



Victoria Confederation of
Parent Advisory Councils

556 Boleskine Road
Victoria BC V8W 2R1
Ph: (250) 475-4193

February 1, 2010

Minister of Education
Hon. Dr. Margaret MacDiarmid
PO Box 9146 Stn Prov Govt
Victoria, BC V8W 9H1

Dear Dr. MacDiarmid

Re: WorkSafeBC in the Classroom

We wish to apprise you of an emerging issue in our school system and request your assistance in advocating for change.

Issue

Some children in our classrooms are being declared “hazards” by a process designed to protect workers. The consequent results include the targeting of a child as dangerous; the ostracizing of the child and the child’s family; and an inappropriate perspective on meeting the future needs of the child. In short, the child is collateral damage and the child’s needs are secondary to those of the adults involved.

Request

We would like to request your assistance in advocating for change in the school system with respect to alleged safety issues in classrooms. We suggest that this may require either changes in WCB regulations or, more appropriately, separate authority and processes that apply specifically to the education system.

Overview

Clearly, this situation applies to all students but has the greatest impact on our most vulnerable children, whether they are children with special needs or children who do not have sufficient personal assets to function well in an institutional environment. As you are aware, there is currently a major struggle for resources occurring in the public education system. Various strategies are being used including refusing “unsafe work” as defined in the Occupational Health and Safety Regulation of the Workers’ Compensation Board. The strategy appears to be suggested by these excerpts from an April 2009 article in the BC Teachers’ Federation publication, Teacher Magazine: *“A class of 30+ students with limited support creates an environment that could trigger behaviours that disrupt the learning for those students and their peers. There is the potential of violent behaviour if the distractions become overwhelming for the students. Recommendations to reduce the number of students with special needs or class size from the school-based team and behaviour specialists could prevent violent incidences.”* *“Class size and composition are health and safety issues.”*



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Involving WorkSafeBC

Section 4.27 of WorkSafeBC's Occupational Health & Safety Regulation states that violence means *"the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury."* The latter part of this definition means that the concept of violence is clearly from the point of view of the worker and that risk does not, in fact, actually have to exist. We verified this interpretation directly with WorkSafeBC.

Declaring the workplace unsafe requires the employer to immediately address the issue. If the employer's investigation concludes that the workplace is safe, but the worker disagrees, WorkSafeBC is called in. In the ensuing process, the child has no standing and no rights. The child's parents are not consulted nor included when the process investigates their child's actions or history.

The WorkSafeBC Process

After WorkSafeBC conducts an investigation, they may produce an inspection report which may include various orders. The investigation itself appears to include access to a child's confidential student file. It appears that information from this file can be used to support the conclusions of the inspecting officer. The Occupational Health & Safety Regulation (OHSR) requires that a copy of an inspection report must *"remain posted in a conspicuous place at or near the operation inspected for at least seven days, or until compliance has been achieved, whichever is the longer period."* Orders can often include the requirement for a risk assessment on the student and a safety plan.

An Example of Actual Cases

A recent case in our district unfolded as follows. A worker refused to teach in a classroom due to alleged safety concerns. WorkSafeBC was called in to conduct an investigation. The WCB officer's report included the following definitions. Part 1 of the OHSR defines *"hazard"* as *"a thing or condition they may expose a person to a risk of injury or occupational disease."* WorkSafeBC Policy item R 2.2 defines *"undue risk"* as a *"greater than normal probability that continued exposure will result in injury or adverse health effects."* In a first inspection report, the WCB officer concluded that the investigation *"has not identified an undue hazard."*

In a second inspection report, the WCB officer made some specific orders around the process of developing a safety plan and for reporting and investigating incidents. As support for these orders, the officer provided information on not only some events that occurred in the classroom but also information and conclusions derived from reviewing the student's confidential file. In one statement, the officer writes, *"the site Principle [sic] investigated and removed the student from the classroom (essentially eliminating the hazard to the worker)."*



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Since there is a requirement to post these inspection reports, they are in practical terms, public documents. Subsequently, the teacher's local union representatives shared the inspection report directly with other parents of the classroom involved. This report, combined with previous disclosures by union officials to parents, resulted in the other parents easily identifying the student involved.

To complicate matters, it appears that some or all of the information that was disclosed in the report was either embellished or inaccurate. Obviously, we don't have to explain the injustice perpetrated on this student and family.

Conclusions

The current process treats children as hazards to be remediated. In our view, children's rights are both ignored and violated by this process. At a minimum, we suggest that the UN Convention on the Rights of the Child, Articles 3, 16, 36 and perhaps others, have not been respected.

As we have stated on previous issues, *"adults need to solve their problems in ways that do not violate the rights of our children."*

It is our hope that we can meet with you to provide a complete briefing on this issue. Ultimately, our goal is to resolve this problem with either amendments to existing regulations or to introduce more appropriate legislation to protect the rights of children in our schools.

Yours Sincerely,

The Victoria Confederation of Parent Advisory Councils

John Bird
President, VCPAC
(250) 888-9902
johnb@vcpac.ca

Wendy Joyce
Vice-President, VCPAC
(250) 507-4924
wendyj@vcpac.ca

The Victoria Confederation of Parent Advisory Councils (VCPAC) is the official representative for Parent Advisory Councils in School District 61

cc – Greater Victoria School District
cc – Greater Victoria Teachers' Association
cc – BC Confederation of Parent Advisory Councils
cc – BC Teachers' Federation
cc – CUPE local 947