

Ministry of Education

Ministère de l'Éducation

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**MEMORANDUM TO:** Directors of Education  
Supervisory Officers and Secretary-Treasurers of School Authorities

**FROM:** Philip Steenkamp  
Deputy Minister (Acting)

**DATE:** July 12, 2007

**RE:** **Minutes of Settlement between the Ministry of Education and the Ontario Human Rights Commission**

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I am writing to inform you about a number of important provisions in the Minutes of Settlement which was signed on April 5, 2007 between the Ministry and the Ontario Human Rights Commission (OHRC). As you may be aware, the OHRC initiated a complaint against the Ministry of Education alleging that the application of the safe schools provisions of the *Education Act* has a disproportionate impact on racialized students and students with disabilities.

A copy of the settlement can be accessed at <http://www.ohrc.on.ca/en/resources/news/edsettlementen>.

A comprehensive review which included extensive public consultation of the safe schools provisions of the *Education Act* was undertaken by the Safe Schools Action Team (SSAT). These consultations found that there was a perception that the application of the current safe schools provisions of the *Education Act* can have a disproportionate impact on racialized students and students with disabilities.

Bill 212, the Education Amendment Act (Progressive Discipline and School Safety), 2007, was unanimously passed by the Legislature on June 4, 2007 and comes into effect on February 1, 2008.

The Bill supports a progressive discipline approach. I wish to point out that there is no reference to the concept of zero tolerance in the current *Education Act*, regulations or related policies.

### **Mitigating Factors**

It is important to note that the current regulations do not limit the application of these factors to exceptional pupils or others whose disabilities may lead them to display unacceptable behaviour. In the Ministry's view, the three mitigating factors outlined in the existing regulations cover all possible mitigating factors for any student in any circumstance. Principals and boards should continue to consider these mitigating factors prior to suspension or expulsion.

Bill 212 requires principals and boards to consider mitigating and other factors before students are suspended or expelled. The mitigating factors and the other factors as outlined in Section 11 of the agreement will be represented in regulation.

### **Progressive Discipline**

A progressive discipline approach should be used to address inappropriate student behaviour. This approach provides principals with the authority to choose the appropriate course of action in the case of inappropriate behaviour, rather than resorting to suspension or expulsion as a first response. Strategies such as in-school detentions, peer mediation, restorative practices and referrals for assistance by agencies outside the school should be considered as part of this approach. In this regard, the Ministry will issue a Policy/Program Memorandum on Progressive Discipline.

### **Programs for Students with Long-Term Suspensions and Expelled Students**

Effective February 1, 2008, boards are required to offer programs to students who have been suspended for more than five days and to students who have been expelled from all schools of the board. These programs will allow students to continue their learning and not fall behind in school. Boards should begin to develop their plans for programs to ensure that these programs will be available to students by February 1, 2008. These programs must follow the Ontario curriculum guidelines and standards unless the student has an Individual Education Plan (IEP) that provides modifications or an alternative curriculum. Policy/Program Memoranda setting out guidelines for school boards will follow in the near future.

### **Funding**

To support the requirement that boards provide education programs for students on long-term suspensions and students who have been expelled, the government has allocated \$23 million starting in the 2007-08 school year for programs and supports to address inappropriate behaviour.

### **Review of Police/School Board Protocol**

The OHRC raised concerns with the Ministry about the manner in which some school boards are implementing their Police/School Board Protocols, particularly in relation to police interviewing students at school and the requirement that parents be contacted. The Ministry expects school boards to work cooperatively with their local police services to ensure that, when the police are called to a school to investigate an incident, the protocol is followed and students and staff are treated with fairness and respect.

School boards will be directed at a later date to submit their protocols to the Ministry where they will be reviewed for consistency with the Provincial Model.

## Training

The Ministry is committed to providing training to the sector on the new legislative changes and related regulations and policies. In addition to the training that has been developed and is currently being provided to principals and teachers on bullying prevention, further training initiatives, including anti-racism, anti-discrimination and cultural awareness will be undertaken. The settlement notes that this training should be extended to trustees who are responsible for expulsion hearings/suspension appeals. Training will also be provided to principals and vice-principals on ways to apply discipline in a non-discriminatory manner.

We look forward to continuing to work with you to create and sustain positive, safe learning environments to support student achievement.



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Philip Steenkamp

c. Ministry of Education Regional Managers