringing.

For this reason, The Evangelical Fellowship of Canada's (EFC) legal counsel, Faye Sonier and vice-president, general legal counsel Don Hutchinson, in consultation with external counsel, have prepared the following document which responds to the most frequently asked questions in regard to the two bills. The document also attempts to cut through the political rhetoric and set out in plain language the ramifications and implications of these anti-bullying and equity policies.

For more information, please contact the EFC's Centre for Faith and Public Life at ottawa@theefc.ca.

A. Bill 13, *Accepting Schools Act*

1. What is Bill 13, the *Accepting Schools Act*?

Bill 13 was introduced in the Ontario Legislature on November 30, 2011 by the Minister of Education Laurel Broten to address the issue of bullying in Ontario schools.¹ In her own words,

We have taught our children three fundamental "Rs" in school -- Reading, Writing and Arithmetic -- but now we need to also focus on the fourth "R" -- Relationships.²

2. Does Bill 13 apply to publicly funded schools?

Yes, Bill 13 definitely applies to publicly-funded public schools and denominational separate schools. In Ontario, all denominational schools are Catholic except for the Penetanguishene Protestant Separate School Board.³

3. How does Bill 13 apply to private schools?

Under the *Education Act*, private schools in Ontario are considered distinct from other schools. They are deemed to be businesses or non-profit organizations. For this reason, many of the amendments to the *Education Act* that Bill 13 proposes would not apply to private schools, as they are not considered

¹ Bill 13, *Accepting Schools Act*, 1st session, 40th Legislature, 2011, http://www.ontla.on.ca/bills/bills-files/40_Parliament/Session1/b013.pdf.

² Government of Ontario, "Giving Bullied Students Hope," news release, November 30, 2011, <http://news.ontario.ca/opo/en/2011/11/giving-bullied-students-hope.html>.

³ Protestant Separate School Board of the Town of Penetanguishene, <http://www.pssbp.com/> (accessed February 20, 2012).

schools within the definition found in the Bill. Further, the term “Board” within the *Education Act* also excludes private schools and boards. Private schools are considered a completely different entity.⁴

It is important to note that a central theme in Bill 13 is the use of the word “schools.”⁵ The strongest indication that private schools may be subject to some of the provisions is that certain amendments refer overtly to schools with boards. If the legislature intended to only include schools with boards when it used the word “schools”, it would have done so throughout the whole bill and would not have included some provisions dealing with boards and others simply with schools. It therefore might be presumed to have meant to include all schools when it used the word “schools.”

Based on reading the Act as a whole, because the legislature already defined private schools as distinct from other schools in the definition section of the Act, the legislature should be explicit when it is including private schools in certain provisions, as the presumption is that the word “schools” does not include private schools.

An additional area of interest is if and how an equity policy becomes part of the curriculum in Ontario. The 2010 *Inspection Requirements for Private Schools Granting Secondary School Credits* (“*Inspection Requirements*”) sets out that the Ministry of Education’s inspection of a private school is to ascertain whether the instruction in secondary school courses being delivered is in compliance with Ministry of Education Requirements. The delivery of the curriculum expectations must be congruent with certain documents including “applicable Policy/Program Memoranda” (PPM).⁶

This wording gives leeway to the Ministry of Education for incorporating policies into the curriculum which private schools must then, in turn, follow. Given our review of a number of Ministry documents, it appears as if the government of Ontario could decide to include equity policies into PPM required in the curriculum of private schools; however, it does not appear to have done so as of now.

In addition, Bill 13 requires compliance by organizations making use of publicly funded school facilities through rental or other agreements. Private schools that compete in athletics or other competitions that take place in publicly funded school facilities or otherwise access publicly funded school facilities for use of gymnasiums, chemistry labs, language labs or other classrooms would appear to be required to comply with Bill 13 in their operations (see 6 below).

4. Is the implementation of Gay-Straight Alliances mandatory?

Yes. Bill 13 states 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.”⁷ However, it then proceeds to identify four groups that will receive endorsed special status: clubs that promote gender equity; anti-racism; raise awareness for people with disabilities and gay-straight alliances.

While the Bill grants schools the discretion to adopt a name other than ‘gay-straight alliance’ for the clubs, equity groups defined to encompass a broad range of grounds cannot be formed.⁸ Groups that

⁴ *Education Act*, RSO 1990, c. E-2, s. 1(1), http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e02_e.htm#BK3.

⁵ *Ibid.*

⁶ *Inspection Requirements for Private Schools Granting Secondary School Credits*, Ministry of Education Field Services Branch Private Schools and Attendance Unit, September 2010, <http://www.professionaldevelopmentseminars.ca/inspection-requirements.pdf>, 2.

⁷ Preamble, Bill 13.

⁸ Teri Pecoskie, “Board says no to so called ‘gay straight alliances,’ *The Spec*, January 17, 2012, <http://www.thespec.com/news/local/article/655649--board-says-no-to-so-called-gay-straight-alliances>.

“promote the awareness and understanding of, and respect for, people of all sexual orientations and genders” must remain issue specific.⁹

Rather than permitting students to learn about their differences and recognize their commonalities in equity clubs, this Bill specifically sets out to isolate students into issue-specific groups. As such, students, teachers, principals, students and families do not have the ability to form groups based on their intimate knowledge of their communities’ demographics, history and challenges.

5. What are the legal challenges associated with Bill 13?

There are constitutional and human rights issues apparent on a surface reading of the bill.

It will likely violate the individual religious freedom of families and the institutional religious and associational freedoms of religious schools and boards. It will also likely violate the constitutionally-protected denominational rights of separate school boards (Catholic and Protestant).

It may even restrict the ability of religious groups to rent space on publicly funded schools on weekends for religious services or at other times.

Unless the bill is amended, there is a high likelihood that the province will have years of expensive, taxpayer funded litigation ahead of it as religious parents, schools and boards seek to have their constitutionally enshrined rights and freedoms recognized and respected by the government.

6. How does Bill 13 affect the ability of religious groups to rent public space in school for services?

Each weekend, countless Ontarians meet together for prayer, worship and community service in rented school facilities. These groups either do not have the funds necessary to purchase their own property or the property is not available under municipal zoning provisions. They are seeking space in which they can practice their *Charter*-protected right to religious worship and expression, and schools are convenient place to meet.

Two of the proposed amendments to *the Education Act* risk restricting a number of these religious groups from meeting in the facilities they currently use. One amendment makes an addition to the province’s *Code of Conduct* and another requires that third parties using school space must “follow standards that are consistent with the code of conduct.”¹⁰

These amendments to *Education Act* may appear benign, but within the scope of Bill 13, the aggressive way in which it is being imposed on all schools, without accommodation or exception, gives cause for great concern. There is concern that church, synagogue, mandir and sangat groups be expelled from school classrooms and auditoriums because of sacred text passages on a wide variety of issues, such as love, marriage, sin and sexuality and groups that cannot afford to purchase their own facilities will be pushed out of Ontario’s public spaces.

B. Impact on Catholic Schools and Boards

1. How does Bill 13 violate the rights of Catholic schools and boards?

Bill 13 could be objectively demonstrated to violate the rights of private religious and Catholic schools if it requires them to engage in activities that are inconsistent with their sincerely held religious beliefs.

The Roman Catholic Church has clear doctrines on issues of sexuality and private religious schools, similarly, have religiously-informed positions. Religious schools have constitutionally guaranteed

⁹ Bill 13, s. 9

¹⁰ Bill 13, ss. 7(1) and 7(2)

religious and associational freedoms which guarantee that they can address these issues in a way that is consistent with their beliefs. Separate schools, such as Roman Catholic and Protestant schools in Ontario have additional protection by means of their constitutionally granted denominational rights.

Bill 13 and its policies in regard to mandatory clubs should not be imposed on religious schools which deem the policies inconsistent with their religious beliefs. Schools, boards, and parent groups should be able to determine for themselves which groups and policies should be in place to meet the needs of their students and are in compliance with the existing laws.

2. What is the Respecting Difference policy paper?

On January 25, 2012, the Ontario Catholic School Trustees' Association (OCSTA) released *Respecting Difference*. The document affirms Catholic teaching, condemns bullying and opposes gay-straight alliances or single-issue clubs.¹¹ It states that the "Catholic education system rejects bullying in all its forms and stands firmly for the respect due to all persons."¹²

Respecting Differences sets out a comprehensive framework that is compliant with existing federal and provincial human rights laws that ensures care and support for bullying victims and proper discipline and care for the children exhibiting bullying behaviour.¹³

3. How does OCSTA recommend that Catholic schools establish student clubs to address LGBT bullying?

The OCSTA paper addresses all forms of bullying equally, whereas Bill 13 gives more attention and focus to some forms of bullying over others. The paper sets out clearly that the "Catholic religion respects all people." It states that "individuals who are dealing with same sex attraction or issues of gender identity are treated with sensitivity, respect and compassion." Further, guidelines and policies are intended to "promote respect for human rights, support diversity, combat discrimination and respect religious beliefs."¹⁴

The paper establishes that "while there will be groups established to address the case and safety needs of students dealing with issues related to gender identity or same-sex attraction, GSA clubs, per se, are not acceptable in Catholic schools for the following reasons: externally developed programs (such as GSAs) do not meet all the objectives and administrative procedural concerns for "Respecting Difference groups."¹⁵

As such, GSAs will not be formed in Catholic schools but rather broader "Respecting Difference" difference clubs can be struck where students can "address concerns regarding bullying."¹⁶

The paper sets out guidelines for "Respecting Difference" clubs: they must be open to all students who would like to participate, their activities must be consistent with Catholic doctrine, they are to be mentored by individuals committed to Catholic teachings and outside speakers must respect Catholic doctrine.¹⁷

¹¹ Ontario Catholic School Trustees' Association, "Respecting Difference," January 25, 2012, <http://www.catholicregister.org/images/stories/documents/RespectingDifferences.pdf>.

¹² Ibid., 3.

¹³ Ibid., 9.

¹⁴ Ibid., 1.

¹⁵ Ibid., 1 (footnote 2).

¹⁶ Ibid., 10.

¹⁷ Ibid.

Further, it makes clear that clubs are not a place for activism or protesting the beliefs of the school itself, but a safe place, under the supervision of a responsible adult, to share concerns about bullying. The paper notes private and delicate issues or struggles relating to gender identity or sexual attraction are best dealt with privately with counsellors and chaplaincy staff. “Peer counselling” is deemed inappropriate as it could put students at risk.¹⁸

The name of the clubs, “Respecting Difference” communicates that in a plural society we’re not all going to share the same beliefs and perspectives, but we can “respect, affirm and support the dignity of another person while disagreeing with their viewpoint.”¹⁹

The paper states that issues of sexual conduct are one of those areas where Canadians have not reached a consensus. For a variety of reasons, religious or otherwise, there are differences of opinions as to what is acceptable or moral or not. However, in a truly plural society, we can disagree upon such issues while respecting the dignity of the people with whom we disagree.²⁰

4. Does the Respecting Difference paper address parental authority?

The *Respecting Difference* paper identifies a Supreme Court of Canada decision that affirms that parents are the primary educators of their children and they delegate this authority to the educational institution(s) of their choice.²¹

It also highlights that the right to be taught from a specific religious perspective finds its foundation in *Charter* freedoms, such as the right to religious belief and conscience in s. 2(a), equality in s. 15 and multiculturalism and pluralism in s. 27.²²

5. How can Roman Catholics have their own school boards in Ontario?

Historically, as the early non-aboriginal Canadian population was divided primarily between French Catholics and English Protestants, the education system was also divided along these lines with each denomination providing schooling for their respective members. It was this arrangement, as part of the broader French-English and Catholic-Protestant compromise upheld in Confederation, which was enshrined in section 93 of the *Constitution Act, 1867* (formerly known as the *British North America Act*).²³

As immigration and other population trends, particularly outside of Québec, altered and diversified the landscape, legal challenges under the *Canadian Charter of Rights and Freedoms* and subsequent legislation resulted in the Protestant system becoming a “non-religious” public system. Catholic separate school boards remained in some provinces, such as Ontario. With limited exception (most notably in parts of Alberta, Ontario, British Columbia, Manitoba and Saskatchewan) public funding is not available for denominational education.

Today, education in Canada is regulated provincially, with the public school curriculum decided by each province’s Ministry of Education.

6. What are separate school boards?

A separate school is a school that has either constitutional status (in Ontario, Alberta or Saskatchewan) or statutory status (in the Northwest Territories, Yukon and Nunavut). The *Constitution Act of 1867*,

¹⁸ Ibid., 11.

¹⁹ Ibid., 5.

²⁰ Ibid.

²¹ Ibid., 3.

²² Ibid.

²³ *The Constitution Act, 1867*, s. 93, <http://canlii.org/en/ca/const/const1867.html>.

which guaranteed denominational rights to Catholic and Protestant schools, governs their mandates. As such, the right to separate religious school boards is limited to Protestants and Roman Catholics. If a Catholic population finds itself as the minority in a Protestant community, it has the right to establish a separate school system, and vice versa.

Separate schools are operated by separate school boards, which are civil rather than church authorities. Members of the separate school's faith community may elect trustees to the board. The mandate of separate schools is to provide an education for their students that is consistent with the tenets of their beliefs.

Separate schools are distinct from private schools and charter schools, given their unique constitutionally-protected status.

The rights of denominational schools were also preserved by section 29 of the *Canadian Charter of Rights and Freedoms* which states that rights guaranteed by the *Charter* could not, in any way, derogate from the constitutional rights and privileges of denominational or separate schools.²⁴

C. Bill 14, *Anti-Bullying Act*

1. What are the differences between Bill 13 and Bill 14?

The bills are two different attempts at addressing the same issue.

Bill 13, the *Accepting Schools Act*, a Government Bill, was introduced by the Minister of Education, Laurel Broten, on behalf of the Liberal Ontario government.²⁵ Bill 14, the *Anti-Bullying Act*, was introduced as a Private Member's Bill by Progressive Conservative MPP Elizabeth Witmer.²⁶ Both bills were introduced on the same day, November 30, 2011, as each party attempted to legislatively address the issue in their own way.

The bills were never intended to complement each other. They were presented as alternative proposals. There is significant overlap between the bills, as each: addresses the same root issue; advances its own definition of bullying and cyber-bullying; proposes amendments for bullying reporting mechanisms; and, proposes an annual bullying awareness week.

However, Bill 13 goes much further by proposing additional and controversial amendments to the *Education Act*, such as potentially restricting access of religious congregations that rent school facilities for church services, requiring boards to implement equity and inclusive education policies and mandatory gay-straight alliance clubs.

For a table which highlights the similarities and differences between the two bills, please see schedule "A" at the end of this document.

D. Bullying Education and Prevention

1. Are there anti-bullying policies or laws already in place in Ontario?

There are already a number of laws and policies in place to address the issue of bullying and aggression in school. Below, we've noted three.

²⁴ Canadian Charter of Rights and Freedoms, Part I of *The Constitution Act, 1982*, (assented to March 29, 1982), s. 29, http://laws.justice.gc.ca/eng/charter/page-2.html#l:s_25.

²⁵ Bill 13

²⁶ Bill 14: *Anti-Bullying Act*, 1st session, 40th Legislature, 2011, http://www.ontla.on.ca/bills/bills-files/40_Parliament/Session1/b014.pdf.

Bill 212, the *Progressive Discipline and School Safety Act*, received Royal Assent on June 4, 2007.²⁷ It amended the *Education Act* to include bullying as a ground for which student suspension must be considered. Mandatory suspensions and expulsion would only be required in certain circumstances, for example, if a student gave alcohol to a minor or committed sexual assault. When responding to negative behaviour, principals would be required to consider “mitigating or other factors” such as if a student can understand the consequences of the behaviour, as well as the age and history of the student.

Bill 157, the *Keeping our Kids Safe at School Act*, received Royal Assent on June 5, 2009.²⁸ It requires school staff to report incidents of bullying to the principal and intervene when a student is “behaving in a way that is likely to have a negative impact on the school climate.” Incidents of bullying must also be reported to the parents of the victim(s) as well as the parents of the bully, with some exceptions and with the principal’s discretion.

Policy/Program Memorandum No. 144 on Bullying Prevention and Intervention was issued on October 4, 2007 and requires Ontario school boards to “develop and implement policies on bullying prevention and intervention, and are required to have their policies in place by February 1, 2008.” Boards with existing policies were required to review them to ensure they were consistent with the memorandum. The policy also included a definition of “bullying”.²⁹

2. Alternatively, how could the issue of bullying be addressed in schools?

The remedy for bullying in schools is not gay-straight alliance clubs, but rather proper character formation. Educators can’t do it alone, and their role is necessarily limited, and secondary. Parents, churches and others need to be engaged. The foundation of our free and democratic society includes respect for all persons. This foundation needs also to be present in our education system.

It is not just respect for LGBT students that needs to be part of a character education in Ontario schools. Instruction and modelling of respect for all students is required of the curriculum and the classroom environment. This does not mean all students must be forced to be friends, or agree with one another on all points. And, it does not mean that there can’t be debate or constructive disagreement. It does mean that bullying students on the basis of sexual orientation, race, religious beliefs, national or cultural origin or the several other prohibited grounds of discrimination under the *Charter* or the *Human Rights Code* should not be permitted, either by other students, teachers, administrators or those developing the curricula.

3. Won’t teaching children about sexuality and bullying from a faith-based perspective lead to discrimination?

No, and history proves otherwise.

Canada has developed with a unique cultural and constitutional context. A Protestant dominant nation accommodated Catholic separate schools in its constitution when what are now public schools were Protestant schools. Those Protestant schools were made available for attendance by any student. Our strong heritage as a pluralist democracy, grounded in Christian principles and practices, has created a

²⁷ Bill 212: *An Act to amend the Education Act in respect of behaviour, discipline and safety*, 2nd session, 38th Legislature, 2007, <http://www.etfo.ca/IssuesinEducation/SafeSchools/Documents/Bill%20212%20Safe%20Schools%20Act.pdf>.

²⁸ Bill 157: *An Act to amend the Education Act*, 1st session, 39th Legislature, 2009, http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/b157ra.pdf.

²⁹ Policy/Program Memorandum No. 144: *Bullying Prevention and Intervention*, Ontario Ministry of Education, October 4, 2007, <http://www.edu.gov.on.ca/extra/eng/ppm/144.pdf>.

society of acceptance – and tolerance in disagreement – that is the envy of much of the world and has made a home for people with a variety of religious beliefs and expressions. Canada’s longstanding tradition of education from a Judaeo-Christian foundation has bred a vibrant, multicultural nation known for its acceptance of others and tolerance for differing opinions and religious beliefs. Religious schools can be trusted to put the best interest of their students first, in the context of a plural society of individuals who live peaceably and espouse a variety of beliefs.

E. Parental Rights in Education

1. What are parents’ rights in the education context?

Canadian and international law recognize that it is the right of parents to determine the education of their children.

Section 2 of the Canadian *Charter of Rights and Freedoms* assures both freedom of religion and conscience in regard to government action – from school boards to Parliament.³⁰ Additionally, there are a number of cases from the Supreme Court of Canada which support and describe this right, including: *R. v. Big M Drug Mart Ltd.*, *(B.) R. v. Children’s Aid Society of Metropolitan Toronto*, *The Queen v. Jones*.

There are also a number of international human rights instruments that support broad parental authority, including *The Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* which states that,

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religion and moral education of their children in conformity with their own convictions.³¹

Before superseding the choices parents make in education, legislators are cautioned that this is not a right to be overridden casually. There is an obvious constitutional violation in forcing religiously based schools to establish clubs not endorsed by the faith community, parents or students, or to implement a curriculum that disrespects their beliefs.

F. Position of the EFC

1. What is the EFC’s position on Bill 13, Accepting Schools Act?

The purpose of the bill is laudable. Attempting to address an issue as complex as bullying by legislative force is debatable. And the approach adopted by Bill 13 lacks sensitivity, flexibility, and a full consideration of proper application of the *Constitution Act, 1867*, the Canadian *Charter of Rights and Freedoms* and the Ontario *Human Rights Code*. Unless the bill is amended, it is likely that the province will have years of expensive, tax-payer funded litigation ahead of it.

Since Bill 13 was introduced, it has been criticized by many Ontarians, including members of the Jewish, Muslim, Evangelical Christian and Catholic communities. This should give reason to pause. Ontario is a diverse province, and each citizen – and identifiable minorities that have suffered discrimination and bullying themselves – deserves to have their concerns heard and addressed by their elected officials. To attempt to force beliefs upon one group or any group is contrary to the very spirit of pluralism and multiculturalism.

³⁰ Canadian Charter of Rights and Freedoms, s. 2

³¹ International Covenant on Civil Rights, March 23, 1976, article 18, <http://www2.ohchr.org/english/law/ccpr.htm>.

Many families feel as though the proposed policies are being legislated and implemented in a public relations campaign that leaves no room for their input or consideration for their constitutional rights to individual and corporate religious belief.

A more democratic and inclusive solution, one that invites conversation with representatives from a number of cultural, religious and other identifiable groups, should be pursued.

Ontario children, parents and teachers expect to live in a peaceful, tolerant province that respects their sincerely held beliefs, their inclusion in a plural, multicultural society and to have hard-earned tax dollars spent in the most appropriate and considerate fashion possible. They deserve nothing less.

Schedule “A”: Comparing Bill 13 to Bill 14

The following table compares select provisions of Bill 13 to Bill 14.

Bill 13, the <i>Accepting Schools Act</i>	Bill 14, the <i>Anti-Bullying Act</i>
Includes the controversial gender constructs of LGBTTIQ in its preamble.	<i>Not addressed.</i>
Provides a definition of “bullying”. (s.1(1))	Provides a definition of “bullying”. (s.2(1))
Includes bullying by electronic means. (s.1(2))	Explains cyber-bullying and the circumstances under which it may occur. (s. 2(2)).
Requires boards to implement an equity and inclusive education policy and implement any changes as directed by the Minister. (s.2(1))	<i>Not addressed.</i>
Amends the “Board responsibility for student achievement” section of the <i>Education Act</i> to include the promotion of a positive and inclusive school environment that is accepting of all students based on the grounds listed in the <i>Ontario Human Rights Code</i> . (s.3(1))	<i>Not addressed.</i>
Amends the “Board responsibility for student achievement” section of the <i>Education Act</i> to include the goal of bullying prevention. (s.3(1))	<i>Not addressed.</i>
Requires boards to use school climate surveys and collect student information at least once every two years. (s.3(2))	<i>Not addressed.</i>
Amends the Purposes of the <i>Behaviour, Discipline and Safety</i> section of the <i>Education Act</i> to include purposes such as inclusivity, the prevention of homophobia and to establish “disciplinary approaches that promote positive behaviour.” (s. 4)	<i>Not addressed.</i>
Designates a Bullying Awareness and Prevention Week. (s.5)	Designates a Bullying Awareness and Prevention Week. (s.1)
Require that the reporting to school officials of certain student behaviours take place within a certain time frame. (s.6)	<i>Addressed differently below.</i>
Amends the purposes of the provincial code of conduct to include bullying prevention. (s.7(1))	Amends the purposes of the provincial code of conduct to include bullying prevention. (s.7(1))
Requires boards that permit third parties to use school property to ensure that they are in compliance with standards consistent with the code of conduct. (s.7(2))	<i>Not addressed.</i>
Authorizes the Minister to establish discipline policies that identify inappropriate student behaviour, including homophobia; to provide appropriate and progressively more serious consequences; to assist students “in	<i>Not addressed or addressed different below.</i>

developing healthy relationships, making good choices”, to provide for prevention strategies and to provide for early interventions. (s.7(3))	
Authorizes the Minister to establish policies to increase understanding of inappropriate behaviour, to assist teachers in responding to such behaviour, to provide staff training, to support students impacted by bullying, to support students who bully, and to establish a process for parents to follow if they have concerns about the ‘resources to support pupils’. (s.7(3))	<i>Addressed differently below.</i>
As part of the provincial Code of Conduct, the Minister may establish policies for teacher training, provision of resources to bullied or bullying students, provision of a bullying reporting mechanism for students to minimize the possibility of reprisal, and to set out the use of disciplinary measures and a reporting mechanism to respond in a timely manner to bullying. The Minister may amend boards’ policies. (s.7(4))	<i>Addressed differently below.</i>
Requires that boards support the establishment of gay-straight alliances as well as clubs the promote gender equity, anti-racism and respect for people with disabilities. (s. 9)	<i>Not addressed.</i>
Amends the circumstances for which a student can be suspended to include bullying related to prejudice, bias and hate. (s. 10)	<i>Not addressed.</i>
<i>Not addressed.</i>	Defines circumstances in which bullying can be deemed to occur in schools (s.2(2))
<i>Not addressed.</i>	Requires the Minister of Education to submit a report on the number of bullying incidents and the steps taken by the Minister to address bullying. (s.3)
<i>Not addressed.</i>	Requires school boards to provide instruction on bullying prevention (and “ensure that the instruction is appropriate to the age of the pupils”), remedial programs, professional development and information for the public. (s.4(1))
<i>Not addressed.</i>	Boards must forward principals’ bullying reports to Minister of Education. (s.4(2))
<i>Not addressed.</i>	Requires teachers to participate in professional development programs on bullying. (s.5)
<i>Not addressed.</i>	Requires the Minister, in consultation with other Ministers, to develop a model bullying prevention plan to assist boards, that is non-binding. (s.7)
<i>Not addressed.</i>	Requires the Minister to compile a database for boards on bullying prevention. (s.7)

<i>Addressed differently above.</i>	Requires boards to establish a bullying prevention plan and submit it to the Minister for approval. It should describe bullying, establish bullying reporting mechanisms, require that persons receiving reports keep the identity of the person reporting confidential, establish procedures for the principal, state that bullying is prohibited and set out the range of disciplinary actions, assess needs of a victim, protect persons who report bullying, and establish procedures for parental and law enforcement notification. (s.7)
<i>Not addressed.</i>	Boards must solicit views of others when establishing the plan and boards may customize the plans to different schools or classes of persons. (s.7)
<i>Not addressed.</i>	A bullying plan is not a regulation and the Minister must approve it, though the order of approval is not a regulation. (s.7)
<i>Not addressed.</i>	The Minister is not required to hold a hearing before approving a plan. (s.7)
<i>Not addressed.</i>	The Board shall ensure that the plan is available to the public. (s.7)
<i>Not addressed.</i>	The Board should periodically review the plan. (s.7)
<i>Addressed differently above.</i>	Anyone working at the school must report bullying incidents to the principal and the principal must investigate the report promptly. (s.8)
<i>Addressed differently above.</i>	If a principal believes bullying has occurred, he must notify parents, invite the parents to submit a written account of the act, notify law enforcement, notify parents of disciplinary actions, require the perpetrator to participate in anti-bullying programming. (s.9)
<i>Not addressed.</i>	Requires the principal to report bullying incidents to the board. (s.9)

Schedule “B”: The EFC’s Open Letter to Members of the Ontario Legislature

January 24, 2012

Dear Members,

Subject: An Open Letter to the Members of the Ontario Legislature on Bill 13, *Accepting Schools Act*

Studies bear out that most children will participate in some type of bullying as well as experience victimization themselves. Bullying happens not only in schools, but anywhere that children gather such as school buses, the playground, sports field, after school hangouts and online.

In November 2011, the Government of Ontario introduced Bill 13, the *Accepting Schools Act*, intended to “help make Ontario schools safe and more accepting places to learn.” The Bill addresses the issue of bullying and proposes several amendments to the *Education Act*.

Since that time, Bill 13 has been criticized by many Ontarians, including members of the Jewish, Muslim, Evangelical Christian and Catholic communities. This should give reason to pause. Ontario is a diverse province, and each citizen – and identifiable minorities that have suffered discrimination and bullying themselves – deserves to have their concerns heard and addressed by their elected officials.

Many families feel as though the interests of some groups are being privileged at the expense of others. Families of public, private and religious school students feel as though the proposed policies are being legislated and implemented in a public relations campaign that leaves no room for their input or consideration for their constitutional rights to individual and corporate religious belief.

The purpose of the bill is laudable. Attempting to address an issue as complex as bullying by legislative force is debatable. And the approach adopted by Bill 13 lacks sensitivity, flexibility, and a full consideration of proper application of the *Constitution Act, 1867*, the Canadian *Charter of Rights and Freedoms* and the *Ontario Human Rights Code*.

Mandatory Gay-Straight Alliance Clubs

The Government of Ontario has proposed that all schools must implement additional anti-bullying initiatives, including the mandatory establishment of gay-straight alliance clubs for students, with the only option being to give the clubs a different name in certain circumstances.

Bill 13 states 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.” This is true. However, it then proceeds to identify four groups that will receive special status: clubs that promote gender equity; anti-racism; raise awareness for people with disabilities and gay-straight alliances.

While the Bill permits the gay-straight alliance club to adopt any name, the Minister of Education, Laurel Broten, insists that, in accordance with the Bill, broader equity groups cannot be formed and that clubs like gay-straight alliances must be issue specific. Rather than permitting students to learn about their differences and recognize their commonalities in equity clubs, this Bill specifically sets out to isolate students into issue-specific groups.

Students, teachers, principals, students and families do not have the ability to form groups based on their intimate knowledge of their communities’ demographics, history and challenges. Bill 13 sets out a rigid and inflexible model that must be applied in every school. The lack of trust that the Government of Ontario is displaying in regard to schools and communities to establish or customize groups and

activities according to their contexts may in fact increase the frequency of bullying in Ontario by isolating and segregating students – sending them to separate corners, as it were.

Further, Canadian and international law recognize that it is the right of parents to determine the education of their children. Before overriding the choices parents make in education, legislators are cautioned that this is not a right to be overridden casually. There is an obvious constitutional violation in forcing religiously based schools to establish clubs not endorsed by the faith community, parents or students, or to implement a curriculum that disrespects their beliefs.

It is not just respect for LGBT students that needs to be part of a character education in Ontario schools. Instruction and modelling of respect for all students is required of the curriculum and the classroom environment. This does not mean all students must be forced to be friends, or agree with one another on all points. And, it does not mean that there can't be debate or constructive disagreement. It does mean that bullying students on the basis of sexual orientation, race, religious beliefs, national or cultural origin or the several other prohibited grounds of discrimination under the *Charter* or the *Human Rights Code* should not be permitted, either by other students, teachers, administrators or those developing the curricula.

The remedy for bullying in schools is not gay-straight alliance clubs, but rather proper character formation. Educators can't do it alone, and their role is necessarily limited, and secondary. Parents, churches and others need to be engaged. The foundation of our free and democratic society includes respect for all persons. This foundation needs also to be present in our education system.

Legacy of Religiously-Based Schools in Canada

Bill 13 and its policies in regard to mandatory clubs should not be imposed on religious schools which deem the policies inconsistent with their religious beliefs. Schools, boards, and parent groups should be able to determine for themselves which groups and policies should be in place to meet the needs of their students and in compliance with existing law.

Canada has developed with a unique cultural and constitutional context. A Protestant dominant nation accommodated Catholic separate schools in its constitution when what are now public schools were Protestant schools. Those Protestant schools were made available for attendance by any student. Our strong heritage as a pluralist democracy, grounded in Christian principles and practices, has created a society of acceptance – and tolerance in disagreement – that is the envy of much of the world and has made a home for people with a variety of religious beliefs and expressions. Canada's longstanding tradition of education from a Judaeo-Christian foundation has bred a vibrant, multicultural nation known for its acceptance of others and tolerance for differing opinions and religious beliefs. Religious schools can be trusted to put the best interest of their students first, in the context of a plural society of individuals who live peaceably and espouse a variety of beliefs.

Use of School Space for Sunday Services

Each weekend, countless Ontarians meet together for prayer, worship and community service in rented school facilities. These groups often do not have the funds necessary to purchase their own property, in which they can practice their *Charter*-protected right to religious worship and expression, and schools are convenient place to meet (or the property is not available under municipal zoning provisions).

One of the proposed amendments to *the Education Act* risks restricting a number of these religious groups from meeting in the facilities they currently use. The amendment to section 301 of the *Act* which would preclude groups from using school space unless they are "consistent with the Code of Conduct" appears benign, but within the scope of Bill 13, the aggressive way in which it is being imposed on all schools, without accommodation or exception, gives cause for great concern. Will church,

synagogue, mandir and sangat groups be expelled from school classrooms and auditoriums because of sacred text passages on a wide variety of issues, such as love, marriage, sin and sexuality? Will we witness groups that cannot afford to purchase their own facilities being pushed out of Ontario's public spaces?

Incendiary Language Used by Government Officials

Children often learn life's most important lessons from the modelling of adults around them. We should hold adults to a high standard, and that includes Ontario's Cabinet Ministers. Last year, when asked about the withdrawn sexual education curriculum, Minister Glen Murray (then Research and Innovation Minister, now Minister of Training, Colleges and Universities), attributed the need for a rethink of the curriculum to "right-wing reactionary homophobes [who] just love these issues."

If Ontario parents requesting an open and clear assessment of a policy which directly impacts their children are called such denigrating names, what can children from various cultural or religious backgrounds expect in school, when they disagree with a position, opinion or behaviour? Certainly, they will not be granted board-approved clubs under Bill 13. Name calling is the most simplistic form of bullying and it should not be acceptable for Cabinet Ministers to use such language when speaking of members of the Ontario electorate who are seeking to participate in the democratic process.

Recommendations

We therefore urge you to make necessary amendments to the Bill immediately, rather than spending hundreds of thousands of taxpayers' dollars over the next several years on litigation that will likely ensue if the existing bill is passed. As noted above, there are Constitutional and Human Rights issues apparent on a surface reading of the Bill. In addition, there is a case awaiting decision by the Supreme Court of Canada that may well address the very points of parental rights and limitations on initiatives of provincial governments in regard to education.

A more democratic and inclusive solution, one that invites conversation with representatives from a number of cultural, religious and other identifiable groups, should be pursued.

Ontario children, parents and teachers expect to live in a peaceful, tolerant province that respects their sincerely held beliefs, their inclusion in a plural, multicultural society and to have hard-earned tax dollars spent in the most appropriate and considerate fashion possible.

They deserve nothing less.

Sincerely,

Faye Sonier, LL.B.
Legal Counsel

Don Hutchinson, B.A., J.D.
Vice-President, General Legal Counsel

Schedule “C”: Media Release on Bill 13

EFC Issues an Open Letter to Members of the Ontario Legislature on Bill 13, *Accepting Schools Act*

January 25, 2012

OTTAWA – Yesterday, The Evangelical Fellowship of Canada sent an open letter to all members of the Ontario legislature, calling for amendments to Bill 13, *Accepting Schools Act*.

“Bill 13 was introduced to address the issue of bullying in Ontario schools,” explains Faye Sonier, EFC Legal Counsel. “However, we find the bill to be problematic from a legal perspective as well as unnecessarily broad, rigid and inflexible. Unless the bill is amended, we predict that the province will have years of expensive, tax-payer funded litigation ahead of it.”

In November 2011, the Government of Ontario introduced Bill 13, the *Accepting Schools Act*, intended to “help make Ontario schools safe and more accepting places to learn.” The Bill addresses the issue of bullying and proposes several amendments to the *Education Act*. Since that time, Bill 13 has been criticized by many Ontarians, including members of the Jewish, Muslim, Evangelical Christian and Catholic communities. This should give reason to pause. Ontario is a diverse province, and each citizen – and identifiable minorities that have suffered discrimination and bullying themselves – deserves to have their concerns heard and addressed by their elected officials.

“There are constitutional and human rights issues apparent on a surface reading of the Bill,” explains EFC VP and General Legal Counsel Don Hutchison. “It will likely violate the religious freedom of families and the institutional freedoms of schools and boards. It may even restrict the ability of religious groups to rent classroom space on weekends for religious services. For a short bill, its impact and reach are shockingly broad.”

“Ontario children, parents and teachers expect to live in a peaceful, tolerant province that respects their sincerely held beliefs, their inclusion in a plural, multicultural society and to have hard-earned tax dollars spent in the most appropriate and considerate fashion possible,” continues Sonier. “They deserve nothing less.”

A link to the letter can be found [here](#). [See Schedule “B”]

-30-