

Teachers' Rights

in Newfoundland & Labrador

Dealing with Harassment by
Students, Parents and other Adults

harassment

parents



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Printed by:

Newfoundland and Labrador Teachers' Association

3 Kenmount Road

St. John's, NL A1B 1W1

Tel: 709-726-3223, 1-800-563-3599;

Fax: 726-4302, 1-877-711-6582

mail@nlta.nl.ca

www.nlta.nl.ca

Published by:

Public Legal Information Association of NL

Suite 227, Tara Building

31 Peet Street

St. John's NL A1B 3W8

Tel: 709-722-2643, 1-888-660-7788;

Fax: 709-722-0054

info@publiclegalinfo.com

www.publiclegalinfo.com

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Introduction

Teachers have the right to be treated with respect and to work in an environment free from harassment and abuse. Teachers in Newfoundland and Labrador are increasingly reporting incidents of inappropriate behaviour from students, parents and other adults. The information in this publication is intended to raise awareness of the problems teachers are facing and to provide general information about the law in this area. Readers are encouraged to seek legal advice for their specific questions on the law.

What kinds of incidents involving students, parents and other adults are teachers concerned about?

- Parents coming into schools/classrooms and yelling at teachers.
- Teachers receiving angry or inappropriate comments in public.
- Inappropriate comments or behaviour in the classroom.
- Threats received at home or at school.
- False and/or malicious accusations and allegations.
- Damage to property at home or at school.
- Pushing or other unwelcome physical contact.
- Repeated phone calls.

When is behaviour inappropriate?

Several laws and policies define and address inappropriate behaviour inside and outside the school. Below are some highlights of these Acts and policies.

Safe & Caring Schools Policy

The Department of Education's "Safe & Caring Schools Policy" provides a framework for the development and implementation of policy and action plans to ensure that learning and teaching can take place in a safe and caring environment. The Code of Conduct set out in the Policy states that, "It is expected that all members of the school community will promote safe, caring and inclusive practice by doing their best to:

- effect an orderly, productive work and learning environment free of aggression or disrespectful behaviour;
- engage in activities and behaviour that promote health and personal well-being;
- relate to one another in a positive and supportive manner, with dignity and respect;
- embrace the diversity of all peoples, regardless of economic status, race, colour, national or ethnic origin, language group, religion, gender, sexual orientation, age or ability; and
- support non-violent conflict resolution."

Some types of behaviour considered unacceptable in the Policy include:

- harassment, intimidation and violence;
- discrimination;
- hate propaganda;
- theft or intentional property damage;
- any behaviour which threatens the health or safety of any person;
- accusations involving falsehood or malicious intent.

The “Safe & Caring Schools Policy” sets out guidelines for responding to unacceptable and offending behaviour including the suspension procedures set out in the *Schools Act*, 1997.

The full policy can be read online at:

www.ed.gov.nl.ca/edu/dept/pdf/scs_prov_policy.pdf

The policy requires all school districts to develop and regularly review their own policies for implementing and enforcing the Code of Conduct and Safe and Caring Schools action plans. These policies and guidelines should promote safe and caring school environments and provide procedures, guidance and appropriate consequences for addressing harassment, bullying and disruptive behaviour. You should check with your individual school district for a copy of the applicable policy/guidelines.

Schools Act, 1997, S.N.L. 1997, c. S-12.2

Section 11 of the *Schools Act*, 1997 states that “Every student shall comply with school discipline and the rules of the school and shall carry out the learning activities within the prescribed curriculum.” Under section 21, parents of students are liable for any intentional destruction of or damage to property owned by the school district or its employees caused by students.

Principals are responsible for ensuring that order and discipline is maintained in schools. Section 41 of the Act prohibits any person from disrupting or interrupting the proceedings of a school, school council or board and from loitering or trespassing in a school building.

Any person, aged 18 or older, who violates a provision of the Act may be charged with an offence and face a penalty ranging from a fine up to a maximum of six months imprisonment. A young person, aged 12 to 17, who violates the Act may also be charged, and is liable to punishment under the provincial *Young Persons Offences Act*.

Criminal Code, R.S.C. 1985, c. C-46

The *Criminal Code* sets out the offences for which criminal charges may be laid. Some of the offences specifically address harassing, abusive and threatening behaviour. The following are some examples of criminal offences victimized teachers may face:

- Criminal Harassment (s. 264) – conduct that causes the other person to reasonably fear for their safety or the safety of others. This includes: following the person, repeatedly contacting the person directly or indirectly, stalking the person, and threatening conduct towards the person or their family.
- Harassing telephone calls (s. 372(3)) – it is an offence to make repeated phone calls with the intent to harass someone.
- Assault (s. 265) – assault is the intentional use of force against somebody without his/her consent. Also included are attempts to use force or threatening to use force.
- Theft (s. 322) – taking something, fraudulently and without colour of right, from someone either permanently or temporarily with the intent to deprive the owner of it.
- Uttering Threats (s. 264.1) – threats of death or bodily harm to any person, to damage real or personal property, or to cause harm to a pet.
- Mischief (s. 430) – includes not only willful destruction of property, but can also include interference with the use, enjoyment or operation of property.
- Defamatory Libel (s. 298-301) – it is an offence to unlawfully publish information with the intent to injure the reputation of, insult or expose any person to hatred, contempt or ridicule. A person who knowingly publishes false information in these circumstances is liable to even harsher penalties under the *Criminal Code*.

Human Rights Code, R.S.N.L. 1990, c. H-14

The objectives of the provincial *Human Rights Code* are to protect individuals from discrimination and harassment and promote equality of opportunity. The Code protects against discrimination and harassment based on identified characteristics, such as race, religion, religious creed, political opinion, colour, ethnic, national or social origin, sex, sexual orientation, marital status, family status and mental or physical disability.

Complaints of a violation of the Code are made to the Human Rights Commission. The Commission is responsible for administering and enforcing the Code as well as promoting, through education, an awareness of human rights that will lessen discrimination. There is a limitation period which applies for making complaints.

The Human Rights Commission of Newfoundland and Labrador has a website which contains helpful information (www.justice.gov.nl.ca/hrc).

Harassment and Discrimination Free Workplace Policy — Newfoundland and Labrador Public Service

The Government of Newfoundland and Labrador has enacted policy applicable to provincial government employees. This policy provides for both informal and formal procedures to address workplace harassment. To determine which procedure is appropriate for your situation you should refer to the policy. It can be read online at: www.exec.gov.nl.ca/hrpm/harass.html

NLTA Collective Agreement

Article 58.01 of the Provincial Collective Agreement (Article 59.01 of the Labrador West Collective Agreement) states:

The Boards and the Association recognize the right of all teachers to work in an environment free from harassment and shall work together to ensure that harassment is actively discouraged. All reported incidents of harassment shall be thoroughly investigated as quickly and as confidentially as possible. The Employer and the Association agree to take reasonable steps to ensure that the harassment stops and that individuals who engage in such behaviour are appropriately disciplined. The Employer agrees that victims of harassment shall be protected, where possible, from the repercussions which may result from a complaint.

Article 58.02 goes on to define harassment of a sexual and personal nature. Teachers should check their school district policies for procedures required for filing a harassment complaint.

Child, Youth and Family Services Act, S.N.L. 1998, c. C-12.1

Under the *Child, Youth and Family Services Act*, teachers have a statutory duty to report to proper authorities where they have information that a child is or may be in need of protective intervention. The legislation also prohibits interference with or harassment of a person who makes such a report. A person can be charged with an offence under the Act if they engage in such conduct against a reporting teacher.

Occupational Health and Safety Act, R.S.N.L. 1990, c. O-3

School districts, as employers, must, within reasonably practical limits, provide a work environment that ensures the health and safety of their employees. This includes conducting their affairs in a manner that does not endanger employees and providing any information or training reasonably required to ensure the health and safety of employees. With respect to issues of harassment, violence, aggression and threats from students, parents/guardians or other adults, school districts have a legal responsibility to ensure that the proper supports, training and procedures have been put in place to enable teachers to work without threat to their own safety. What is necessary to ensure employee safety will vary depending on the nature of the situation.

A teacher who has reasonable grounds to believe that specific work circumstances are dangerous to his/her health and safety and has brought this to the attention of their school administrator has the right to refuse to work until remedial action has been taken. Any teacher who feels that their situation may warrant this type of response is advised to contact the NLTA before exercising the right of refusal under the Act.

What should I do if I am a victim?

If you feel you are the victim of inappropriate or harassing behaviour there are various ways to address the situation.

- If you feel comfortable and safe doing so, you can meet with the person responsible for the inappropriate behaviour and tell them that their actions or comments are unwelcome and unacceptable. You do not have to do this alone. In some situations this may be enough to resolve the problem.
- If you are intimidated or uncomfortable dealing with the individual yourself, you should consider seeking help from your school, district, or professional association.
- If you are afraid for your personal safety or the safety of someone else, you should contact the police immediately.
- It may be wise to keep notes to ensure you have accurate information about the incidents should you choose to take further action.
- Write down the appropriate contact numbers and keep them in your purse or wallet where you can quickly access them should a problem arise.

What can the school do?

If there is conflict between a parent or student and a teacher, the first step is often to meet one-on-one with the parent/student and attempt to resolve the problem or come to an agreement. If this initial meeting is unsuccessful, the principal may be involved and attempt to bridge the gap between the people involved. A mediated approach, sometimes with the assistance of school district personnel, can often help to resolve conflicts.

In cases where there has been a serious incident or ongoing problems with an individual, he or she may be barred from school property. Trespassing on school property is an offence under the provincial *Petty Trespass Act*.

If the problem persists, the teacher and principal may wish to bring the complaint to the employer through the appropriate contact at the school district office.

What can the NLTA do?

It is the employer's duty to provide teachers with a safe work environment and to support teachers who are being harassed or threatened. If you feel you are not receiving the help you need from the employer, the Newfoundland and Labrador Teachers' Association will provide you with advice and assistance, and if necessary, intercede on your behalf. Also, under NLTA policy, legal assistance may be available to teachers for cases that meet the criteria set out in its Legal Aid policy. If you are in need of assistance from the NLTA, call 726-3223 or toll-free at 1-800-563-3599 to be directed to the appropriate person.

What can police do?

If you have been threatened, assaulted, or if you are worried about your safety, you should consider contacting the police in addition to notifying school officials. They can intervene and, in cases of criminal behaviour, they can lay charges against the student, parent or other adult.

If you are concerned for your safety, your family or your property, you may want to consider obtaining a peace bond through the Provincial Court of Newfoundland and Labrador. The court has a peace bond information pamphlet which can be accessed by calling your local Provincial Court.

As a victim, can I get compensation for damage caused or harm done?

If you have been physically harmed or suffered damage to your property and wish to have compensation, you should consult a lawyer who can advise you based on the details of your specific situation.

FOR MORE INFORMATION:

Province of Newfoundland and Labrador
Schools Act, 1997

Young Persons Offences Act

Child Youth and Family Services Act

Petty Trespass Act

Human Rights Code

Occupational Health and Safety Act

(Provincial statutes and regulations can be accessed at www.gov.nl.ca/hoa/sr/)

Safe & Caring Schools Policy:

www.ed.gov.nl.ca/edu/dept/pdf/scs_prov_policy.pdf

Harassment and Discrimination Free Workplace Policy:

www.exec.gov.nl.ca/hrpm/harass.html

Assaulted, Threatened or Harassed

www.justice.gov.nl.ca/just/PUBLICPR/victimservices/assault.pdf

Justice Canada

Stalking is a Crime Called Criminal Harassment

www.justice.gc.ca/eng/pi/fv-vf/pub/har/har.html

Criminal Code R.S.C. 1985, c. C-46

<http://laws.justice.gc.ca/en/c-46>

Public Legal Information Association of NL (PLIAN)

The following publications are available online (www.publiclegalinfo.com) or by contacting PLIAN at (709) 722-2643 or 1-888-660-7788:

Sexual Harassment in the Schools

Your Rights as a Victim

Victim Impact Statement

The Role of Lawyers

Criminal Procedure in Provincial Court

Public Legal Information Association of NL, is a non-profit organization dedicated to educating people about legal issues. PLIAN receives funding and in-kind support from the Department of Justice Canada, the Law Foundation of Newfoundland and Labrador and the Department of Justice of Newfoundland and Labrador.

TIPS for teachers dealing with inappropriate behaviour:

- Don't blame yourself.
- Don't ignore it. Ongoing harassment can affect your physical and mental well-being, concentration and job performance.
- Tell someone you trust. It is important to have emotional support.
- Keep written records. Write down what happened, dates, names of witnesses and how you reacted.
- Read up on the subject and ask questions.
- Cooperate in the investigation. If you lodge a complaint, it is important to cooperate at all stages of the investigation. If you are uncomfortable or nervous, ask to have a friend come with you to the interview.
- Be proactive. Initiate or participate in workshops or events that engage discussion between parents, students and teachers about appropriate behaviour in and out of school.

