

MEMBER COMMUNIQUE

This message is being distributed to all 190,000 teachers and education workers represented by Ontario's four major education unions.

Tuesday, August 25, 2020

A meeting yesterday between the leaders of Ontario's four major education unions and Monte McNaughton, Minister of Labour, Training and Skills Development, ended with no clear commitment from the Minister to address the specific serious health and safety concerns raised there surrounding the reopening of the province's schools next month. Those concerns are: class size and physical distancing; cohorting requirements for teachers and education workers as well as students; ventilation standards with respect to COVID-19; busing standards with respect to COVID-19; and flexibility for school boards to reopen when health and safety standards have been met.

OSSTF/FEESO, along with the other unions, stressed repeatedly in the meeting that these standards are not just necessary for the safety of teachers and education workers, but also protect the safety of students and their families.

The August 13 letter to the Minister from the Association des enseignantes et des enseignants franco-ontariens (AEFO), the Elementary Teachers' Federation of Ontario (ETFO), the Ontario English Catholic Teachers' Association (OECTA) and the Ontario Secondary School Teachers' Federation (OSSTF/FEESO) noted that the government's "Guide to Re-Opening Ontario's Schools" fails to "take every precaution reasonable in the circumstances to protect teachers and education workers," as is required by Section 25(2)(h) of the *Ontario Occupational Health and Safety Act*.

The unions raised the urgent concern that there are no clear health and safety standards being set out or ordered by the Ministry so that its inspectorate and workers can apply known and commonly accepted precautions as schools reopen. The Ministry confirmed that no such standards have yet been set.

The Ministry put strong reliance on the use of Personal Protective Equipment (PPE) as the response to concerns that were raised by the unions in the areas of class size and physical

distancing, cohorts, ventilation and busing. However, the Ministry also stated that it relies on the Hierarchy of Controls in considering the appropriate health and safety response to COVID-19.

The Hierarchy of Controls relies on layers of different kinds of protection for workers. The idea behind the hierarchy is that, together, the layers provide protection to the worker. In the case of a school or classroom setting, the layers include physical distancing, cohorting, masking/PPE, hand sanitation and proper ventilation. Methods at the top of the hierarchy are potentially more effective and protective than those at the bottom. Following this hierarchy normally leads to the implementation of inherently safer systems, where the risk of illness or injury has been substantially reduced. PPE is at the bottom of the Hierarchy. It is seen as the least effective of the controls. The areas of concern which the unions raised address the other four layers of protection, which rank above PPE. The Ministry does not yet have standards on these other important layers of protection.

The Ministry also stated that class size and cohorting are matters only within the Ministry of Education's or public health's control. However, this rigid view of the division of responsibilities was challenged as not providing appropriate protection to workers or students, having regard to person-to-person contacts.

The unions also raised with the Ministry that the American Society of Heating, Refrigerating and Air-Conditioning Engineers' (ASHRAE) ventilation standards had already been accepted by the government with respect to health and safety in Ontario's court system as it reopened earlier this summer. The Ministry was asked why, if those standards were good enough for judges and lawyers, they were not good enough for students, teachers and education workers. There was no answer at this time to that question, although the Ministry did indicate that it had sent the ASHRAE standards to the Ministry of Education for review but had not yet heard from that Ministry.

The Ministry of Labour also stated that responsibility for health and safety regarding busing lay with the employer school boards and perhaps the Ministry of Education, and indicated that it had not issued health and safety standards regarding busing.

The unions requested that an inspector be brought to the meeting to deal with the health and safety concerns raised. Unfortunately, the Minister did not bring an inspector. Nevertheless, the unions requested that orders be issued by the inspectorate to deal with these other layers of protection.

In light of the shortcomings in the “Guide to Re-opening Ontario’s Schools,” the unions have asked the Ministry of Labour to issue orders to ensure that appropriate health and safety standards in four critical areas are in place to protect teachers and education workers, and by extension the students with whom they work every day. This will not preclude updating such orders, and expanding them as health and safety dictates. But the need for clear, actionable standards for the reopening of Ontario’s schools was repeatedly raised by the federations in this meeting.

Among the orders requested are:

- class sizes of 15 to 20 students, to ensure physical distancing where the two-metre distance cannot be maintained in a given classroom;
- cohort maximums set at 50 and to be applicable to all education workers as well as students
- adherence to the American Society of Heating, Refrigerating and Air-Conditioning Engineers’ “School and University Reopening Standards,” which deal with reopening during the pandemic, with respect to school and education worksite ventilation, all as updated by that Association from time to time;
- adherence to standards set out by the Ministry of Labour’s Public Services Health and Safety Association for student transportation during COVID-19; and
- a monthly review of all Ministry orders to ensure compliance with the best science available at the time.

The unions are also encouraging the government to give school boards the flexibility to delay the beginning of the school year, where necessary either board-wide or for specific schools, to ensure that health and safety measures are in place.

The Ministry is considering the requested orders, which have been reduced to writing and sent to the Ministry, at the request of Ministry staff. At the meeting, Ministry staff indicated that there would be a response to such requests by the end of this week, August 28, 2020 and the unions have requested that the response be provided by then. This is about a week before the anticipated start of school in most areas of the province.

In the absence of a commitment from the Minister with regard to these requests, OSSTF/FEESO, along with the three affiliate unions will be bringing their concerns to the Ontario Labour Relations Board (OLRB), and asking that the government be ordered to comply with its own health and safety legislation, proactively set appropriate standards and enforce them province-wide.