

Education Law for Private & Independent Schools

Wednesday, November 7, 2018

AGENDA

8:00 Registration

8:30 Welcome from the Chair

Eric M. Roher, Borden Ladner Gervais LLP

**8:45 The Law Governing Private & Independent Schools in Canada:
The Statutory Framework Guiding Your Actions**

Eric M. Roher, Borden Ladner Gervais LLP

It is critical that education professionals working within the private and independent school realm and their legal advisors have a thorough understanding of the legal regime that governs their institutions and roles.

Eric M. Roher will walk us through the key pieces of legislation with a goal to answering the following questions:

- What laws are applicable to private/independent schools?
- What parts of the Education Act apply?
- How much oversight does the Ministry of Education have?
- What are the possible penalties for private/independent school non-compliance?

The intersecting legislation includes:

- Constitution of Canada
- Canadian Charter of Rights and Freedoms
- The Education Act and Regulations
- Teaching Profession Act
- Ontario College of Teachers Act
- Youth Criminal Justice Act ("YCJA")
- Criminal Code ("CC")
- *Child, Youth and Family Services Act, 2017*
- Children's Law Reform Act

- Immunization of School Pupils Act
- Municipal Freedom of Information and Protection of Privacy Act (“MFIPPA”)
- Occupational Health and Safety Act
- Ontario Human Rights Code (“OHRC”)
- Labour Relations Act, 1995
- Employment Standards Act, 2000
- Police Protocols
- Ontario Schools Code of Conduct
- Common law
- Ministry of Education PPMs and Private Schools Policy and Procedure Manual
- Alcohol and Gaming Regulations and Public Protection Act, 1996
- Divorce Act, 2015
- Fire Protection and prevention act, 1997
- Health Care Consent Act 1996
- Immigration & Refugee Protection
- Ontario College of Teachers Act, 1996
- Ontario Human Rights Code, 1990
- Public Authorities Protection Act
- Rowan’s Law, 2018
- Ryan’s Law 2015
- Sabrina’s Law 2005
- Safe Drinking Water Act, 2002
- Smoke Free Ontario Act, 2017
- Statutory Powers Procedure Act, 1990
- Teacher’s Pension Act, 1990
- Teaching Profession Act & Regulation, 1990
- Trespass to Property Act, 1990
- Youth Criminal Justice Act, 2002
- Building occupiers liability Act

9:30 The Impact of the *Charter of Rights* and the *Ontario Human Rights Code*

Jessica Koper, Shibley Righton LLP

This session will look at the basic questions around whether the *Charter* and *Code* apply to private and independent schools and then delve deeper into some very specific questions, including:

- How does the *Ontario Human Rights Code* apply to faith-based schools?
- Can a school choose to hire only teachers of a particular faith?

- Transgender Issues in schools including gay-straight alliances
- Obligations around a student who is transitioning:
 - What if it is in a same-sex school environment?

10:15 Break

10:30 Special Needs Students: What Are Your Obligations?

Nadya Tymochenko, Miller Thomson LLP

- Do private/independent schools have a duty to accommodate students with special needs?
- What is the scope of your duty to accommodate?
- How does the Ontario Human Rights Commission's new Policy on Accessible Education for Students with Disabilities impact you?

11:15 Employment law Issues

Amanda E. Lawrence-Patel, Hicks Morley

- What legislation is applicable? (ESA, OHSA, Code)
- Conducting workplace investigations
- Employer obligations to provide a safe workplace
- Off-duty conduct of employees
- Discipline – non-union & union
- Unionization of staff

12:00 Lunch

12:45 Negligence and Liability

Bruce Hutchison, Genest Murray LLP

- Supervision of students and potential liability
- Health and emergency procedures
- Transportation of students by staff
- Overnight trips and minimum age
- Field trips & incident reports – what permission forms are required?
- Rights of non-custodial parents
- Child protection and vulnerable sector checks
 - Who needs them?
 - How often?
- Are volunteers considered staff?
- Supervision and police checks for parent or occasional volunteers

1:30 Cyber-bullying

Eric M. Roher, Borden Ladner Gervais LLP

Nick Kovacs, Head of Upper School at Crescent School

- The scope and impact on private/independent schools
- Roles and responsibilities of school leaders, teachers & parents
- Review of relevant case law and implications on school climate
- Sexting
- Cyber-bullying and criminal law: an overview
- Creating a safe and inclusive school environment
- Understanding criminal code changes

2:15 Break

2:30 Enrollments/Admissions/Denial of Admissions/Expulsions

Nicola Simmons, Keel Cottrelle LLP

Kimberley Ishmael, Keel Cottrelle LLP

- Who can enrol a student?
- Do both parents need to be on the contract?
- What happens when those families separate/divorce and there are no rulings on paper about custody?
- Privacy law issues – can a parent in a separated situation gain access to the financial account status of their child's contract if the other parent is paying?
- When can a school say no to a student if there is no entrance exam or more objective data?
- Removal of students not performing well
- Collecting tuition: are there laws guiding the collection of money from parents?
- Can a school hold back report cards/transcripts when there is an outstanding invoice?
- Ending a contract/expelling a student – what are the laws guiding such cases?
- Best practices & guidelines – what you should or shouldn't say
- When are refunds required?
- Dealing with disgruntled or problem parents
- Counselling a family out of the school

3:15 Police Protocols and Criminal Behaviour in Private/Independent Schools

Nadia Adragna, Principal, Monsignor Fraser College, St. Martin Campus;
Principal, Safe Schools Department, Toronto Catholic District School Board

Brock B. Jones, Counsel, Crown Law Office (Criminal, Ministry of Attorney
General of Ontario)

Dr. Jonathan Levy, Head of School, TanenbaumCHAT

- Privacy rights and search and seizure issues within the school
- Dealing with juvenile crime in and out of the school
- Student's right to privacy in schools: from access to records to school searches (under the *YCJA* and the *Charter*)
- Who should conduct investigations? Police? School official?
- What information can school board administrator receive from the police about students who have been charged pursuant to the *YCJA*?
- Working together to create a safer learning environment

4:15 Program Concludes

Register at:

osgoodepd.ca/privateschools