

OECTA Brief  
to the Standing Committee  
on Social Policy

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**Bill 168 An Act to amend the  
Occupational Health and Safety  
Act with respect to violence and  
harassment in the workplace and  
other matters**

James Ryan  
President

Marshall Jarvis  
General Secretary

November 2009

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ONTARIO ENGLISH  
**Catholic  
Teachers**  
ASSOCIATION

The Ontario English Catholic Teachers' Association (OECTA) represents 45,000 women and men who have chosen teaching careers in the Catholic schools in Ontario. These teachers are found in the elementary panel from junior kindergarten to Grade eight, in the secondary panel from Grade nine through Grade twelve, and occasional teachers in both panels, in publicly funded schools.

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## **1. INTRODUCTION**

- 1.01** The Ontario English Catholic Teachers' Association (OECTA) is pleased to present its views on Bill 168, *An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters*, to the Standing Committee on Social Policy.
- 1.02** On September 17, 2008, the Ontario Ministry of Labour released the *Consultation Paper on Workplace Violence Prevention*, and invited stakeholders to respond to the document. This was the culmination of meaningful dialogue around these issues that took place over a number of years.
- 1.03** The proposed legislation takes a positive step forward in the area of health and safety by defining workplace violence and workplace harassment.
- 1.04** By requiring employers to develop policies with respect to workplace violence and workplace harassment, the Government is moving to expand and strengthen the internal responsibility system that is fundamental to the operation of the *Occupational Health and Safety Act* in the workplace.
- 1.05** OECTA agrees that violence and harassment have no place in the workplace. Although the majority of members teach in neighbourhood school settings, some teachers also have duties in a variety of non-traditional school settings such as co-op placements, field trips, outdoor education, and traveling with students. Violence may occur in any of these locations.

**1.06** The changes contemplated by Bill 168 would amend the *Occupational Health and Safety Act* to address workplace safety issues relating to workplace violence and workplace harassment. However, the changes limit the definition of workplace violence to physical injury, failing to include non-physical injuries that might result from a violent incident. The proposed legislation must address the issues of:

- psychological harassment;
- verbal threats;
- intimidation;
- stalking;
- bullying, including cyber-bullying; and
- teasing.

**1.07** The definition must also provide protection in the event of a threat of physical violence. A student threatening to “pummel” a teacher can be as devastating as the action itself.

**Recommendation:**

**That the definition of violence in Bill 168 be expanded to encompass all forms of violence including, but not limited to, the threat of physical violence, verbal threats, intimidation, stalking, and bullying, including cyber-bullying, and psychological harassment.**

**1.08** The Bill defines workplace violence “as an exercise of physical force by a person against a worker in a workplace.” A case in which a student attacks and injures a teacher would be consistent with the proposed definition. However, it is not uncommon in an educational environment for a teacher to be injured in a situation where the

violence is not directed at that teacher. For example, a teacher might be injured when intervening in a fight between two students. In this case, the teacher's injury might not be considered under the proposed definition of workplace violence because the violence was between the students.

**Recommendation:**

**That the definition of violence in Bill 168 be amended to include any injury that may be sustained by an employee in the workplace as a result of violence in the workplace.**

- 1.09** OECTA applauds the Ministry of Labour for signalling plans to devote significant resources to the development of a compliance guideline, and procedures and training for Ministry of Labour inspectors. We welcome the Ministry's additional support for employers implementing workplace violence prevention policies and programs. However, OECTA urges the Ministry of Labour to create additional regulations that support the legislation and local joint health and safety committees. The Ministry must provide labour organizations and local health and safety committees with the tools necessary to ensure health and safety in the workplace. Regulations can provide the details for the policy and program requirements called for by this legislation.

**Recommendations:**

**That the Ministry of Labour consult with OECTA and the OFL when developing the related training and support materials to implement Bill 168.**

**That the Ministry of Labour consult with OECTA and labour**

**organizations, such as the OFL, when developing regulations to clarify and support the legislative changes contemplated in Bill 168.**

**1.10** Section 32.0.3 (3) (a) of the Bill requires the employer to advise a Joint Health and Safety Committee or a health and safety representative of the results of the workplace violence risk assessment, and provide a copy if the assessment is in writing. OECTA believes that the Bill should compel an employer into a meaningful engagement with the committee, and stipulate that the report be in writing.

**1.11** Section 32.0.3 (4) of the Bill requires that the reassessment of the risk of workplace violence be completed as often as necessary. OECTA believes that the legislation should be more prescriptive, requiring the employer to conduct an annual reassessment.

**Recommendation:**

**That Bill 168 be amended to require the employer to include the Joint Health and Safety Committee when preparing the workplace violence and workplace harassment policies.**

**That Bill 168 be amended to require the employer to include the Joint Health and Safety Committee when developing and maintaining the workplace violence and workplace harassment policies.**

**That Bill 168 be amended to require the employer to include the Joint Health and Safety Committee when conducting the workplace violence risk assessment.**

**That Bill 168 be amended to require the employer to report the results of the workplace violence risk assessment under Section 32.0.3 (3) (a) in writing to the Joint Health and Safety Committee.**

**That Bill 168 be amended to require the employer to reassess the risk of workplace violence annually.**

- 1.12** Furthermore, Section 32.0.3 (1) refers to an assessment of risk of workplace violence. The focus of the *Occupational Health and Safety Act* is on controlling hazards as opposed to the oversight of risk. OECTA believes that the language of the Act should be maintained on a consistent basis.

**Recommendation:**

**That the requirement in the amendment for the assessment of the risk of workplace violence be changed to a hazard assessment with regard to workplace violence.**

- 1.13** In the event that an incident of workplace violence or workplace harassment occurs in a workplace and a worker(s) is (are) injured, Bill 168 requires the employer to report the injury to the Ministry of Labour when medical attention is necessary as a result of workplace violence, but not in the case of workplace harassment. There should be consistency in the requirement to report all injuries that necessitate medical attention.

**Recommendations:**

**That Bill 168 be amended to include the requirement that the employer report accidents to the Ministry of Labour where a worker is injured and requires medical attention as a result of workplace harassment.**



**That Section 53 of the *Occupational Health and Safety Act* be amended to include the requirement that the employer report incidents of harassment that result in claims under the *Workplace Safety and Insurance Act* to the Joint Health and Safety Committee and the union.**

- 1.14** Although domestic violence is indentified in Bill 168, Section 32, the proposed legislation does not define this type of violence. The proposed legislation limits the recognition of the injury to one that is physical in nature, but overlooks the non-physical injuries of domestic violence, such as psychological injuries. Domestic violence in the workplace may also cause physical or non-physical injury to persons other than the person against whom it was directed. All persons in the workplace should be protected from domestic violence.

**Recommendations:**

**That Bill 168 be amended to include a definition of domestic violence.**

**That Bill 168 be amended to recognize injuries caused by domestic violence to all persons in a workplace beyond those that are physical in nature.**

- 1.15** Bill 168 requires the employer to take steps to protect the workplace where a person who has a history of violence may create a possible hazard in the workplace. An employee, who may be the victim of domestic violence, is required to report such violence – deemed a workplace hazard – to the employer. More education about domestic violence for employers and workers is needed reduce the stigma that is often associated with domestic violence.

**Recommendations:**

**That Bill 168 be amended to require employers to participate in meaningful workshops and training about domestic violence.**

**That Bill 168 be amended to require employers to provide meaningful workshops and training about domestic violence for employees.**

**2. RECOMMENDATIONS:**

**2.01** That the definition of violence in Bill 168 be expanded to encompass all forms of violence including, but not limited to, the threat of physical violence, verbal threats, intimidation, stalking, and bullying, including cyber-bullying, and psychological harassment.

**2.02** That the definition of violence in Bill 168 be amended to include any injury that may be sustained by an employee in the workplace as a result of violence in the workplace.

**2.03** That the Ministry of Labour consult with OECTA and the OFL when developing the related training and support materials to implement Bill 168.

**2.04** That the Ministry of Labour consult with OECTA and labour organizations, such as the OFL, when developing regulations to clarify and support the legislative changes contemplated in Bill 168.

**2.05** That Bill 168 be amended to require the employer to include the Joint Health and Safety Committee when preparing the workplace violence and workplace harassment policies.

- 2.06** That Bill 168 be amended to require the employer to include the Joint Health and Safety Committee when developing and maintaining the workplace violence and workplace harassment policies.
- 2.07** That Bill 168 be amended to require the employer to include the Joint Health and Safety Committee when conducting the workplace violence risk assessment.
- 2.08** That Bill 168 be amended to require the employer to report the results of the workplace violence risk assessment under Section 32.0.3 (3) (a) in writing to the Joint Health and Safety Committee.
- 2.09** That Bill 168 be amended to require the employer to reassess the risk of workplace violence annually.
- 2.10** That the requirement in the amendment for the assessment of the risk of workplace violence be changed to a hazard assessment with regard to workplace violence.
- 2.11** That Bill 168 be amended to include the requirement that the employer report accidents to the Ministry of Labour where a worker is injured and requires medical attention as a result of workplace harassment.
- 2.12** That Section 53 of the *Occupational Health and Safety Act* be amended to include the requirement that the employer report incidents of harassment that result in claims under the *Workplace Safety and Insurance Act* to the Joint Health and Safety Committee and the union.
- 2.13** That Bill 168 be amended to include a definition of domestic violence.

- 2.14** That Bill 168 be amended to recognize injuries caused by domestic violence to all persons in a workplace beyond those that are physical in nature.
  
- 2.15** That Bill 168 be amended to require employers to participate in meaningful workshops and training about domestic violence.
  
- 2.16** That Bill 168 be amended to require employers to provide meaningful workshops and training about domestic violence for employees.