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EDUCATION LAW NEWSLETTER

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ONTARIO'S CATHOLIC TEACHERS, FRENCH TEACHERS AND SCHOOL SUPPORT STAFF REACH TENTATIVE DEALS TO EXTEND CONTRACTS

The Ontario Ministry of Education reached tentative two-year contract extension deals with Ontario Catholic and French teachers and school support staff, which would ensure a measure of labour peace through the next provincial election.

The Ministry announced on January 7, 2017, that it had reached a tentative agreement with the Canadian Union of Public Employees ("CUPE"), which represents 55,000 support staff.[1]

On January 10, 2017, the Ministry announced that it had reached a tentative two year deal with *L'Association des enseignantes et des enseignants franco-ontariens* ("AEFO").[2]

And on January 27, 2017, the Ministry announced that it had reached a tentative two year agreement with the Ontario English Catholic Teachers' Association ("OECTA").[3]

If ratified, the CUPE agreement, AEFO agreement and OECTA agreement would operate until August 31, 2019, which falls well after the June 2018 provincial election.

The Ministry has not released information about the status of negotiations with other teachers' unions and support workers. Ministry spokesperson Heather Irwin said in a recent e-mail to the *Toronto Star,* "We are in the process of confirming additional dates with other groups over the coming weeks to continue our discussions on remedy and the possibility of contract extensions." [4]

[1] Allison Jones, "School support staff reach tentative contract agreement", *Toronto Star* (January 7, 2017) at: <https://www.thestar.com/news/queenspark/2017/01/07/school-support-staff-reach-tentative-contract-agreement.html>.

[2] Andrea Gordon, "Ontario French teachers' union second to ink tentative deal to extend contract", *Toronto Star* (January 10, 2017) at: <https://www.thestar.com/news/gta/2017/01/10/ontario-french-teachers-union-second-to-ink-tentative-deal-to-extend-contract.html>.

[3] Kristin Rushowy, "Ontario English Catholic teachers reach tentative deal to extend contract", *Toronto Star* (January 27, 2017) at: <https://www.thestar.com/news/queenspark/2017/01/27/ontario-catholic-teachers-reach-contract-extension-deal.html>.

[4] Andrea Gordon, "Ontario French teachers' union second to ink tentative deal to extend contract", *Toronto Star* (January 10, 2017) at: <https://www.thestar.com/news/gta/2017/01/10/ontario-french-teachers-union-second-to-ink-tentative-deal-to-extend-contract.html>.

"As discussions are ongoing with other unions, and until members have had an opportunity to review and vote, we are unable to provide specifics at this time."[5]

The details of the tentative agreements with CUPE, AEFO and OECTA have not been released. Education workers represented by CUPE will be voting on the tentative contract extension reached at the talks with the Ministry. On January 9, 2017, local CUPE leaders met in Toronto to discuss the outcome of those talks and they agreed to present the tentative extensions to members across the province.[6] Ratification votes will be held in the weeks to come. No details of the tentative extension will be released until CUPE members have had an opportunity to review and vote.

The Ministry has not clarified how the current salary increases would operate over the additional two years.

The Ministry has not clarified how the current agreement's salary increases – a one per cent lump sum payment, a one per cent increase in 2016 and a further .5 per cent increase in January 2017 – would operate over the additional two years.

The contract extension talks arose as part of discussions with teachers' unions and other education workers over a court ruling that found that the Government violated their collective bargaining rights with the implementation of the *Putting Students First Act, 2012* ("PSFA") in 2012.

The PSFA imposed contracts on teachers and other education workers that froze some of their wages and limited their ability to strike. As a result of this legislation, five unions took the government to court. In a ruling issued on April 20, 2016, Mr. Justice Thomas Lederer of the Ontario Superior Court sided with the unions, but left the question of a remedy up to the government and unions to determine.[7]

Extensions would likely mean providing additional wage increases and altering terms to ensure the French elementary and secondary teachers and education workers do not strike before a vote expected in June 2018. The government may have to amend the *School Boards Collective Bargaining Act, 2014* (the "Act") to extend the term of the contracts.

All collective agreements with teachers and other education workers in the province will expire on August 31, 2017.

During the last week of September 2016, Premier Kathleen Wynne said that the Government was prepared to loosen provincial purse strings for the next round of negotiations with public-sector unions.

The Premier confirmed that the Government will provide more funds in an attempt to reach settlements in the next round of bargaining, by lifting the requirement that new deals be net zero.[8]

The Premier stated, "That was in a period of time and we have been through that period. It's been a challenging time in those conversations with public-sector employees." The Premier added, "We have to work with our (union) partners so that they can be supported in the work that they do."[9]

Treasury Board President Liz Sandals, who will oversee labour negotiations across the public sector, said that as the province's economy improves, she will be reviewing how much

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[5] *Ibid.*

[6] Canadian Union of Public Employees, "CUPE education workers reach tentative contract extension with province", (January 9, 2017) at: <http://cupe.ca/cupe-education-workers-reach-tentative-contract-extension-province>.

[7] *OPSEU v Ontario,* 2016 ONSC 2197.

[8] Caroline Alphonso and Adrian Morrow, "Ontario quietly asks public high-school teacher's union to extend contract", *The Globe and Mail* (September 30, 2016) at" <http://www.theglobeandmail.com/news/national/education/ontario-asks-toronto-high-school-teachers-union-to-extend-contract/article32189745/>.

[9] *Ibid.*

money is available for labour agreements. In 2017, the Government expects to table a balanced provincial budget.

The first round of bargaining under the Act resulted in nine central agreements. Although 456 local agreements have been negotiated with the union locals and school boards across the province, there are a small number of local agreements still outstanding. The Act formally introduced a two-tier system of bargaining in education, with financial matters, such as salary, maternity leave and sick leave, to be addressed at the provincial tables, leaving individual boards to reach separate agreements on local issues.

In the event that the Catholic teachers, French teachers and school support workers ratify the contract extensions, there will be considerable pressure on the other teachers' unions and education workers to enter into similar extensions. The Ministry appears motivated and committed to continuing its discussions with other groups around the possibility of contract extensions. The goal is not only to avoid labour unrest during the next provincial election, but to provide stability in the education sector until August 2019. And, critically important, a further two years of labour peace will be beneficial to all Ontario students in terms of ensuring consistency, continuity and a positive learning and teaching environment in our schools.

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The Ministry appears motivated and committed to continuing its discussions with other groups.

B.C. TEACHERS WIN LANDMARK RULING AT THE SUPREME COURT

In a decision released on November 10, 2016, the British Columbia Teachers' Federation ("BCTF") won a landmark ruling on negotiating class size and composition against the B.C. Government in the Supreme Court of Canada.

In a rare move, the Supreme Court ruled from the bench 7-2 in favour of the BCTF about their collective bargaining rights.

The BCTF was asking the high court to reconsider the British Columbia Court of Appeal's decision finding that the province did not violate teachers' constitutional rights when it introduced Bill 22 in April 2012. The Bill had the effect of limiting teacher bargaining rights on class size and composition.

In *British Columbia Teachers' Federation v. British Columbia,* 2016 SCC 49, the majority of the Court allowed the appeal, "substantially for the reasons of Justice Donald", who provided the dissenting opinion at the B.C. Court of Appeal. No further analysis was provided by the Supreme Court of Canada.

BACKGROUND

This case relates to the B.C. government's attempts to alter teachers' working conditions

through legislation rather than through collective bargaining. In 2002, the B.C. government enacted legislation – Bill 28 – to declare void certain terms of the collective agreement between the British Columbia Teachers' Federation ("BCTF") and the British Columbia Public School Employers' Association ("BCPSEA"). The effect of Bill 28 was to remove the BCTF's ability to negotiate class size and class composition as part of their working conditions.

In 2011, the BCTF successfully challenged Bill 28. It was found unconstitutional because it not only declared void the terms of an existing collective agreement, but it also prohibited collective bargaining on those terms in the future. The declaration of invalidity was suspended for a year while the government drafted remedial legislation to address these issues.

At the centre of section 2(d) of the *Charter* is a balance between employees and employer that will allow for meaningful collective bargaining.

In the year after the 2011 decision, the B.C. government and BCTF engaged in consultations relating to the overturned legislation and options going forward. Teachers and school boards also engaged in collective bargaining, but, unable to reach an agreement, the BCTF went on strike.

Ultimately, at the expiry of the one-year period following the 2011 decision, the B.C. government passed Bill 22 – the *Education Improvement Act,* S.B.C. 2012, c. 3 – in April 2012. Bill 22 was virtually identical to the earlier Bill 28. The only difference was that the new Bill 22 placed a time limit on its provisions, such that no term concerning class sizes and composition could be included in a collective agreement for approximately the next 14 months.

B.C. SUPREME COURT DECISION

In 2014, the BCTF successfully challenged Bill 22. Justice Susan Griffin of the B.C. Supreme Court found that there was no material distinction between Bill 28 and Bill 22, and the imposition of a time limit did not make an otherwise unconstitutional provision somehow constitutional. Further, the trial judge found that the failure to enact Bill 22 in a timely manner – along with evidence that the province attempted to provoke the BCTF into commencing an illegal strike action for political purposes – negated the province's argument of good-faith bargaining. Justice Griffin found that Bill 22 was not, in fact, "remedial" legislation. Instead, she found that the province's "strategy was to put such pressure on the union that it would provoke a strike." As such, she concluded that the province breached the teachers' s. 2(d) *Charter* right to freedom of association by failing to negotiate and consult in good faith. The BCTF was awarded $2 million and Bill 22 was declared unconstitutional.

B.C. COURT OF APPEAL DECISION

The province appealed the trial ruling, and was successful at the B.C. Court of Appeal.

Four of the presiding justices, constituting a majority of the five-judge panel at the B.C. Court of Appeal, found that although the content of Bill 22 was very similar to that of Bill 28, the process by which it had been drafted was meaningfully different. By consulting with the province and engaging in some collective bargaining before the enactment of Bill 22, teachers had been afforded a meaningful process in which to advance their shared workplace goals. The majority of the B.C. Court of Appeal found that the trial judge had erred in finding that the province had not consulted in good faith.

The majority of the B.C. Court of Appeal also found that the trial judge had erred by dismissing pre-legislative consultations as irrelevant and by insufficiently considering the context in which Bill 22 was enacted.

The lone dissenting judge, Justice Ian Donald, agreed with the majority that the pre-legislative consultations were relevant, and that the context of drafting Bill 22 should have been considered.

However, Justice Donald disagreed with the majority's conclusions as to the province's conduct. He found that the trial judge had not erred in finding that the province had failed to consult with the BCTF in good faith. Justice Donald provided a lengthy dissent, relying on the policy rationale, jurisprudence, and legal test that defines the *Charter* right to "freedom of association" and the concept of free collective bargaining. He also relied on recent Supreme Court of Canada cases enshrining labour rights: in particular, *Mounted Police Association of Ontario v. Canada (Attorney General),* 2015 SCC 1 on the right to independent collective representation, and *Saskatchewan Federation of Labour v. Saskatchewan,* 2015 SCC 4 on the right to strike. Justice Donald's takeaway from these recent cases was that at the centre of section 2(d) of the *Charter* is a balance between employees and employer that will allow for meaningful collective bargaining.

In addition to emphasizing the importance of deferring to the trial judge's findings of fact, Justice Donald focused on the elements of the legal test for negotiating in good faith. Citing prior Supreme Court of Canada precedents, he noted that the *Charter* protection of freedom of association means that the parties must meet and engage in meaningful dialogue, and genuine and constructive negotiations; they must avoid unnecessary and unjustified delays in negotiation; they must make a reasonable effort to reach an agreement; they must mutually respect the commitments entered into; and they must be willing to exchange and explain their positions. Justice Donald held that, in light of these important criteria, the majority at the B.C. Court of Appeal had improperly disregarded the trial judge's findings of fact about the province's conduct and lack of good faith. She had reached her conclusions after a very lengthy hearing, and there were no apparent palpable or overriding errors.

Further, Justice Donald noted that the government had failed to negotiate in good faith because it had come into negotiations with its mind made up. Repeatedly stating "this is as far as we can go" and implementing a strategy to provoke a strike made "a mockery of the concept of collective bargaining."

Finally, with respect to remedy, Justice Donald would have ordered the Minister of Education to direct the public administrator for the BCPSEA to reinstate the provisions on class sizes, composition, and other working conditions into the collective agreement. He would have overturned the trial judge's additional damages award of $2 million, as he opined that award was inappropriate in light of the province's small attempts to bring new legislation into compliance.

SUPREME COURT OF CANADA DECISION

The hearing of the appeal from the B.C. Court of Appeal decision was held on November 10, 2016. In an unusual move, the Supreme Court of Canada issued its ruling from the bench on the same day. Typically, the Supreme Court of Canada reserves judgment, and provides reasons several months after a hearing. Instead, the Supreme Court of Canada simply stated that a 7-2 majority would allow the appeal, substantially for the reasons of Justice Donald.

The B.C. government will now likely spend an estimated $250 million more per year on education in order to comply with the Supreme Court of Canada ruling, and to return to pre-Bill 28 staffing levels. The government will need to hire more teachers, librarians, counsellors, and other staff to reach the ratios, maximum classroom sizes, and staffing thresholds that were in place before Bill 28 was enacted in 2002. The president of the BCTF has stated that approximately 3,500 full-time jobs have been eliminated since 2002.

The B.C. government will now likely spend an estimated $250 million more per year on education to comply with the Court's ruling.

This decision affirms the recent trend at the Supreme Court of Canada, enshrining various elements of the right to freedom of association. *British Columbia Teachers' Federation v. British Columbia,* 2016 SCC 49 confirms that the s. 2(d) *Charter* right includes an obligation to negotiate in good faith. This rounds out the Supreme Court of Canada decisions from early 2015, which held that the s. 2(d) *Charter* right includes a right to unionize and a right to strike.

Although this decision arose out of British Columbia and specific legislative amendments in that province, educators across the country should take note of the courts' approaches to collective bargaining. What may once have been construed as simple hard bargaining might now be found to be a failure to negotiate in good faith, and could have costly ramifications for those found in the wrong.

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ONTARIO *PROTECTING STUDENTS ACT, 2016* CAME INTO FORCE

The changes arising from the Act require that a teacher found guilty of professional misconduct will face mandatory revocation of their teaching certificate.

The Ontario College of Teachers' process for punishing teachers involved in sexual offences may soon become stricter – and more public. The recently-passed *Protecting Students Act, 2016* requires Ontario teachers found guilty of professional misconduct to face a mandatory loss of their teaching certificate, a longer waiting period to re-apply for certification, and publication of their names alongside other details of their discipline.

In the past, the *Ontario College of Teachers Act, 1996*[1] gave the Ontario College of Teachers (the "College") discretion to revoke a member's teaching certificate when a Discipline Committee found that member guilty of professional misconduct, which includes sexual abuse of a student and acts involving child pornography. The Act also provided the College with discretion to determine whether such decisions will be viewable to the public – in print, on the College's website or in any other form.

The *Protecting Students Act, 2016,* also known as Bill 37 (the "Act"), removes such discretion – making punishment and publication mandatory in cases where teachers are found guilty of

[1] SO 1996, c 12.

professional misconduct. The Act came into force upon receiving Royal Assent on December 5, 2016.

In light of these new requirements, the Act's first order of business is defining the "professional misconduct" that gives rise to such punishment. According to the Act, such misconduct includes:

- sexual abuse of a student;
- exposing one or more students to "inappropriate behaviour or remarks of a sexual nature" where such remarks could reasonably cause distress, harm students' well-being or create a negative school environment; and
- prohibited acts involving child pornography.

The changes arising from the Act require that a teacher found guilty of such professional misconduct will face mandatory revocation of their teaching certificate, and will be prohibited from applying for a new teaching certificate for five years. This mandatory five-year prohibition period replaces previous provisions allowing the length of the prohibition period to be determined by the College on a case-by-case basis.

In terms of transparency, the Act requires the College to now publish all decisions and resolutions of its Disciplinary Committee on the College's website – including an express requirement for the publication of the names of disciplined teachers. At the same time, however, the Act allows survivors of professional misconduct to have their identifying information removed from such published decisions on request. These provisions on publication reflect recommendations that were set out by the Honourable Justice Patrick LeSage in a 2012 report on the College's disciplinary procedures. According to Justice LeSage, the College had already been in the practice of publishing most of its disciplinary decisions online – using its own internal *Redaction Guidelines* to ensure removal of information that might identify a survivor of misconduct. In making the publication of disciplinary decisions mandatory, the Act therefore renders the College's existing transparency practices as a standard rather than an option.

The Act also calls for reporting of suspected misconduct – making it a requirement for individuals and bodies to report to the College whenever they have a reasonable suspicion that a person is likely to suffer harm by a teacher and disclosure is urgently needed.

The changes brought about by the Act echo other recent legislative changes that have made important advances in the seriousness with which offences of a sexual nature, particularly against vulnerable people, are addressed in Ontario. Most notably, the passage of Bill 132, *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment),* in 2016 now requires Ontario's Colleges, Universities and Private Career Colleges to put new policies and measures into place to ensure that students who are survivors of sexual violence are (i) respectfully given a voice to report such incidents; and (ii) have their safety and the safety of others assured.

The Act also calls for reporting of suspected misconduct.

While it represents a step forward toward ensuring students' safety and enhancing the transparency of the College's disciplinary processes, the Act nevertheless leaves room for improvement in line with some of the developments brought about under Bill 132. In particular, the Act could be supplemented by at least three further measures – whether through further legislation or changes to the College's own policies – to better protect students' confidentiality and to promote proactive efforts to help address professional misconduct at the earliest opportunity:

1. The Act's provisions appear unclear on when and how the identities of affected students are protected when it comes to the mandatory publication of disciplinary decisions.

Accordingly, further measures could be adopted to clarify the identities of persons who may request a restriction on the publication – including whether these individuals may be parents and principals in addition to students themselves. Further, the College may also be required to publish its *Redaction Guidelines* so that individuals affected by its disciplinary processes may know the extent to which their confidentiality will be protected – whether this amounts to a removal of only names and personal information from proceedings or whether other potentially identifying details, such as the names of disciplined teachers themselves, may be removed as a matter of ensuring confidentiality for survivors.

2. The Act requires persons or bodies that reasonably suspect harm to report to the College. However, the Act does not provide tools to facilitate such reporting. In other words, it advises that "if you see something, then say something," but does not address the difficulties involved in determining when a suspicion is *reasonable* and therefore worth reporting in any particular instance.

   Further measures could be adopted to require the College to develop policies for (i) training its members and others to recognize and address signs of professional misconduct; and (ii) familiarizing these individuals with the disciplinary processes that follow from reporting such offences. Members who know what signs to look for, what questions to ask and the processes to follow will be better prepared to satisfy the Act's reporting requirements at an early stage in cases of misconduct.

The Act does not address the difficulties involved in determining when a suspicion is reasonable and therefore worth reporting.

3. While providing for discipline against perpetrators of sexual offences, the Act does not provide for support to survivors of such offences and their families.

   Accordingly, further measures could be adopted to ensure some degree of communication between the College and the families of survivors in order to provide information about the disciplinary process, its outcomes and resources available to find support where needed. This would ensure that survivors are not left in the dark about the College's disciplinary processes, and are instead provided with the tools needed to move forward.

As indicated by each of these further measures, the Act's provisions for strict punishment and transparency, while a welcome development, leave room for additional steps to be taken toward ensuring the protection of survivors whose lives are affected by professional misconduct. This latter purpose is, after all, the very namesake of the *Protecting Students Act, 2016.*

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CANNABIS REPORT RECOMMENDATIONS WOULD DELAY LEGALIZATION TO 2018 OR 2019

Legalizing cannabis for non-medical or "recreational" use is one of the most anticipated changes to Canadian society. In his election campaign, Prime Minister Justin Trudeau promised to legalize and regulate non-medical cannabis use.[1] In April 2016, Federal Health Minister Jane Philpott said in a speech to the United Nations that Canada would "… introduce legislation in spring 2017 that ensures we keep marijuana out of the hands of children and profits out of the hands of criminals."

Subsequently, in June 2016, Minister Philpott appointed a nine-member panel to consult with Canadians and prepare a report on the new legislative and regulatory framework for legal access to cannabis (the "Panel"). While drafting the Report, the Panel considered nine public policy objectives, although the chief objectives were "… keeping cannabis out of the hands of children and youth and keeping profits out of the hands of organized crime."[2]

On December 13, 2016, the federal government published the Panel's final report, "A Framework for the Legalization and Regulation of Cannabis in Canada" (the "Report")[3]. The Report's approximately 80 recommendations would make the regulation of cannabis very similar to tobacco and alcohol.

Despite the federal government's stated intention to move quickly to legalize and regulate non-medical cannabis use, the Panel's recommendations contained in the Report have been interpreted as a "go slow" approach.[4] Passing and implementing the required legislation, regulations and other related measures, such as drug impairment detection devices, would likely take until 2018 or 2019 to implement.[5]

Highlights from the Panel's recommendations are paraphrased below:

A. Minimizing Harms of Use

1. Minimum age of purchase of 18, or other provincial minimum age for purchase of alcohol (e.g., 19 in Ontario).

The Panel's recommendations contained in the Report have been interpreted as a "go slow" approach.

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[1] Liberal Party of Canada, "Marijuana", online: <https://www.liberal.ca/realchange/marijuana>.

[2] Canada, *A Framework for the Legalization and Regulation of Cannabis in Canada: The Final Report of the Task Force on Marijuana Legalization and Regulation,* 30 November 2016, updated 13 December 2016, online: <http://www.healthycanadians.gc.ca/task-force-marijuana-groupe-etude/framework-cadre/index-eng.php#es>.

[3] *Ibid,* online: <http://www.healthycanadians.gc.ca/task-force-marijuana-groupe-etude/framework-cadre/index-eng.php>.

[4] Paul Wells, "Report on legalization of pot contains highs and lows", *Toronto Star* (14 December 2016). online: <https://www.thestar.com/news/canada/2016/12/14/paul-wells.html>.

[5] Daniel Leblanc, "Ottawa plans to open up legal market for cannabis by 2019", *The Globe and Mail* (13 December 2016), online: <http://www.theglobeandmail.com/news/politics/federal-task-force-advises-wide-ranging-legalization-of-recreational-marijuana/article33307322>.

2. Restrictions on advertising and promotion of cannabis, including sanctions for false or misleading promotion and encouragement of excessive consumption, and regulation of therapeutic claims.
3. Plain and childproof packaging that meets new labeling requirements.
4. Prohibit any product deemed to be "appealing to children," (e.g., candy style or cartoon packaging).
5. Restrictions on size and contents of edible cannabis products.
6. Prohibit products that mix cannabis with alcohol, tobacco, nicotine or caffeine.
7. Tax cannabis products, including a price and tax scheme to discourage purchase of high-potency products.
8. Work with existing federal, provincial and territorial bodies to better understand potential occupational health and safety issues related to cannabis impairment and facilitate the development of workplace impairment policies.

B. Establishing a Safe and Responsible Supply Chain

9. Regulate production of cannabis and other products (e.g., edibles).
10. Use licensing to encourage diverse competitive cannabis market.
11. No co-location of alcohol or tobacco and cannabis sales, wherever possible.
12. Limits on the density and location of storefronts, including appropriate distance from schools.
13. Permit a direct-to-consumer mail-order system.
14. A limit of four plants, maximum 100 cm, per residence.
15. Reasonable security measures to prevent theft and youth access.

C. Enforcing Public Safety and Protection

16. Maintain criminal offences for trafficking to use, illicit production, possession for the purposes of export.
17. Limit of 30 grams for the personal possession of non-medical dried cannabis in public.
18. Restrict cannabis smoking and vaping in the same manner as public tobacco smoking.
19. Permit cannabis lounges and tasting rooms, with safeguards to prevent underage use and co-consumption with alcohol.
20. Create national public education strategy to avoid impaired driving.
21. Develop roadside drug screening device for detecting impairment due to cannabis.

D. Medical Access

22. Maintain a separate medical access framework to support patients.
23. Apply the same tax system for medical and non-medical cannabis products.
24. Research use of cannabis for medical purposes.

The federal government would not be "legalizing marijuana to please recreational users".

Until the federal government implements legislation to legalize cannabis and regulate its production and use, the current criminal restrictions remain in place. Prime Minister Trudeau was recently quoted as saying the "current prohibition [of cannabis] stands", emphasizing that the federal government would not be "legalizing marijuana to please recreational users."[6]

[6] Robert Benzie, "Trudeau urges police to 'enforce the law' on marijuana", *Toronto Star* (3 December 2016), online: <https://www.thestar.com/news/queenspark/2016/12/03/trudeau-urges-police-to-enforce-the-law-on-marijuana.html>.

There is particular concern over storefront dispensaries in Toronto and Montréal that are operating in contravention of the current criminal and municipal laws.[7] Under the laws currently in force, the only legal marijuana is that supplied for medicinal purposes to users with a prescription from a medical doctor. There are thirty-six producers in Canada that are licensed to supply marijuana by registered mail. Production, sale, possession and use for so-called "recreational use" remains a criminal offence. Storefront dispensaries are operating in contravention of the current laws, and will be targeted for enforcement by police and municipal authorities until the laws have changed.

We will continue to monitor the development of the legislation and related measures for the legalization of cannabis. As marijuana use becomes more mainstream, educators and employers will need updated policies and procedures to detect and deter impairment in the workplace and school environment.

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Production, sale, possession and use for so-called "recreational use" remains a criminal offence.

[7] See for example Brennan Doherty "'Prince' and 'Princess of Pot' arrested and released in Montreal dispensary raids", *Toronto Star,* (17 December 2016), online: <https://www.thestar.com/news/canada/2016/12/17/prince-and-princess-of-pot-arrested-and-released-in-montreal-dispensary-raids.html>.

YOUNG MAN SENTENCED FOR CRIMINAL HARASSMENT FOR "SEXTING"

On September 7, 2016, the Ontario Court of Justice ("ONCJ")[1] imposed a suspended sentence on a young man charged with criminal harassment, contrary to section 264 of the *Criminal Code of Canada* (the "Code"), after he posted nude and semi-nude images of his underage girlfriend to a public pornographic website without her consent.

FACTS

Botong Zhou became romantically involved with a young woman (the "Complainant") when she was 14 and he was 16. At Mr. Zhou's request, the Complainant took sexually explicit photos of herself and posted them on a private website that only she and Mr. Zhou had access to. After posting the photos to the private website, the Complainant discovered that 10 of her nude and semi-nude photos were posted to a public pornographic website and had been viewed over 1,300 times over a span of two years. Underneath the photos, Mr. Zhou asked viewers to "rate" the Complainant and describe what they would "do to her".

[1] *R. v. Zhou,* 2016 ONCJ 547, 2016 CarswellOnt 13938.

Mr. Zhou's actions had detrimental consequences for the Complainant. She eventually became depressed, anxious and terrified over knowing that 1,300 people had seen her photos and feared that these images would reappear and affect her future.

As a result of his actions, Mr. Zhou was charged with possessing, accessing, and distributing child pornography. However, at the time of sentencing, the child pornography charges were dropped and Mr. Zhou pled guilty to one count of criminal harassment contrary to section 264 of the Code. It provides:

> **264(1)** No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.[2]

The need to protect vulnerable young people, particularly young women, is prevalent in the decision.

ONTARIO COURT OF JUSTICE DECISION

At the time of sentencing, the Crown submitted that a suspended sentence with 12 months of probation would be appropriate, while Mr. Zhou sought an absolute discharge.

In determining an appropriate sentence for Mr. Zhou, the Court stressed the heightened public awareness over the prevalence of the non-consensual distribution of intimate images, recently coined "sexting". Particularly, in response to the current "sexting" phenomenon, the federal government created a new criminal offence, under section 162.1, specifically targeting this type of behaviour. Although the new section 162.1 came into force in March 2015, after the commission of Mr. Zhou's offence, the Court stressed that section 162.1 covers non-consensual sexting, which often begins with consensual texting, as it did in this case. The Court cites Justice Atwood of the Nova Scotia provincial court, who stated that

> …this province and this country underwent a transformational shift in recognizing the vulnerability of young people – particularly females – to trauma, psychological harm, serial victimization and predation as a result of people (including – perhaps particularly including – age peers) doing precisely what [the accused] did to his victims.[3]

According to the Court, the increased prevalence of these types of crimes, charged under the rubric of criminal harassment in Mr. Zhou's case, is a factor that heightens the general gravity of the offence. The Court then listed other factors that also heightened the gravity of Mr. Zhou's offence. Most notably,

- Mr. Zhou's conduct persisted over a two-year period and was not 'isolated';
- The 'breach of trust' and ongoing deceit and betrayal occurred while Mr. Zhou continued to be in a romantic relationship with the Complainant;
- The images in question met the Code definition of "child pornography". In particular, their dominant characteristic was the depiction, for a sexual purpose, of the sexual organs of a person that was under the age of 18; and
- The comments posted with the photos of the Complainant demonstrate an intention to degrade and humiliate the victim. The

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[2] *Criminal Code,* RSC 1985, c C-46, s. 264(1).

[3] *Ibid* at para. 20, citing *R. v. T. (C.N.),* 2015 NSPC 43, 2015 CarswellNS 591 at para. 9.

comments not only violated the victim's privacy, but also invited other users to degrade her by describing the sexual acts they would perform.

When assessing the degree of Mr. Zhou's responsibility, the Court also rejected Mr. Zhou's submission that he had no intention to harass the victim and was simply behaving recklessly. Instead, the Court found that Mr. Zhou's actions were thought out and planned. After Mr. Zhou chose which photos he would post and thought about the comments he would post with them, he frequently checked the number of views and comments on the photos. Based on these actions, this was not a momentary lapse of judgment or a thoughtless one-time mistake. Mr. Zhou posted the photos to satisfy his need to brag over the attractiveness of his girlfriend.

However, the Court did acknowledge that Mr. Zhou took responsibility for his actions, cooperated with the police and pled guilty to his charges. Mr. Zhou also attended counselling to gain insight into what caused his harmful criminal behaviour. In addition to his rehabilitation efforts, the Court noted Mr. Zhou's personal circumstances. At the time of sentencing, Mr. Zhou was a talented young pianist with a bright future ahead of him. The Dean of his music school described Mr. Zhou as "an exceptional student on all levels". Given these circumstances, a conviction would have an above average impact on Mr. Zhou's life.

After an assessment of all aggravating and mitigating factors, the Court was satisfied that Mr. Zhou's case was not one suitable for an absolute discharge. In the Court's view, a short period of custody would have been appropriate. However, Mr. Zhou had already served 4 days in pre-sentence custody, and therefore was sentenced to no more. Ultimately, the Court imposed a suspended sentence with a non-reporting probationary period of 12 months.

CONCLUSION

Sexting has been defined as sending, receiving or forwarding sexually explicit messages, photographs or images, primarily between mobile phones. It may also include the use of a computer or digital device.

Sexting has become a prevalent practice among youth across Canada. A 2014 MediaSmarts survey on media use by 5,436 Canadian students across the country from Grades 4 to 11 found that 15 per cent of the Grade 11 students surveyed had sent a sext, and 36 per cent said that they had received one.

Many students and their parents are not aware that sexting, even when the images are not shared beyond the sender and receiver, can be considered child pornography under Canadian law.

R. v. Zhou demonstrates the court's intolerance towards the new "sexting" phenomenon. The need to protect vulnerable young people, particularly young women, is prevalent in the decision. While the federal government's response to "sexting" was the implementation of the new section 162.1 of the Code, in this case, the Court was satisfied that a sentence of criminal harassment for Mr. Zhou's actions was appropriate. This case is a shining example of how teenage "sexting" will not be taken lightly by Canadian courts and can have a detrimental impact on a young person's future.

Many students and their parents are not aware that sexting can be considered child pornography under Canadian law.

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MINISTRY RELEASES NEW BOMB THREAT PROCEDURES

Violent school threats, including bomb threats, have escalated in recent years. A study from the U.S. based National School Safety and Security Services found that there had been 812 occurrences in the United States in the first half of 2014, a 153% increase since the previous year.[1] The vast majority of these threats were hoaxes [2] that must be carefully assessed on a case by case basis.

The majority of bomb threats are now received over social media.

Comparative Canadian data is not available[3] as Statistics Canada does not have a separate category for bomb threats.[4] Nonetheless, bomb threats are becoming a regular feature of the Canadian school experience due in part to the anonymity and the broad platform that social media delivers. The majority of bomb threats are now received over social media[5], and this presents a unique challenge to educators who must decide whether or not to evacuate a school.

In response to the changing landscape of school security the Ministry of Education recently released a new Bomb Threat Protocol.[6] As of September 2016, school boards and local police are expected to have revised their own local protocols to include best practices for bomb threats in each school's Emergency and Crisis Response Plan.[7]

While most of what the policy provides is termed "Effective Practices" arises from the recommendation of the Ontario Association of Chiefs of Police, there are two mandatory requirements.

1. All publicly funded elementary and secondary school boards establish a bomb threat response policy to ensure the development and implementation of individual school plans.

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1 National School Safety and Security Services, "Study finds rapid escalation of violent school threats" (9 February 2015). Online: <http://www.schoolsecurity.org/2015/02/study-finds-rapid-escalation-violent-school-threats/>.

2 Richard Woodbury, "Canadian bomb threats are almost always hoaxes, but still take police time" *CBC News* (25 September 2016). Online: <http://www.cbc.ca/news/canada/nova-scotia/bomb-threats-canada-nova-scotia-p-e-i-who-makes-them-1.3777501>.

3 Evan Dyer, "Closure of RCMP bomb data centre lamented by police", *CBC News* (13 August 2016) online: <http://www.cbc.ca/news/politics/rcmp-bomb-centre-closure-1.3718556>.

4 *Supra* note 2.

5 *Supra* note 1.

6 Ministry of Education, "Provincial Model for Local Police/School Board Protocol" (2015) at <http://www.edu.gov.on.ca/eng/document/brochure/protocol/locprote.pdf>.

7 George Zegarac, Deputy Minister of Education, Memorandum to Directors of Education and District School Boards, "Revised Provincial Model for a Local Police School Board Protocol" (9 September 2015), online: <http://www.edu.gov.on.ca/eng/policyfunding/memos/sept2015/revised_provincial_model.pdf.>.

2. Each board must ensure that its staff, students and other partners are aware of their obligations/responsibilities within the individual school plans.

The following are some commonly asked questions about the new policy:

WHAT IS THE ROLE OF THE PRINCIPAL IN THE NEW POLICY?

The principal is responsible for:

- The overall development and content of the individual school plan.
- Inviting police, fire and emergency medical services to participate in the plan development and making them aware of planning and drills.
- Training of staff and students.
- Being completely familiar with the school's bomb threat plan and with the scope of his/her authority vested in and the responsibilities associated with the principal's position as defined in the plan.

During Initial Stages of Bomb Threat:

- The principal will be responsible for initial assessment and related decisions including those regarding visual scans and evacuations.

For Ongoing Incidents:

- Police are responsible for management of the threat and any subsequent criminal investigation.
- The principal will co-operate fully with police and strive to ensure that all staff and students do the same.
- Once the principal has been relocated to a place of safety, he/she should continue to exercise his/her duties to the extent possible, in support of the emergency responders' management of the situation.

WHAT SHOULD THE SCHOOL'S BOMB THREAT PLAN ADDRESS?

A non-exhaustive list of factors the plan should include are as follows:

- Determine likely locations in and around school for placement of suspicious packages/devices.
- Provide for controlled access to critical areas of all facilities.
- Consider the use of electronic surveillance or closed-circuit television (CCTV).
- Address ways to ensure that emergency exits are kept clear from obstructions.
- Assess whether interior/exterior and auxiliary lighting is adequate.
- Provide for the regular review of document-safeguarding procedures and inspection of first aid and firefighting equipment.
- Develop an inspection procedure for all incoming packages.

WHAT ARE EFFECTIVE PRACTICES IF THE SCHOOL RECEIVES A BOMB THREAT?

According to the RCMP, most bomb threats made over the telephone are by anonymous callers. Some are received in the mail or by other means, but these methods are rare. In each case, the communication should be taken seriously. School staff in positions that make them most likely to receive bomb threats should be identified in

According to the RCMP, most bomb threats made over the telephone are by anonymous callers.

school plans and should receive training in proper procedures.

The person receiving a bomb threat by telephone should try to keep the caller on the line as long as possible and should record precise details of the call, especially the exact wording of the threat. However, the person should end the call if staying on the line puts them in harm's way or prevents them from initiating response procedures.

WHAT INFORMATION SHOULD BE RECORDED?

Staff should be trained to record precise information during a bomb threat call, including the following:

The person receiving a bomb threat should record precise details of the call.

- The exact wording of the threat.
- The time and date of the call.
- The phone number or line on which the call was received.
- The caller's number, if shown on call display.
- Whether the caller is male or female and the caller's approximate age.
- The exact location of the explosive device and the time of detonation, if that information is revealed by the caller.
- The type of explosive device and what it looks like (e.g., pipe bomb), if that information is revealed by the caller.
- Any unique speech characteristics of the caller.
- Any background noises (e.g., traffic, music laughter).
- The condition or emotional state of the caller (e.g., whether the caller seems to be intoxicated, excited, angry).
- The caller's name, if that information is revealed by the caller.
- Whether the call taker recognizes the voice of the caller. and
- The time when the caller hangs up.

Following the call, the call taker should immediately "lock-in" the phone number of the received call, if this feature is available through the local telephone provider. It is suggested that the "lock-in" process be posted at all phones that can receive incoming calls.

WHO SHOULD BE NOTIFIED OF A BOMB THREAT?

- Once the initial assessment has taken place and decisions have been made regarding a visual scan and/or evacuation, the police must be notified. Initial contact with the police may be made while the principal is conducting the assessment and making decisions.
- Although it is important to provide police with information beyond simply that a bomb threat has been received, initial contact should not be delayed.
- The fire department should also be notified of the bomb threat. A predesignated phone number should be used, rather than 911, which is restricted to emergency calls to the police.
- When notifying the fire department, it is important to clarify that no explosion has occurred and that the police have been informed.

WHAT INFORMATION SHOULD BE GIVEN TO THE POLICE?

- The information recorded by the person who has received the threat, whether by phone, email, text, social media, or online bulletin board.

- Activities taking place in the school at the time of the threat (e.g., examinations).
- The status of any evacuation that may be underway.
- The status of any safe, visual scan that may be underway.
- The in-school contact person for the police, once they are on the scene.

WHEN SHOULD THE SCHOOL BE EVACUATED AS OPPOSED TO CONDUCTING A VISUAL SCAN?

Given that bomb threats are often designed to disrupt school exams or daily classes, the guidelines do not prescribe when to conduct a safe visual scan and/or when to evacuate during a bomb threat. However a non-exhaustive list of criteria to consider when making this decision includes:

- The information received from the source of the threat;
- Ongoing activities at the school;
- The location and time of threat; and
- Recent comments made or incidents involving school staff or students.

WHAT STEPS DO YOU TAKE IF A SUSPICIOUS PACKAGE IS LOCATED?

When a suspicious package/device is located, appropriate procedures include the following:

- Isolation/containment of the device/ package, ensuring that it is not touched;
- Immediate communication of the discovery to the principal, the police and the fire department; and
- Immediate re-evaluation of any evacuation decisions in light of the discovery.

WHAT IS A COMMAND POST?

A command post is an area within the school that provides a central location from which officials and emergency services can evaluate incidents and control the emergency response.

Normally, the main office will be the primary command post location, with another area within the school identified as an alternate (secondary) command post location. The individual school plan should identify a third off-site command post location, to be used in the event that neither on-site command post location is available.

WHAT COMMUNICATION STRATEGIES ARE RECOMMENDED?

- Communication with parents, guardians, and the community in general is important so as to ensure a good understanding of bomb threats and explosive incident procedures, without instilling fear.
- Consider sending a newsletter to each home at the beginning of the school year to inform parents of bomb threat procedures and to encourage parents to reinforce with their children the importance of understanding the procedures and following staff direction.
- Parents need to be informed of where they should proceed in the event of an actual incident. Given the dynamic, complex, and fluid nature of these incidents, communication with parents around the importance of procedures is vital.
- In all incidents resulting in an evacuation that is not a drill, it is recommended that a communication to parents be sent home with each student at the conclusion of the school day or as soon as possible thereafter.

Consider sending a newsletter to each home at the beginning of the school year to inform parents of bomb threat procedures.

- Parents should be encouraged to ensure that their contact information is kept up-to-date so they can easily be reached by staff in the event of an emergency.

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TEACHING IN A "POST-TRUTH" WORLD: DO TEACHERS AND STUDENTS NEED MORE TRAINING IN MEDIA LITERACY?

Young people in modern classrooms may have significant difficulty assessing the truth of online content.

Post-truth: Relating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief.

2016 proved to be a year where popular public opinions confounded traditional news media, pollsters and many others. The presidential election in the United States and the United Kingdom's "Brexit" vote serve as prime examples. One of the galvanizing forces underlying this increasing disconnect between public sentiment and traditional media has been the growing prevalence of online sources that report "news" meant to appeal to its audience without being bound by facts or evidence or research – news that simply must be true (to some) because it *feels right.*[1] This shift in the importance of verifiable truth as a basis for popular opinion led Oxford Dictionaries to select *Post-truth* as 2016's Word of the Year.

[1] See Tom Blackwell (4 Nov 2016) "The scourge of the U.S. election: Fake news, exploding on social media, is seeping into the mainstream" available online <http://news.nationalpost.com/news/world/growing-fake-news-phenomenon-fuels-polarized-u-s-election>.

So what does it mean to be living in the era of post-truth? For starters, it means more responsibility on the shoulders of people who make use of media (i.e., everyone). First, as consumers of media content, individuals have a new responsibility to sort reliable information and credible sources from the questionable, the unreliable and the downright false information that may be masked as news for their consumption. Second, as producers of media in online spaces – whether through posting of tweets, blogs, photos or Facebook entries – individuals have a new responsibility to consider the impact of the content that they create or sponsor.

There is an important relationship between consuming and producing online media. Individuals don't tend to simply consume information, they pass it on – through retweets, likes and blog posts. Modern apps and technologies make this quick and simple.

For better or worse, when posting online, one effectively attaches one's name and reputation to the information being posted – regardless of whether the decision is made carefully and critically, or casually while ordering a double-double. This is where hazards arise for the young and inexperienced, or for any individual with limited media literacy.

When it comes to online media – no matter how small a circle one may intend to communicate with – one's potential audience is always the entire world. Take the infamous case of Justine Sacco, for example. While she was the head of communications at a major media conglomerate, Ms Sacco boarded a plane and posted a tweet that others considered racist and insensitive. Ms Sacco likely expected that her post would only be seen by her small group of followers. When her plane landed, the post had been retweeted thousands of times, #HasJustineLandedYet was trending worldwide on Twitter, and Ms Sacco was no longer head of communications. She had been fired.

For educators, the implications of new responsibilities arising from the online media landscape are significant.

According to the researchers behind a recent study conducted by Stanford University, the young people in modern classrooms may have significant difficulty assessing the truth of online content.[2] These researchers found that most elementary school students had trouble distinguishing articles from advertisements, and most university students had trouble identifying reasons why relying on information from fringe media or activist groups could be problematic. Discussing these findings in a recent interview, the researchers noted that "the kinds of duties that used to be the responsibility of editors, of librarians now fall on the shoulders of anyone who uses a screen to become informed about the world."[3] If left unaddressed, the researchers warn that the lack of basic media literacy uncovered by their study may become a "threat to democracy."

On the flip side of the coin – when it comes to *producing* online media – recent examples in Ontario illustrate that educators may also have important lessons to learn about modern media literacy. Michael Marshall, a Richmond Hill

There is a distinction between the professional and private life of teachers. However, off-duty conduct matters.

[2] Stanford History Education Group, *Evaluating Information: The Cornerstone of Civic Online Reasoning,* Executive Summary, available online <https://sheg.stanford.edu/upload/V3LessonPlans/Executive%20Summary%2011.21.16.pdf>.

[3] Camila Domonoske, "Students have 'dismaying' inability to tell fake news from real, study finds" available online <http://www.npr.org/sections/thetwo-way/2016/11/23/503129818/study-finds-students-have-dismaying-inability-to-tell-fake-news-from-real>.

teacher, was terminated from his employment in 2015 after posting tweets with comments expressing his views on various identifiable groups– including statements that hijabs made him "sad," and ridiculing complaints against him with the hashtag #theycantbreathe.[4] Numerous community members found these postings highly offensive, racist, and exclusionary. These community members filed complaints to the school board, and the resulting investigation led to Mr. Marshall's termination.

More recently, Ghada Sadaka, Principal at Sir Wilfrid Laurier Public School in Markham, came under investigation following complaints that anti-Muslim content was posted to her Facebook account. These posts included a graphic stating that burkas should be banned in Europe if bikinis were banned in Muslim countries, and a link to an article on Ezra Levant's The Rebel website that purported to tell "the truth about refugees."[5] Ms Sadaka has since issued an apology, stating that she had learned about how her posts had affected others around her and that she realized, upon reflection, that these posts "should not have occurred."[6] Ms Sadaka announced in November 2016 that she would be on leave from her position until 2017.[7]

The use of social media may cause members to forget their professional responsibilities.

One significant concern that is evident in both Ms Sadaka's apology and Mr. Marshall's online postings is their apparent lack of awareness or concern that (i) members of the communities they serve would see their postings; and (ii) some members of these communities could reasonably find these postings offensive and threatening. Being responsible for the education of children in increasingly diverse modern communities, the duties of educators – and principals in particular – include facilitating inclusiveness in classrooms and in schools.

In an age of online media that makes it all too easy to "broadcast ourselves," educators' duties will increasingly entail using such media responsibly and literately. Moreover, as Stanford University's study bears out, students have a growing *need* to receive quality education in media literacy. If the media literacy of teachers is left in doubt, then the ability to fill this need will effectively be left to chance. As suggested by the public response to Ms Sadaka's and Mr. Marshall's cases, the consequences to school boards of taking on such risks can be significant.

Professional bodies, such as the Ontario College of Teachers, have taken steps toward ensuring media literacy among their members by adopting a professional advisory on the *Use of Electronic Communication and Social Media.* This advisory, which was released on February 23, 2011, provides direction and guidance to ensure

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[4] See David Bateman (9 Sept 2015), "High school teacher fired after investigation into 'racist' tweets" Available online: <https://www.thestar.com/yourtoronto/education/2015/09/09/high-school-teacher-fired-after-investigation-into-racist-tweets.html>.

[5] Noor Javed (6 Sept 2016), "Principal under investigation for anti-Muslim posts" Available online: <https://www.thestar.com/news/gta/2016/09/06/principal-under-investigation-for-anti-muslim-posts.html>.

[6] Noor Javed (6 Sept 2016), "Principal under investigation for anti-Muslim posts" Available online: <https://www.thestar.com/news/gta/2016/09/06/principal-under-investigation-for-anti-muslim-posts.html>.

[7] Noor Javed and Kristin Rushowy (28 Nov 2016), "Markham principal who apologized for anti-Muslim posts now on leave" Available online: <https://www.thestar.com/news/gta/2016/11/28/markham-principal-who-apologized-for-anti-muslim-posts-now-on-leave.html>.

that educators in Ontario are informed of their responsibilities in online spaces. As set out in the advisory, these responsibilities are rooted in an awareness of what it means to engage in online communication in the first place:

> Electronic messages are not anonymous. They can be tracked, misdirected, manipulated and live forever on the Internet. Social media sites create and archive copies of every piece of content posted, even when deleted from online profiles. Once information is digitized, the author relinquishes all control.
>
> The use of the Internet and social media, despite best intentions, may cause members to forget their professional responsibilities and the unique position of trust and authority given to them by society. The dynamic between a member and a student is forever changed when the two become "friends" in an online environment.
>
> Members should never share information with students in any environment that they would not willingly and appropriately share in a school or school-related setting or in the community.

The advisory states that there is a distinction between the professional and private life of teachers. Practioners are individuals with private lives. However, off-duty conduct matters. The advisory asserts "sound judgment and due care should be exercised."

It confirms that teaching is a public profession. The Supreme Court of Canada has ruled that teachers' off-duty conduct, even when not directly related to students, is relevant to their suitability to teach. The advisory states, "Members should maintain a sense of professionalism at all times – in their personal and professional lives."

As one of its key recommendations for educators, the advisory advises acting as a "digital citizen" to model appropriate online behaviour for students. This begins with classroom instruction but, as the examples above indicate, it does not necessarily end there. Ontario's elementary curriculum and its secondary English curriculum each require teachers to provide extensive lessons in media studies to their students. At the same time, online media renders teachers' own media literacy subject to public display and public scrutiny. This introduces a new and significant responsibility into the teacher's role as a media literacy instructor and as a "digital citizen" who uses their online acts to *educate.*

Members should maintain a sense of professionalism at all times - in their personal and professional lives.

As a best practice, school boards can help put these principles into action by adopting written *acceptable use policies* setting out guidelines for the use of online and other media. Such policies provide clarity, and ensure that educators are on the same page when it comes to translating the role of "digital citizen" into everyday actions and decisions. These policies may include information and instruction on:

- Means for ensuring privacy online;
- The limits of online privacy;
- Demonstrating empathy online;
- Netiquette and cyber-kindness; and
- Appropriate ways to integrate classroom materials and online materials (ie., putting lessons online *or* bringing existing online content into lessons).

As a best practice, school boards can help put these principles in place by adopting written acceptable use policies.

Moreover, an acceptable use policy may provide a forum for educators to share their concerns over online media use, and to address issues collaboratively with administrators as they arise.

If we are indeed entering an era of *post-truth* news reporting, then teachers may be among the forefront of individuals responsible for providing tools to challenge the propagation of false information and assumptions – ensuring, in particular, that such information is not laundered through oblivious or uninformed acts of "reposting". For teachers who choose to participate in social media and broadcast themselves to the world, this responsibility weighs more heavily and necessarily extends beyond the classroom.

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