

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT**

B E T W E E N :

**THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO and CINDY
GANGARAM**

Applicants

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE
MINISTER OF EDUCATION**

Respondent

APPLICATION UNDER Rule 14.05(2) of the *Rules of Civil Procedure*, RRO 1990, Reg 194
and Sections 2(1) and 6(2) of the *Judicial Review Procedure Act*, RSO 1990, c J.1

**FACTUM OF THE APPLICANTS,
THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO and
CINDY GANGARAM**

GOLDBLATT PARTNERS LLP
20 Dundas Street W., Suite 1039
Toronto, ON M5G 2C2
Tel: 416-977-6070
Fax: 416-591-7333

Howard Goldblatt (15964M)
hgoldblatt@goldblattpartners.com

Adriel Weaver (54173P)
aweaver@goldblattpartners.com

Daniel Sheppard (59074H)
dsheppard@goldblattpartners.com

Kiran Kang (70023C)
kkang@goldblattpartners.com

Lawyers for the Applicants

MINISTRY OF THE ATTORNEY GENERAL

Ministry of the Attorney General
720 Bay Street, 4th Floor
Toronto, ON M7A 2S9
Tel: 416- 326-0890
Fax: 416- 326-4015

Zachary Green (48066K)
zachary.green@ontario.ca

Andrea Boliero (60034I)
andrea.boliero@ontario.ca

Emily Bala (62458I)
emily.bala@ontario.ca

Lawyers for the Respondent

ADAIR GOLDBLATT BIEBER LLP
95 Wellington Street West, Suite 1830
Toronto, ON M5J 2N7
Tel: 416-499-9940
Fax: 647-689-2059

John H. Adair
jadair@agblp.com

Stephanie Bishop-Hall
sbishophall@agblp.com

Lawyers for the Intervener, the Grand Council of Treaty 3

JUSTICE FOR CHILDREN AND YOUTH
55 University Avenue, Suite 1500
Toronto, ON M5J 2H7
Tel.: 416-920-1633
Fax: 416-920-5855

Andrea Luey
a_luey@lao.on.ca

Claire Millgate
millgac@lao.on.ca

Lawyers for the Intervener, Justice for Children and Youth

HIV/AIDS LEGAL CLINIC OF ONTARIO

55 University Avenue, Suite 1400

Toronto, ON M5J 2H7

Tel: 416-340-7790

Fax: 416-340-7248

Khalid Janmohamed

janmohak@lao.on.ca

Ryan Peck

peckr@lao.on.ca

CANADIAN HIV/AIDS LEGAL NETWORK

600 – 1240 Bay Street

Toronto, ON M5R 2A7

Tel: 416-595-1666

Fax: 416-595-0094

Richard Elliott

relliott@aidslaw.ca

Lawyers for the Intervenors,

Canadian HIV/AIDS Legal Network and HIV/AIDS Legal Clinic of Ontario

CHERNOS FLAHERTY SVONKIN LLP

220 Bay Street, Suite 700

Toronto, ON M5J 2W4

Tel: 416-855-0404

Fax: 647-725-5440

Stuart Svonkin (48796O)

ssvonkin@cfscounsel.com

Brendan Brammall (54544M)

bbrammall@cfscounsel.com

Lawyers for the Applicants in Court File No. 526/18

(to be heard together with the herein Application)

Table of Contents

	Page
PART I – NATURE OF THE APPLICATION	1
PART II - FACTS	2
A. Statutory and Regulatory Framework	2
B. The Ontario Elementary Curriculum	4
C. The Development and Implementation of the 2015 HPE Curriculum	6
D. Differences Between the 1998 and 2015 Curricula	8
i. Consent	8
ii. Abstinence.....	9
iii. Learning proper names for body parts	11
iv. Gender Identity and Sexual Orientation	11
v. Online behaviour/cyberbullying	12
vi. Learning about sexually transmitted infections (STIs).....	13
vii. The Significance of the Differences	14
E. The 2018 Directive Changing the Curriculum & the Creation of the Reporting Line	16
F. Evidence Respecting the Decision to Implement the Directive.....	20
G. Impact of the Directive and Reporting Line on Teachers.....	21
H. Consequences for Students	25
PART III – ISSUES AND THE LAW	29
A. Framework for Analysis	29
B. The Directive and Reporting Line Violate Teachers’ Freedom of Expression	29
viii. Classroom Instruction is Expressive Activity Within the Scope of s 2(b)	30
ix. The Expressive Activity in Question is at the Core of s 2(b)	31
x. The Purpose of the Directive & Reporting Line is to Restrict Expressive Activity	32

xi.	The Effect of the Directive & Reporting Line is to Chill Expressive Activity.....	34
C.	The Directive and Reporting Line Violate Students’ s 7 Rights.....	38
i.	Section 7 is Engaged	39
ii.	The Decision Does Not Accord With the Principles of Fundamental Justice	39
a.	Arbitrariness.....	40
b.	Gross Disproportionality.....	44
D.	The Directive & Reporting Line Violate Students’ s 15 Rights	45
E.	Proportionate Balancing.....	48
	PART IV – ORDER REQUESTED	50
	SCHEDULE A – AUTHORITIES CITED.....	52
	SCHEDULE B – STATUTORY PROVISIONS	54
	SCHEDULE C – COMPARISON OF HPE CURRICULA.....	60

PART I – NATURE OF THE APPLICATION

1. This is an application for judicial review of two actions by the Minister of Education. The first is the Directive withdrawing the Health and Physical Education (HPE) curriculum for grades 1-8 that was in existence from 2015 (the 2015 Curriculum) and replacing it with a document (the 2018 Curriculum) that contains sex ed that was last updated 1998. The effect of this Directive is that sexual health education today is based on a document created prior to the advent of social media, same-sex marriage, and human rights protections for gender identity, to say nothing of contemporary understandings of consent.
2. The second impugned action is the creation of a dedicated website (the Reporting Line) designed to solicit complaints against teachers outside of the ordinary process administered by the Ontario College of Teachers (OCT). It was created with the intent to intimidate teachers, constrain their professional judgment, and serves as a means to ensure that students would no longer be exposed to the content of the 2015 Curriculum that was stripped away by the Directive.
3. In these proceedings, the Applicants adduced evidence from eighteen affiants, including teachers and allied professionals; professors of education, social work and psychology; experts in sexual health education, bullying prevention, gender violence, and the online activities of young people; and persons who work with Indigenous peoples, girls, and trans children and youth.
4. Their evidence demonstrates two key points: First, unlike the 2015 Curriculum, the 2018 Curriculum is grossly inadequate in meeting the needs of today's children, and the Directive therefore exposes students to increased risks of a variety of harms. Secondly, the Government's conduct has been to threaten and intimidate teachers to ensure that they do not teach materials the Government has consciously stripped out of the HPE Curriculum.

5. The Government's conduct does not simply amount to bad public policy. It violates the constitutional rights of teachers under s. 2(b) of the *Charter* and the rights of students under ss. 7 and 15(1). The Government's actions fail to proportionately balance these constitutional interests against the objectives of the *Education Act*. Indeed, the impugned conduct does not rationally pursue any legitimate objective. Consequently the decisions ought to be quashed.

PART II - FACTS

A. Statutory and Regulatory Framework

6. Public education in Ontario is governed by the *Education Act*. The purpose of education is fundamentally "to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to their society."¹ Education must prepare students to be members of the diverse society in which they live.

7. The powers of the Minister of Education are set out in s 8, and include the power to prescribe the courses of study to be taught,² and to issue curriculum guidelines and to require courses of study to be developed therefrom.³

8. School boards are under a statutory obligation under the *Act* to promote the prevention of bullying, and to promote a positive school climate that is inclusive of all students regardless of, *inter alia* race, sex, sexual orientation, gender identity, age or disability.⁴

9. The *Act* requires that – subject to limited exceptions – all persons employed as public school teachers be members of the Ontario College of Teachers (OCT).⁵ The duties of public school teachers include obligations to "teach... the classes or subjects assigned to the teacher by

¹ *Education Act*, RSO 1990 c E-2, s 0.1(2).

² *Ibid*, s 8(1)(2).

³ *Ibid*, s 8(1)(3)(a).

⁴ *Education Act*, s 169.1(a.1), (a.2).

⁵ *Ibid*, ss 1 and 262.

the principal”; “to encourage the pupils in the pursuit of learning”; to “inculcate by precept and example respect for...the highest regard for trust, justice, ... humanity, benevolence...and all other virtues”; to “perform all duties assigned in accordance with this Act and the regulations”⁶ and to maintain a “healthy physical, emotional and social learning environment”.⁷

10. As members of the OCT, teachers are also subject to the *Ontario College of Teachers Act* (*OCTA*). The objects of the OCT include investigating complaints against members of the OCT.⁸ The OCT established professional and ethical standards for teachers in the late 1990s, and incorporated them directly into the its bylaws in 2006.⁹ Pursuant to these Bylaws teachers must demonstrate a commitment to students, their learning, and their care.¹⁰

11. The *OCTA* authorizes the OCT to regulate the teaching profession and to receive and investigate complaints by the public or other members against members of the OCT.¹¹ Investigations of teachers may be initiated based on a complaint from any source. The OCT is concerned with matters of professional misconduct, incompetence, or incapacity.¹² “Professional misconduct” is defined in Regulation 437/97 to include failing to maintain the standards of the profession, and failing to comply with the *Education Act*.¹³

12. Complaints against teachers can have very serious consequences,¹⁴ including revocation of the member’s teaching Certificate.¹⁵ The member’s Certificate may also be suspended for a

⁶ *Ibid*, s 261.

⁷ *Ibid*, s 264.1.

⁸ *Ontario College of Teachers Act, 1996*, SO 1996, c 12 [*OCTA*], s 3.

⁹ Affidavit of Linda Grant, affirmed Oct 2, 2018 [*Grant Affidavit*], paras 22-32, 42-44, JAR Vol 9, Tab 15, pp 2256-2259, 2262-63.

¹⁰ OCT – Standards of Practice for the Teaching Profession, JAR Vol 9, Tab 15(F), p 2329; OCT – A Self-Reflective Professional Learning Tool, JAR Vol 9, Tab 15(K), p 2392; OCT’s By-Laws, March 1, 2018, JAR Vol 9, Tab 15(M), p 2408.

¹¹ *Ontario College of Teachers Act, 1996*, SO 1996, c 12, s. 3.

¹² *Simpson Affidavit*, para 7, JAR Vol 10, Tab 17, p 2493.

¹³ *Professional Misconduct*, O Reg 437/97, s 1.

¹⁴ Affidavit of Cindy Gangaram, affirmed Sept 29, 2018 [*Gangaram Affidavit*], para 57, JAR Vol 5, Tab 9, p 1113.

period of time or until certain conditions are fulfilled or be made subject to terms, conditions, or limitations. The Discipline Committee may also issue a reprimand.

13. A summary of each decision of the Discipline Committee including the teacher's name and the penalty imposed, is published in the College's quarterly journal, which is distributed to all College members.¹⁶ Teachers pay close attention to these reports, and appearing within them carries significant stigma.¹⁷

B. The Ontario Elementary Curriculum

14. Pursuant to s 8 of the *Education Act*, the Minister may issue curriculum guidelines and require that courses of study be developed therefrom. The Ontario elementary curriculum comprises eight curriculum documents, one of which is HPE.¹⁸

15. Curriculum documents identify learning objectives (i.e., what students must know and be able to do) for every grade or course.¹⁹ Each curriculum is made up of three components. First, the "front matter" provides information about the curriculum itself and about how the expected learning connects to the Ministry of Education policies, programs, and priorities.²⁰

16. Second, the curriculum expectations set out *what* students learn.²¹ "Overall expectations" describe in general terms the knowledge and skills that students are expected to demonstrate by the end of each grade.²² "Specific expectations" describe the expected knowledge in greater detail.²³ Together, the overall and specific expectations represent the mandated curriculum.²⁴

¹⁵ *Simpson Affidavit*, para 14, JAR Vol 10, Tab 17, p 2496.

¹⁶ *Simpson Affidavit*, para 15, JAR Vol 10, Tab 17, p 2497.

¹⁷ *Simpson Affidavit*, para 15, JAR Vol 10, Tab 17, p 2497.

¹⁸ Affidavit of Martyn Beckett, sworn Nov 5, 2018 [*Beckett Affidavit*], para 21, JAR Vol 27, Tab 29, p 8513.

¹⁹ Page from Ministry of Education's website describing Ontario Secondary School Curriculum, JAR Vol 30, Tab 14, p 10448.

²⁰ *Ibid.*

²¹ *Beckett Affidavit*, para 24, JAR Vol 27, Tab 29, p 8513-14; Affidavit of Tammy Shubat, sworn Oct 5, 2018 [*Shubat Affidavit*], para 15, JAR Vol 10, Tab 18, p 2524.

²² 2015 HPE Curriculum, JAR Vol 7, p 1662; 2018 HPE Curriculum, JAR Vol 8, p 1902.

17. Third, examples, “teacher prompts” and student responses accompany most of the specific expectations and are intended to promote the understanding of the intent of the specific expectations. Although the examples and prompts do not set out requirements for student learning, and are considered optional content, they provide important illustration of the depth and complexity of learning that is expected to take place.²⁵ These components are critical for teacher understanding of the curriculum expectations.²⁶

18. Curriculum documents may be further organized into distinct but related strands. The HPE Curriculum is organized into three strands, including Healthy Living. The Healthy Living strand is further divided into four topics, only the last of which – Human Development and Sexual Health (2015) / Growth and Development (2018) – is at issue in this Application.

19. As students advance from one grade to the next, expectations become increasingly complex, building on learning objectives from previous grades. This “scaffolding” employs a variety of instructional techniques in order to move students progressively toward strong understanding and, ultimately, greater independence in the learning process.²⁷ By sequencing and building on concepts from one grade to the next, teachers are expected to select strategies that will best meet the needs of their students at each grade level.²⁸ In translating the curriculum into classroom activities and determining how to achieve various learning objectives, teachers frequently employ resources and lesson plans developed by subject matters associations like the Ontario Physical and Health Education Association (Ophea), that reflect this approach.²⁹

²³ 2015 HPE Curriculum, JAR Vol 7, p 1662; 2018 HPE Curriculum, JAR Vol 8, p 1902.

²⁴ 2015 HPE Curriculum, JAR Vol 7, p 1662; 2018 HPE Curriculum, JAR Vol 8, p 1902.

²⁵ *Shubat Affidavit*, para 15, JAR Vol 10, Tab 18, p 2524; *Beckett Affidavit*, para 28, JAR Vol 27, Tab 29, p 8516.

²⁶ *Gangaram Affidavit*, paras 14-18, JAR Vol 5, Tab 9, pp 1098-1101.

²⁷ *Shubat Affidavit*, para 22, JAR Vol 10, Tab 18, pp 2526-7.

²⁸ 2015 HPE Curriculum, JAR Vol 7, p 1692.

²⁹ *Shubat Affidavit*, paras 2-4, JAR Vol 10, Tab 18, p 2520.

C. The Development and Implementation of the 2015 HPE Curriculum

20. The sexual health education curriculum currently being taught in elementary schools was issued in 1998. In 2007, the Ministry of Education began the process that resulted in the 2015 HPE Curriculum.³⁰ To put the 2007-2015 process in context, it is helpful to start with the Ministry of Education's general approach to curriculum development.

21. In 2003, the Ministry established an ongoing cycle of curriculum review intended to ensure that all aspects of the curriculum remained current, relevant, and developmentally appropriate,³¹ and to allow for lead time in the development of related support materials.³² This process was revised in 2007, including by adding a year between releases of curricula to permit more time for educators to implement materials and for resource providers to create supports.³³

22. When a curriculum review begins, subject-matter experts within the Ministry first analyze curriculum trends in Canada and around the world to identify overarching themes to be considered and integrated into the review process.³⁴ This research-based and evidence-informed approach also uses external experts, focus groups, consultations and benchmarking.³⁵ Next, the Ministry identifies teachers, professors, and school administrators with experience in the subject area to serve as a writing team. Ministry officials work with team leads to provide guidance throughout the drafting process.³⁶ Once a draft curriculum is developed, it is circulated for feedback. Since 2003, the depth of consultation has increased, though normally is limited to

³⁰ Affidavit of Ruth Dawson, Sworn Oct 3, 2018 [*Dawson Affidavit*], para 22, JAR Vol 8, Tab 12, p 2114.

³¹ Ministry of Education Website describing Ontario Secondary School Curriculum, [*Curriculum website*] JAR Vol 30, Tab 29(14), p 10449.

³² Video: The Ontario Curriculum Review, at 1:12- 1:20, JAR Vol 8, Tab 12(A).

³³ *Ibid.* at 2:12-2:22, JAR Vol. 8, Tab 12(A).

³⁴ *Dawson Affidavit*, paras 9-10, JAR Vol 8, Tab 12, pp 2111-2112. ADM Beckett confirmed that Ms. Dawson's account of the historical approach to curriculum development as set out in her affidavit was "quite correct": Transcript of the Cross-Examination of Martyn Beckett, held Dec 6, 2018 [*Beckett Cross*], 25:9-15, Joint Brief of Transcripts [JBT], Tab 1.

³⁵ *Curriculum website*, JAR, Vol 30, Tab 29(14), p 10449.

³⁶ *Dawson Affidavit*, para 10, JAR Vol 8, Tab 12, pp 2111-2112.

organizations representing teachers, parents, principals, supervisory staff, trustees and subject matter associations.³⁷ In addition, subject matter experts review the draft to ensure academic accuracy, and a final review is conducted to check for issues of bias, equity and inclusiveness.³⁸

23. The process of developing a revised curriculum normally takes between 18-24 months,³⁹ although the Ministry of Education has also piloted a “rapid prototyping” process in which draft curricula are ‘test driven’ by teachers inside classrooms while under development.⁴⁰

24. According to Ruth Dawson, the process leading up to the 2015 Curriculum was “significantly more extensive than for other comparable processes, both in terms of its scope and duration.”⁴¹ Assistant Deputy Minister of Education Martyn Beckett did not disagree.⁴²

25. In the 2007-2010 phase of consultations over the revised HPE Curriculum, the Ministry engaged in consultations that were significantly broader than any other consultation process in recent memory.⁴³ In November and December 2007, all publicly funded schools boards were invited to send representatives to focus groups across the province.⁴⁴ In November 2007, the Ministry also received written submissions from one school board and five public health units.⁴⁵ Between January and June 2008, the Ministry held both formal and informal consultations with 40 organizations, including 11 faculties of education, 12 universities, and numerous groups

³⁷ *Dawson Affidavit*, paras 11-17, JAR Vol 8, Tab 12, pp 2112-2113.

³⁸ *Curriculum website*, JAR Vol 30, Tab 29(14), p 10449.

³⁹ *Dawson Affidavit*, para. 18, JAR Vol 8, Tab 12, p 2113.

⁴⁰ *Beckett Cross*, 26:17- 27:19, JBT, Tab 1.

⁴¹ *Dawson Affidavit*, paras 21, 24, JAR Vol 8, Tab 12, p 2114. See also Affidavit of Jason Johnston, Sworn Oct 2 [Johnston Affidavit], 2018, para 17, JAR Vol 5, Tab 11, p 1354.

⁴² *Beckett Cross*, 37:12- 38:8, JBT, Tab 1.

⁴³ *Dawson Affidavit*, paras 22-23, JAR Vol 8, Tab 12, p 2114.

⁴⁴ Letter from Counsel for the Respondent to Howard Goldblatt, dated December 14, 2018, providing answers to undertakings from the Cross-Examination of Martyn Beckett [*Beckett Answers to Undertakings*] at 1, JBT, Tab 1(B).

⁴⁵ *Beckett Answers to Undertakings* at 3, JBT, Tab 1(B).

representing educators, sexual health education experts, and parents,⁴⁶ and received written submissions from 47 organizations.⁴⁷ A further round of consultations took place between November 2008 and January 2009. The Ministry again invited all publicly funded school boards in Ontario to participate, as well as 68 organizations.⁴⁸

26. In November 2009, a draft HPE curriculum was completed.⁴⁹ In 2010, the Human Development and Sexual Health component of the revised curriculum caused public concern leading to the government removing it from the released curriculum, replacing it with the 1998 “Growth and Development” component.⁵⁰

27. In 2015, following further consultations with thousands of parents,⁵¹ the Ministry released a further Curriculum, which included the Human Development and Sexual Health component. As discussed below, this revised content included topics such as gender identity and gender expression, homophobia, consent, social media and cyberbullying.⁵²

D. Differences Between the 1998 and 2015 Curricula

28. The Human Development and Sexual Health sub-strand of the 2015 Curriculum is significantly different than the Growth and Development sub-strand of the 2018 Curriculum. Below is a summary of some of the differences that the expert affiants in this case identified as significant. A complete side-by-side comparison chart of the differences in the two documents’ expectations and supporting materials are attached as **Schedule C**.

i. Consent

⁴⁶ *Beckett Answers to Undertakings* at 1-2, JBT, Tab 1(B).

⁴⁷ *Beckett Answers to Undertakings* at 3-4, JBT, Tab 1(B).

⁴⁸ *Beckett Answers to Undertakings*, at 5-6, JBT, Tab 1(B).

⁴⁹ *Beckett Answers to Undertakings*, at 6, JBT, Tab 1(B).

⁵⁰ *Johnston Affidavit*, paras 18-21, JAR Vol 5, Tab 11, pp 1354-1355.

⁵¹ *Beckett Affidavit*, paras 74-75, JAR Vol 27, Tab 29, pp 8535-8536; *Beckett Answers to Undertakings* at 6, JBT, Tab 1(B).

⁵² *Johnston Affidavit*, para 24, JAR Vol 5, Tab 11, p 1355.

29. The word “consent” appears 18 times in the 2015 Curriculum. It does not appear even once the 2018 Curriculum.⁵³ The 2015 Curriculum provided a robust education on consent for students. The document made reference to consent not only in general terms in the front matter,⁵⁴ but also in the specific expectations for students in Grades 6-8. For example, a Grade 6 teacher prompt addressed the need to respect oneself and others in order to develop healthy relationships:

Being respectful but clear about your ideas and feelings; listening actively; interpreting body language, tone of voice, and facial expressions; respecting signals of agreement or disagreement and consent or lack of consent; and negotiating – all these are important skills. A clear “yes” is a signal of consent. A response of “no”, an uncertain response, or silence needs to be understood as no consent.⁵⁵

30. In Grade 7, students learned about “the concept of consent and how consent is communicated” when making decisions in sexual relationships.⁵⁶ This concept was further clarified in a teacher prompt discussing the need for persons to not have sex “if their partner is not ready or has not given consent, if they are feeling pressured, if they are unsure, or if they are under the influence of drugs or alcohol.”⁵⁷ These concepts were reiterated in Grade 8.⁵⁸

31. Instead of addressing consent, the 2018 Curriculum is premised upon an outdated framework built around “refusal skills”.⁵⁹ Refusal skills are communicated as a specific expectation for Grades 7 and 8, without additional learning prompts or guidance for teachers.⁶⁰ Refusal skills are how to effectively say “no”. Consent education is about communication and being aware of whether or not a partner has expressed a “yes”.

ii. Abstinence

⁵³ Affidavit of Alexander McKay, sworn Oct 3, 2018 [*McKay Affidavit*], para 51, JAR Vol 11, Tab 19, p 2899; see also Affidavit of Farrah Khan, sworn Oct 5, 2018 [*Khan Affidavit*], para 27, JAR Vol 17, Tab 23, p 5177.

⁵⁴ See for example 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), pp 1681, 1704.

⁵⁵ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1818.

⁵⁶ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1838.

⁵⁷ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1839.

⁵⁸ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1863.

⁵⁹ *Gangaram Affidavit*, para 30, JAR Vol 5, Tab 9, p 1104.

⁶⁰ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), pp 2071, 2088.

32. Although the 2015 and 2018 Curricula contain the same glossary definition of abstinence - “abstinence from all forms of sexual intercourse and other sexual activities”⁶¹ – the ways in which they actually employ the concept are fundamentally different. In the 2015 Curriculum, students learned that abstaining from sex can mean different things to different people, and that discussing abstinence with intimate partners promotes positive communication and respect for boundaries.⁶² For example, Grade 7 students learned the importance of having a shared understanding about what it meant to delay sexual activity:

33. Under the 2015 Curriculum, students learned that discussing abstinence with intimate partners promotes positive communication and respect for boundaries.⁶³ In this way, the concept is inexorably linked to the consent-based framework discussed above. For example, Grade 7 students learned the importance of having a shared understanding about what it meant to delay sexual activity:

[A]bstinence can mean different things to different people. People can also have different meanings of what is meant by having or not having sex. Be clear in your own mind about what you are comfortable or uncomfortable with. Being able to talk about this with a partner is an important part of sexual health.⁶⁴

34. Moreover, one of the Grade 7 specific expectations explained that one might understand sexual readiness/delay in numerous ways (e.g., “choosing to abstain from any genital contact; choosing to abstain from having vaginal or anal intercourse; choosing to abstain from having oral-genital contact”).⁶⁵ The 2018 Curriculum, in contrast, provides no nuance to the definition of abstinence. Instead, teachers are simply guided by vague expectations without additional supports. For example, by Grade 7, students are expected to “explain the term *abstinence* as it

⁶¹ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1870; 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2096.

⁶² Transcript of the Cross-Examination of Alexander McKay, held Nov 30, 2018, 223:2-25, JBT Tab 9. See also *McKay Affidavit*, para 34, JAR Vol11, Tab 19, p 2894.

⁶³ *McKay Cross*, 223:2-25, JBT Tab 9. See also *McKay Affidavit*, para 34, JAR Vol 11, Tab 19, p 2894.

⁶⁴ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1839.

⁶⁵ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1838.

applies to healthy sexuality.”⁶⁶ Grade 8 students are further expected to be able to “explain the importance of abstinence as a positive choice.”⁶⁷ Again, in this document, abstinence is defined as total refraining from all sexual activities, and is disconnected from the concept of consent.

iii. Learning proper names for body parts

35. The 2015 Curriculum explicitly required Grade 1 students to learn the proper names for their genitalia, and tied this student safety.⁶⁸ The 2018 Curriculum, in contrast, says only that students should “identify the major parts of the body by their proper names.”⁶⁹

iv. Gender Identity and Sexual Orientation

36. The 2015 Curriculum addressed gender identity and sexual orientation through a lens of respecting and accepting of individual differences, reflected in both learning expectations and the Curriculum’s front matter. For example, the 2015 front matter advised that:

When planning instruction and considering class groupings, teachers should be aware of and consider the needs of students who may not identify as “male” or “female”, who are transgender, or who are gender-non-conforming. For more information about gender identity, gender expression, and human rights, see the website of the Ontario Human Rights Commission...⁷⁰

37. This paragraph is absent from the 2018 Curriculum.⁷¹

38. The 2015 curricular approach to gender identity and sexual orientation focused on respecting individual differences.⁷² For example, in Grade 3, students were expected to “describe how visible differences”, such as skin colour, facial features, or body size, and “invisible

⁶⁶ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2071.

⁶⁷ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2088.

⁶⁸ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), pp 1736; 1838; 1841.

⁶⁹ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 1970.

⁷⁰ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1697.

⁷¹ See 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 1932.

⁷² McKay Affidavit, para 28, JAR Vol 11, Tab 19, p 2892.

differences”, such as gender identity and sexual orientation, “make each person unique, and identify ways of showing respect for differences in others.”⁷³

39. In Grade 6, students were to “assess the effects of stereotypes, including homophobia and assumptions regarding gender roles and expectations, sexual orientation, gender expression... on an individual’s self-concept, social inclusion, and relationships with others, and to propose appropriate ways of responding to and changing assumptions and stereotypes.”⁷⁴

40. In Grade 8, students were expected to “demonstrate an understanding of gender identity (*e.g., male, female, two-spirited, transgender, transsexual, intersex*), gender expression, and sexual orientation (*e.g., heterosexual, gay, lesbian, bisexual*), and identify factors that can help individuals of all identities and orientations develop a positive self-concept.”⁷⁵

41. Lastly, the glossary for the 2015 Curriculum includes several concepts which are absent from the 2018 Curriculum’s glossary, including: bisexual, gay, gender expression, intersex, lesbian, sexual health, sexuality, transgender, and transsexual.⁷⁶

42. The 2018 Curriculum mandates no instruction on gender identity or sexual orientation, other than within the context of addressing homophobic comments. It merely notes that topics such as these must be addressed with sensitivity.⁷⁷

v. Online behaviour/cyberbullying

43. The 2015 Curriculum introduced the concepts of cyber-bullying and sexting into the elementary curriculum.⁷⁸ For Grade 4 students, the 2015 Curriculum identified risks associated

⁷³ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1767.

⁷⁴ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1820.

⁷⁵ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1859.

⁷⁶ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), pp 1870-1882.

⁷⁷ *McKay Affidavit*, para 33, JAR Vol 11, Tab 19, pp 2893-94.

⁷⁸ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1872.

with advances in technology, such as the solicitation of sexual photos, and provided guidance on how students could protect themselves from such risks.⁷⁹ This concept was expanded upon in Grade 5 through a teacher prompt discussing the illegality of sharing private sexual photos.⁸⁰

44. The 2018 Curriculum removed references to cyber-bullying and sexting, instead focusing on the risk of exposure to “sexual predators” via “communications technology”.⁸¹ In Grade 7, a teacher prompt highlights the risk of sending explicit sexual messages or photos electronically and focuses on the impact this could have on future jobs and relationships.⁸² The 2018 Curriculum is silent in respect of the legal implications of distributing or sharing sexually explicit images or videos without the person’s consent.⁸³

vi. Learning about sexually transmitted infections (STIs)

45. The 2018 Curriculum relies on the outdated terminology of sexually transmitted diseases to discuss STIs including HIV.⁸⁴ The 2018 Curriculum also removed teacher prompts from Grades 7 and 8 which were designed to enhance the effectiveness of HIV-related stigma reduction.⁸⁵ For example, the 2015 Curriculum included the following prompt in Grade 7:

One of the best things you can do to stop HIV is to stop the stigma that is associated with having the infection. Gossiping about someone with HIV or avoiding everyday contact with them makes it more challenging for people to tell others that they have HIV or to get tested for HIV. These things make it easier for HIV to spread.⁸⁶

⁷⁹ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1783.

⁸⁰ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1802.

⁸¹ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2015.

⁸² 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2068.

⁸³ *McKay Affidavit*, para 24, JAR Vol 11, Tab 19, pp 2890-91; Transcript of the Cross-Examination of Farrah Khan, held Dec 3, 2018 [*Khan Cross*], 53:18-57:4, JBT, Tab 7.

⁸⁴ *Gangaram Affidavit*, dated Dec 3, 2018, paras 25-27, JAR Vol 5, Tab 9, pp 1102-03; Affidavit of Carmen Logie, sworn Oct 3, 2018 [*Logie Affidavit*], para 41, JAR Vol 25, Tab 28, p 8060; Transcript of the Cross Examination of Carmen Logie, held Nov 9, 2018 [*Logie Cross*], 199:21-200:21, JBT, Tab 8.

⁸⁵ *Logie Affidavit*, para 41, JAR Vol 25, Tab 28, pp 8060-61.

⁸⁶ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1840.

46. The Grade 7 curriculum expectations, supported by detailed examples and prompts, further encouraged teachers to identify common STIs and describe their symptoms, as well as to identify ways of preventing STIs and/or unintended pregnancies.⁸⁷

47. The 2018 Curriculum comparatively provides no nuance to the listed specific expectation for Grade 7 students to “identify the methods of transmission and the symptoms of sexually transmitted diseases (STDs), and ways to prevent them.”⁸⁸ Similarly, it provides no nuance to the specific expectation for Grade 8 students to “identify symptoms, methods of transmission, prevention, and high-risk behaviours related to common STDs, HIV, and AIDS.”⁸⁹ The 2015 Curriculum, in contrast, included content identifying and explaining factors that can affect an individual’s decisions about sexual activity, including risk of STIs and blood-borne infections.⁹⁰

vii. The Significance of the Differences

48. ADM Beckett acknowledged that the 2018 Curriculum is framed at a “higher level” than the 2015 document, and contains information that is “more general”.⁹¹ A theme in the Minister’s cross-examinations of the Applicants’ experts was that many of the differences they pointed to related to non-mandatory content,⁹² suggesting that such differences are irrelevant.

49. This suggestion is at odds with expert evidence on effective sexual health education design. One of the major objectives of the Ministry’s 2003 approach to curriculum development was to significantly expand the use of examples, prompts and other teacher supports.

50. Expert evidence emphasizes the importance of specificity in documents like a curriculum in ensuring effective teaching of sexual health information. Professor Logie testified to her

⁸⁷ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1839.

⁸⁸ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2071.

⁸⁹ 2018 HPE Curriculum, JAR Vol 8, Tab 11(E), p 2088.

⁹⁰ 2015 HPE Curriculum, JAR Vol 7, Tab 11(D), p 1858.

⁹¹ *Beckett Cross*, 155:15-24, JBT, Tab 1.

⁹² Video: The Ontario Curriculum Review, at 2:48-3:02, JAR Vol 8, Tab 12(A).

background in the field of Implementation Science with respect to the delivery of sexual health information. She emphasized the importance of standardized curricula documents that contained materials such as the examples and teacher prompts that were contained in the 2015 Curriculum, and subsequently removed in the 2018 Curriculum.⁹³

51. Professor Pepler, relying on her work on the Ministry's Safe Schools Action Team and her academic background, stressed that providing detailed guidance directly within a curriculum document has an important impact in ensuring that information is conveyed to students.⁹⁴

52. Dr. McKay, relying on his decades of looking at research on the determinants of effective sexual health education, emphasized the importance of teachers being given specific direction in a curriculum document. He deposed that the front matter states what should occur in generalities, but that "when the rubber hits the road in terms of what teachers are actually being asked to do," it is the specifics from the curriculum (both expectations and prompts) that guide teachers.⁹⁵

53. Dillon Black, speaking of their work with teachers in delivering content related to the cyberviolence components of the HPE Curriculum, deposed as to the problem of teachers lacking knowledge about these topics, and how teachers praised the 2015 Curriculum in helping them navigate this difficult topic.⁹⁶ Cindy Gangaram made similar comments with respect to the topics of sexual activity, gender expression and gender identity.⁹⁷

54. Overall, the experts agreed that, even where differences related to optional content like examples or teacher prompts, the differences between the two documents were substantive. As

⁹³ *Logie Cross*, 204:18-208:2, **JBT**, Tab 8.

⁹⁴ Transcript of the Cross-Examination of Debra Pepler, held Nov 26, 2018, 170:20-172:21, **JBT**, Tab 11.

⁹⁵ *McKay Cross*, 211:12-22, **JBT**, Tab 9.

⁹⁶ Affidavit of Dillon Black, affirmed Oct 3, 2018, paras 51-53, **JAR Vol 15**, Tab 22, pp 4448-4449.

⁹⁷ *Gangaram Affidavit*, paras. 16-18, **JAR**, Vol. 4, Tab 9, pp. 1098-1101.

Professor Bialystok's research demonstrated, teachers found the high degree of specificity in the 2015 Curriculum was more supportive of teacher's needs than its 1998 predecessor.⁹⁸

55. Perhaps in recognition of this, ADM Beckett suggested that the 2015 Curriculum could be used by teachers as a resource with teach the expectations of the 2018 Curriculum. However, the Government has never publicly stated this position, notwithstanding its awareness of the extensive evidence of the chilling effect amongst teachers, discussed below.⁹⁹ Moreover, Mr. Beckett confirmed that the Ministry had removed the 2015 Curriculum from its website.¹⁰⁰ Even if it were available, ADM Beckett indicated that he could not say whether a teacher could teach about gender identity under the 2018 Curriculum as it was taught in 2015-2017.¹⁰¹

56. Notably, the evidence of Tammy Shubat was that none of the Ophea lesson plans that included gender identity could be mapped to a learning expectation under the 2018 Curriculum.¹⁰² The same is true of various other Ophea lesson plans, which means that the sequencing and scaffolding of lessons is disrupted. Thus not only are teachers now required to implement a curriculum that provides less in the way of specific guidance, they also must do so without the benefit of lesson plans that progressively build on students' knowledge and skills.

E. The 2018 Directive Changing the Curriculum & the Creation of the Reporting Line

57. During the 2018 election, the Progressive Conservative Party campaigned against the use of the 2015 Curriculum.¹⁰³ The topic of the 'sex ed curriculum' had become a matter of public interest. Researchers noted that many of those who opposed the 2015 Curriculum were driven by

⁹⁸ Affidavit of Lauren Bialystok, affirmed Oct 5, 2018 [*Bialystok Affidavit*], para 16-17, JAR Vol 8, Tab 14, p 2133; See also *Gangaram Affidavit*, paras 33-34, JAR Vol 5, Tab 9, pp.1105-1106.

⁹⁹ *Beckett Cross*, 79:22-81:2, 83:15-84:6, 116:2-7, 117:25-118:4, 127:7-12, JBT, Tab 1.

¹⁰⁰ *Beckett Cross*, 125:18-23, JBT, Tab 1.

¹⁰¹ *Beckett Cross*, 117:17-24, JBT, Tab 1.

¹⁰² *Shubat Affidavit*, para 52, JAR Vol 10, Tab 18, p 2537.

¹⁰³ *Gangaram Affidavit*, para 39, JAR Vol 5, Tab 9, p 1107.

misinformation about its content (e.g. children being taught how to expose their genitals in Grade 1) or believing that it was the product of a “gay conspiracy” lead by Kathleen Wynne.¹⁰⁴

58. Following the election, the new Government made a number of statements indicating that they viewed the 2015 Curriculum as not age appropriate and based on insufficient consultation with parents. On July 11, 2018, twelve days after she was sworn in, the Minister of Education wrote to education sector partners to set out key priorities for her Ministry. This list included her intention to “Restore the previous sex-ed component of the curriculum until we can implement a new one that is age appropriate and based on extensive consultation with parents.”¹⁰⁵ This message was reiterated the next day by the Lieutenant Governor during the Throne Speech:

You can also count on your government to respect parents, teachers and students by getting back to basics and replacing failed ideological experiments in the classroom – with tried and true methods that work...

It will also include respecting parents – by replacing the current sex-education curriculum – with a new age-appropriate one that is based on real consultation with parents.¹⁰⁶

59. There was, however, no formal notice of a change in curriculum immediately following these statements. This resulted in confusion respecting what the Government was directing educators to do in the 2018/2019 school year. Attempts to obtain clarification on whether teachers could continue to teach the content contained in the 2015 Curriculum were rebuffed.

60. During Question Period on July 24, 2018, the Leader of the Opposition noted the confusion experienced by students, teachers and school boards, and asked the Premier to “confirm that all information about consent, cyberbullying and gender identity from the updated

¹⁰⁴ Lauren Bialystok & Jessica Wright, “‘Just Say No’: public dissent over sexuality education and the Canadian national imaginary” (2017) *Discourse: Studies in the Cultural Politics of Education* 1 at 6 [*Just Say No*], JAR Vol 8, Tab 14(C), p 2173; Lauren Bialystok, “Ontario Teachers’ Perceptions of the Controversial Update to Sexual Health and Human Development” under review at *Canadian Journal of Education*, JAR Vol 8, Tab 14(E), p 2209.

¹⁰⁵ Letter from the Minister of Education, dated July 11, 2018, JAR Vol. 4, Tab 8(M), p 828.

¹⁰⁶ Official Report of Debates (Hansard), No. 2, 1st Sess., 42nd Parl., July 12, 2018 [*Throne Speech*], at 4, JAR Vol 4, Tab 8(L), p 820.

health curriculum will be taught in Ontario's classrooms this September." The Premier's response was to repeat that there had been inadequate consultation over the 2015 Curriculum, that the Government intended to "do the largest consultation in the history of Ontario", and after that "we'll be able to answer your question."¹⁰⁷ When Ms. Horwath asked the same question with respect to sexual orientation, gender identity, and LGBTQ families, the Premier's response was, "That's not up to us to decide in this chamber; it's up to the people."¹⁰⁸

61. A July 30, 2018, CBC article discussed the uncertainty surrounding the Government's position. The Minister was asked by reporters whether issues such as consent, cyberbullying and gender identity were to be taught. Her response was that teachers were to go back to the "2014 curriculum".¹⁰⁹ Deputy Premier Elliott was quoted as saying that teachers could discuss issues not included in the old curriculum, but only in private "rather than a classroom discussion".¹¹⁰

62. In response to these statements, ETFO issued a press release on August 13th denouncing the apparent government decision. It advised its members "to continue to exercise their professional judgment when it comes to teaching all sections of the current curriculum."¹¹¹

63. On August 22, 2018, the Office of the Premier issued a press-release¹¹² announcing both the release of a revised curriculum for use in elementary schools for the 2018/2019 school year (the Directive), as well as the creation of a website where individuals could submit complaints about the curriculum in use in schools (the Reporting Line). The effect of the announcement was that, for the 2018/2019 school year, Ontario's elementary teachers would be required to the

¹⁰⁷ Official Report of Debates (Hansard), No. 8, 1st Sess, 42nd Parl., July 24, 2018, at 290-291, **JAR Vol 4, Tab 8(N)**, pp 844-845.

¹⁰⁸ *Ibid* at 291, **JAR Vol 4, Tab 8(N)**, p 845.

¹⁰⁹ CBC Article, dated July 30, 2018, **JAR Vol 5, Tab 9(I)**, p 1259.

¹¹⁰ *Ibid*, **JAR Vol 5, Tab 9(I)**, p 1259.

¹¹¹ ETFO Media Release – August 13, 2018, **JAR Vol. 31, Tab 29(40)**, p 11266.

¹¹² Press Release dated August 22, 2018, **JAR Vol 5, Tab 9(M)**, p 1277.

“Growth and Development” sub-strand from of the 1998 Curriculum to teach sex ed. Shortly after this announcement, the 2015 Curriculum was removed from the Ministry’s website.¹¹³

64. The press release announcing the Directive to change curricula used strong language that, as discussed below, was viewed by members of the teaching profession as threatening. For example, the Premier was quoted as follows:

“We expect our teachers, principals and school board officials to fulfill their obligations to parents and children when it comes to what our students learn in the classroom,” said Ford. “We will not tolerate anybody using our children as pawns for grandstanding and political games. And make no mistake, if we find somebody failing to do their job, we will act.”¹¹⁴

65. In a second document issued from the Premier’s Office that day, the Government wrote that “any parent who believes that their child’s teacher is jeopardizing their child’s education by deliberately ignoring Ontario’s curriculum” should contact the OCT’s investigations department and that “any concerns or complaints related to their child’s education” could “also” be submitted to the new website.¹¹⁵ ADM Beckett had never heard of a government directing parents to the OCT as part of a curriculum review process.¹¹⁶ He indicated that at least some of the content in these documents was in direct response to ETFO’s urging its members to exercise their professional judgment in teaching the content of the 2015 Curriculum.¹¹⁷

66. All of these comments and releases were widely reported in the national press.

67. Also on August 22, 2018, the Government launched the website “fortheparents.ca” (the Reporting Line). As originally published, the Reporting Line’s main page indicated that the

¹¹³ *Beckett Cross*, 125:18-23, JBT, Tab 1.

¹¹⁴ *Ibid.*

¹¹⁵ Backgrounder on Consultation into Education Reform, JAR Vol 28, Tab 29(5), p 8841.

¹¹⁶ *Beckett Cross*, 136:11-17, JBT, Tab 1.

¹¹⁷ *Beckett Cross*, 77:11-79:6, JBT, Tab 1.

Government was embarking on a province-wide consultation with parents, and that pending its results “fundamental lessons will be **restored** to classrooms”¹¹⁸ referring to the HPE Curriculum.

68. When a user clicked on “I want to express concerns about the curriculum currently being taught in my child’s classroom” they were taken to a form that invited them to “share [their] concerns about the curriculum **currently** being taught”¹¹⁹ – that is, the 2015 Curriculum.¹²⁰ The form required individuals to identify the School Board and School that they were expressing concerns about, but did not require them to provide any personal identifying information. The Reporting Line further indicated that “Reports generated from this site are shared with the Ontario College of Teachers (OCT), on a monthly basis” and directed users to the OCT complaints website to report “other issues”.¹²¹

69. On September 28, 2018 – after this Application was launched – the Government altered the Reporting Line to require individuals to include an email address with a complaint, as well as adding a new field in which individuals could share “stories about a teacher making a positive impact”.¹²² This change in the Reporting Line’s content was never publicized.¹²³

F. Evidence Respecting the Decision to Implement the Directive

70. As revealed by ADM Beckett’s evidence on cross-examination, the Government’s decisions surrounding the Directive departed substantially from the Ministry’s 2003 framework.

71. Notwithstanding the Government’s questioning of the age appropriateness of the 2015 Curriculum, it never sought advice from Ministry staff as to whether the 2015 Curriculum was

¹¹⁸ For the Parents Website, JAR Vol 5, Tab 9(J), p 1263 [emphasis added].

¹¹⁹ For the Parents Website, JAR Vol 5, Tab 9(K), p 1265 [emphasis added].

¹²⁰ Transcript of the Cross-Examination of Cindy Gangaram, held Nov 15, 2018, at 186:19-187:16, JBT, Tab 5.

¹²¹ For the Parents Website, JAR Vol 5, Tab 9(K), p 1266.

¹²² For the Parents Website, JAR Vol 5, Tab 9(P), p 1292.

¹²³ *Beckett Cross*, 88:15-22, JBT, Tab 1.

age appropriate or not.¹²⁴ Nor did it seek advice as to whether the 1998 Curriculum's Growth and Development component was age appropriate.¹²⁵ The Government has not requested an expert or evidence-based assessment of the age appropriateness of either document, and indeed does not presently have a definition of what is or is not age appropriate.¹²⁶

72. Prior to its decision to withdraw the 2015 Curriculum, the Government did not seek any advice from Ministry staff on the relative merits of the two documents,¹²⁷ nor did it seek advice from Ministry staff on whether it would be better to continue to use the 2015 Curriculum pending its consultation process. Indeed, the possibility was never even discussed: officials were simply directed to withdraw the 2015 Curriculum during the consultation.¹²⁸

73. ADM Beckett was unable to say whether a new HPE Curriculum would be based on a "research based and evidence informed process".¹²⁹ The Ministry has not assembled any expert groups to advise on the development of a revised curriculum,¹³⁰ notwithstanding the fact that its intention is to have a new curriculum finalized and released by the summer of 2019.¹³¹

G. Impact of the Directive and Reporting Line on Teachers

74. The evidence demonstrates that, as a direct result of the Directive, the Reporting Line, and governmental comments surrounding these decisions, teachers have been chilled in what they believe they are able to say both inside and outside of classrooms. Many teachers do not feel safe providing instruction on content that was present 2015, but was removed in the 2018 Curriculum. As discussed below, this is precisely what the scholarly literature would predict.

¹²⁴ *Beckett Cross*, 60:1-9, **JBT, Tab 1.**

¹²⁵ *Beckett Cross*, 60:22- 61:9, **JBT, Tab 1.**

¹²⁶ *Beckett Cross*, 66:22-67:2, 66:10-21, **JBT, Tab 1.**

¹²⁷ *Beckett Cross*, 61:21- 62:3, **JBT, Tab 1.**

¹²⁸ *Beckett Cross*, 61:10-20, **JBT, Tab 1.**

¹²⁹ *Beckett Cross*, 94:18- 96:4, **JBT, Tab 1.**

¹³⁰ *Beckett Cross*, 96:5-13, **JBT, Tab 1.**

¹³¹ *Beckett Cross*, 92:18- 93:6, **JBT, Tab 1.**

75. The Applicant Gangaram provided a detailed account of this chilling effect. Prior to August 22, Gangaram was aware of the Government's public criticism of the 2015 Curriculum, but was uncertain what she was expected to do in the 2018/2019 school year.¹³² On learning of the Directive and reviewing the Reporting Line, she concluded that the Government did not want teachers to discuss topics that were newly emphasized in the 2015 Curriculum and subsequently removed from the 2018 version.¹³³ It would make no sense, in her view, to repeal a curriculum pending consultations if she were to still teach the same content as she had the year before.¹³⁴

76. This understanding was reinforced by the language used by various governmental actors: statements about ensuring that a new curriculum was "age appropriate" conveyed the message that the 2015 Curriculum was not viewed as age appropriate.¹³⁵ The Deputy Premier's statement that discussions of issues not included in the 2018 Curriculum should be in private "rather than a classroom discussion" meant that such topics should not form part of her ordinary lessons.¹³⁶

77. Gangaram interpreted the language in the August 22 press releases as threatening to teachers who wished to continue to teach the content of the 2015 Curriculum.¹³⁷ Similarly, the content of the Reporting Line made her fearful for her livelihood and continued ability to teach.¹³⁸ While she herself intends to continue to provide her students with the information and supports required by the 2015 Curriculum, she understands herself to be at risk for doing so.¹³⁹

78. Gangaram indicated that many of her colleagues share her interpretation of the Government's statements, and are fearful of the consequences of addressing topics that have

¹³² *Gangaram Affidavit*, paras 40-41, JAR Vol 5, Tab 9, pp 1107-1108.

¹³³ *Gangaram Affidavit*, paras 42-43, JAR Vol 5, Tab 9, pp 1108-1109; *Gangaram Cross*, 161:14-162:1, JBT, Tab 5.

¹³⁴ *Gangaram Affidavit*, para 43, JAR Vol 5, Tab 9, pp 1108-1109; *Gangaram Cross*, 126:17-127:1, JBT, Tab 5.

¹³⁵ *Gangaram Cross*, 190:2-18, JBT, Tab 5.

¹³⁶ *Gangaram Cross*, 199:8-19, JBT, Tab 5.

¹³⁷ *Gangaram Affidavit*, paras 50-51, JAR Vol 5, Tab 9, p 1111; *Gangaram Cross*, 194:24-195:8, JBT, Tab 5.

¹³⁸ *Gangaram Affidavit*, paras 53-57, JAR Vol 5, Tab 9, pp 1112-1113.

¹³⁹ *Gangaram Affidavit*, para 59, JAR Vol 5, Tab 9, pp 1113-1114.

been removed from the HPE curriculum.¹⁴⁰ One teacher indicated to Gangaram that, with respect to two of her gender non-conforming students, they would avoid using *any* pronouns with them, rather than their preferred “they/them”.¹⁴¹ Others have expressed fear of losing their job if they were to rely on the 2015 Curriculum.¹⁴² Ms. Gangaram, who was instrumental in organizing a school Pride parade in 2018, is unsure whether there is adequate support for a 2019 event.¹⁴³

79. These comments from just one school in Ontario are reflective of broader concerns expressed by teachers. Jennifer Peace, a teacher and parent of a trans child who benefited from the 2015 Curriculum,¹⁴⁴ understood the Directive and Reporting Line to mean that teachers should not go beyond the 2018 Curriculum to teach matters covered by the 2015 Curriculum.¹⁴⁵

80. Tammy Shubat, Director of Programs at Ophea, stated there was “no way that a teacher in 2018, right now, today, given the content and a snitch line” would feel safe addressing gender identity or sexual orientation under the 2018 curriculum.¹⁴⁶ This was based on communications with “a significant number of educators” she works with daily and “the data [she] collect[s] to support the development of a multitude of resources for the Ontario education sector”.¹⁴⁷

81. Gretel Meyer Odell, the Education and Marketing Manager at Roseneath Theatre, confirmed the chilling effect being experienced by teachers. She deposed that education sector partners she speaks with constantly refer to the Directive and express a chill with respect to the

¹⁴⁰ *Gangaram Affidavit*, para. 44, JAR Vol 5, Tab 9, p 1109.

¹⁴¹ *Gangaram Affidavit*, para. 44, JAR Vol 5, Tab 9, p 1109.

¹⁴² *Gangaram Affidavit*, para. 63, JAR Vol 5, Tab 9, p 1115.

¹⁴³ *Gangaram Cross*, 149:5-19, JBT, Tab 5.

¹⁴⁴ Affidavit of Jennifer Peace, Affirmed Oct 2, 2018 [*Peace Affidavit*], para 16, JAR Vol 5, Tab 10, pp 1304-1305.

¹⁴⁵ *Peace Affidavit*, paras 22-23, JAR Vol 5, Tab 10, pp 1304-1305.

¹⁴⁶ Transcript of the Cross-Examination of Tammy Shubat, held Nov 16, 2018 [*Shubat Cross*], 51:14-21, JBT, Tab 14.

¹⁴⁷ *Shubat Cross*, 57:12-22, JBT, Tab 14.

provision of equity oriented programming for children, particularly related to gender identity.¹⁴⁸

Roseneath Theatre itself has seen an unprecedented drop in school bookings of its highly popular, trans-themed production following the government's August 22 announcements.¹⁴⁹

82. Taken together, this evidence shows that many teachers have seen the Government's statements in the press, media releases, and on the Reporting Line, and have interpreted them as requiring teachers not to teach materials that were once contained in the 2015 Curriculum, but now removed in the 2018 Curriculum.

83. This is consistent with the research on sexual health education delivery. Professor Bialystok, who has conducted empirical research on teacher attitudes towards the 2015 Curriculum, indicated that teacher attitudes towards teaching sex ed are strongly impacted by their perceptions of parents' and education officials' attitudes towards sex ed materials.¹⁵⁰ Research has demonstrated that the strongest factor impacting teacher willingness to provide comprehensive sexual health information is the anticipated reaction from parents.¹⁵¹ In Ontario, the broad publicity given to parent protests surrounding the roll out of the 2015 curriculum had a notable impact on teachers' willingness to teach materials even when mandated to do so. For example, the 2015 Curriculum required that Grade 1 students identify genitalia using correct terminology, but due to perceived parental opposition, one school directed some teachers to instead use the term "private parts".¹⁵²

¹⁴⁸ Affidavit of Gretel Meyer Odell, affirmed Oct 5, 2018 [*Meyer Odell Affidavit*], para. 20, JAR Vol 8, Tab 13, pp 2125-2126.

¹⁴⁹ *Meyer Odell Affidavit*, paras. 4(b), 6-19, JAR Vol 8, Tab 13, pp 2120-2125; Transcript of the Cross-Examination of Gretel Meyer Odell, dated November 13, 2018, 37:24 – 38:3, 53:1 – 55:10, JBT, Tab 10.

¹⁵⁰ *Bialystok Affidavit*, para 9, JAR Vol 8, Tab 14, p 2131.

¹⁵¹ *Bialystok Affidavit*, paras 10-11, JAR Vol 8, Tab 14, pp 2131-2132; Jacqueline N. Cohen et al., "Factors affecting Canadian teachers' willingness to teach sexual health education" (2012) 12 Sex Education 299 at 302, 312, JAR Vol 8, Tab 14(G), pp 2237, 2247.

¹⁵² *Just Say No* at 3, JAR Vol 8, Tab 14(C), p 2173.

84. Perceptions of risk also impact teachers' confidence and comfort in teaching sexual health education.¹⁵³ An important factor in teacher attitudes is the level of support from their school administration.¹⁵⁴ In the context of this case, teachers are aware from the public comments discussed above that their conduct is now being carefully scrutinized by both Governmental officials, the OCT and parents. In Professor Bialystok's view, given this context:

it is difficult to imagine that for at least some teachers – perhaps especially those whose employment is precarious or who teach in more schools with a greater number of parents who are opposed to comprehensive sexual health education – the topics they teach, the books and other resources they choose, and the instructional strategies and lesson plans they employ will not be affected by concern that they will be reported.¹⁵⁵

H. Consequences for Students

85. As a result of the Government's actions, at least some students in Ontario schools will be taught sex ed in a manner that reflects a conservative interpretation of the 2018 Curriculum – one that does not include proper names for genitals, lessons about consent, up-to-date information about STIs, or any reference to gender identity. All of the Applicants' affiants agreed that there is an increased risk of harm to students' safety and well-being if these topics are not taught.

86. The Applicants' affiants were not only unanimous in this view but substantively unchallenged by the Minister. The Minister has not adduced any evidence to suggest that students will not be harmed if they are deprived of the knowledge and skills set out above; instead, her evidence is that (a) teachers may still implement the curriculum in a manner that provides the requisite knowledge and skills; and (b) that parents should have a say in determining the sexual education to be provided to their students. The Minister's cross-examinations were largely focused on establishing that the affiants' evidence was not based on

¹⁵³ *Teachers' Perceptions*, JAR Vol 8, Tab 14(E), pp 2210-2211.

¹⁵⁴ *Bialystok Affidavit*, para 12, JAR Vol 8, Tab 14, p 2132; Cohen at 312, JAR Vol 8, Tab 14(G), p 2247.

¹⁵⁵ *Bialystok Affidavit*, paras. 25-26, JAR, Vol. 8, Tab 14, pp. 2136-2137. See also *Gangaram Affidavit*, para. 62, JAR, Vol. 5, Tab 9, p. 1115 (discussing the fact that many of her teaching colleagues are not as privileged as her in terms of parental support or stable employment).

any direct comparison of various elementary school sexual education curricula to see if they led to different outcomes. The fact that none of the Applicants' affiants had either themselves conducted or relied on such a study cannot mean that they are precluded from drawing reasoned inferences about the results of the curricular change based on their expertise and experience.

87. A result of the Minister's decision is that learning the proper names of genitals, which previously occurred in Grade 1, is now delayed until Grade 5. The evidence of Dr. McKay, Executive Director of the Sex Information & Education Council of Canada, is that teaching children this information is "often a key component of sexual abuse prevention programs and is considered critical in order for them to communicate instances of sexual abuse."¹⁵⁶

88. Krysta Williams, the Advocacy and Outreach Coordinator for the Native Youth Sexual Health Network (NYSHN), deposed that based on her experiences as a facilitator for NYSHN in school and community workshops, she knows that

in order for survivors of sexual abuse and sexual assault to come forward and receive support, they require knowledge of the proper language, or proper terminology, to articulate the harms they have suffered. Not having the knowledge, or proper terminology, to articulate the harm they have suffered further harms children by preventing them from coming forward and receiving support.¹⁵⁷

She testified that teaching about exploitative behaviours is not a sufficient substitute for this knowledge because childhood sexual abuse "doesn't always present as exploitive initially. It often presents as loving behaviours and caring behaviours that cross a boundary."¹⁵⁸

89. Ms. Williams also stressed that teaching the proper names for genitals is especially important for Indigenous students given their disproportionately high rates of sexual abuse.¹⁵⁹ As Ogichidaa Francis Kavanaugh, the Grand Chief of Treaty #3 deposed, this is one of the legacies

¹⁵⁶ *McKay Affidavit*, para 23, JAR Vol 11, Tab 1, p 2890; *Khan Affidavit*, para 39, JAR Vol 17, Tab 23, p 5181.

¹⁵⁷ Affidavit of Krysta Williams, affirmed Oct 5, 2018 [*Williams Affidavit*], para 12, JAR Vol 24, Tab 27, p 7704.

¹⁵⁸ Transcript of the Cross-Examination of Krysta Williams, held Nov 29, 2018 [*Williams Cross*], 92:13-18.

¹⁵⁹ *Williams Affidavit*, paras 10, 13, JAR Vol 24, Tab 27, p 7704 .

of the Residential School system. The resulting intergenerational trauma is also manifested in compromised parenting skills, such that elementary education is critical in helping to mitigate the vulnerability and victimization of Indigenous children.¹⁶⁰ These observations also underscore the disproportionate impact on Indigenous students of removing consent from the curriculum.¹⁶¹

90. Learning about consent is an essential component of emancipatory sexual health education and sexual violence prevention.¹⁶² Further, the evidence establishes the importance of ensuring this learning occurs before students become sexually active. This was emphasized by Dr. McKay¹⁶³ as well as Professor Senn, who noted that the highest risk period for sexual violence is ages 14-24. Teaching about consent at an earlier point in students' lives is therefore critical.¹⁶⁴ As set out above, unlike the 2015 Curriculum, the 2018 Curriculum makes absolutely no reference to the concept of consent. This increases the risk of harm to all students, and especially to girls, Indigenous children and youth, and those whose intersecting identities (eg Indigenous girls) make them disproportionately vulnerable to abuse and assault.

91. All students, including LGBTQ+ students, need sex ed that is affirming, supportive, and relevant to their needs. Removing both optional and mandatory learning about sexual orientation and gender identity – specifically including trans, non-binary, and other non-cisgender identities – causes harm to LGBTQ+ students. The evidence of Dr. Pyne, an expert in the needs of trans and gender diverse children and children with trans parents, is that removing this content “deprives trans and gender diverse students of what other young people are provided through the

¹⁶⁰ Affidavit of Grand Chief Francis Kavanaugh, sworn Oct 4, 2018 [*Kavanaugh Affidavit*], paras 9-18, 26, JAR Vol 21, Tab 26, pp 6729-6731, 6733.

¹⁶¹ *Williams Affidavit*, para 15, JAR Vol 24, Tab 27, p 7705; *Kavanaugh Affidavit*, paras 22, 27 JAR Vol 21, Tab 26, pp 6732-6733, 6734.

¹⁶² Affidavit of Charlene Y. Senn, Affirmed Oct 2, 2018, paras 14-17, JAR Vol 15, Tab 21, pp 4279-4281; *Khan Affidavit*, paras 29-32, JAR Vol 17, Tab 23, pp 5178-5179; *McKay Affidavit*, para 27, JAR Vol 11, Tab 1, p 2891.

¹⁶³ *McKay Affidavit*, para 27, JAR Vol 11, Tab 1, p 2891.

¹⁶⁴ *Senn Affidavit*, para 24, JAR Vol 15, Tab 21, pp 4282-4283.

curriculum – a (positive) representation of their identities, bodies, and families.”¹⁶⁵ Jen Peace similarly deposed that reverting to the 2018 curriculum means that her daughter “will be deprived of the education that her classmates receive – one that discusses sexual health and relationships in terms that are applicable to her and that reflect her experience and needs.”¹⁶⁶

92. The removal of content related to gender identity increases the risk of gender-based bullying and harassment, with similarly disproportionate impacts on trans students.¹⁶⁷ This is especially concerning given the already high rates of bullying and harassment experienced by LGBTQ+ students,¹⁶⁸ and the associated increase in poor mental health and suicidality.¹⁶⁹

93. Students also need detailed and specific information to understand the risks of, and be able make coherent choices about delaying or refraining from, particular sexual behaviours.¹⁷⁰ Simply encouraging “abstinence” without clarifying how that term can be understood is dangerous to children as it may result in them inadvertently engaging in higher risk behaviours.¹⁷¹ Equally, students need comprehensive and current information about STIs in order to reduce both stigma and the risk of transmission. The limited and outdated information provided in the 2018 Curriculum does not meet that need.¹⁷²

94. Finally, in today’s context, student safety and well-being requires that they be informed of the risks associated with a variety of online activities, including sexting, and have those activities addressed through the same consent-based and anti-bullying framework as activities

¹⁶⁵ Affidavit of Jake Pyne, Affirmed Oct 5, 2018 [*Pyne Affidavit*], para 27, JAR Vol 18, Tab 24, p 5546.

¹⁶⁶ *Peace Affidavit*, para 30, JAR Vol 5, Tab 10, p 1307.

¹⁶⁷ *Peace Affidavit*, paras 25, 31-32, JAR Vol 5, Tab 10, pp 1305-1306, 1307-1308; *Pyne Affidavit*, paras 28-30, JAR Vol 18, Tab 24, p 5547-5548.

¹⁶⁸ *Khan Affidavit*, paras 43-44, JAR Vol 17, Tab 23, p 5182-5183.

¹⁶⁹ *Pyne Affidavit*, para 30, JAR Vol 18, Tab 24, p 5548.

¹⁷⁰ *McKay Affidavit*, para 35, JAR Vol 11, Tab 19, p 2895.

¹⁷¹ *McKay Cross*, 219:8-9; 222:13-227:8, JBT, Tab 9.

¹⁷² *Logie Affidavit* at paras 31-51, JAR Vol 25, Tab 28, pp 8057-8064.

that take place in person.¹⁷³ While the 2018 Curriculum does include content related to cyberbullying and cybersafety, it does not include discussion of sexting and distribution of intimate images. This omission increases the risk of harm to students.

PART III – ISSUES AND THE LAW

95. The applicants submit that (i) the Government's actions limit teachers' freedom of expression under s 2(b) and students' rights under ss 7 and 15 of the *Charter*; and (ii) these limitations are disproportionate in light of the state's objectives.

A. Framework for Analysis

96. As set out above, the Minister is statutorily empowered to prescribe the courses of study and to issue curriculum guidelines. Like all exercises of discretion by state actors, decisions made by the Minister must conform to the *Charter*.¹⁷⁴ The Supreme Court has repeatedly directed that discretionary administrative decisions that engage the *Charter* are to be reviewed on the framework set out in *Doré* and *Loyola*.¹⁷⁵ This framework requires the reviewing court to determine if the impugned administrative decision or action limits *Charter* protections; and if so, whether the limitation is proportionate in light of the objective.

B. The Directive and Reporting Line Violate Teachers' Freedom of Expression

97. To determine whether government action breaches s 2(b), the court first determines whether the activity at issue conveys or attempts to convey meaning. If it does, and is not

¹⁷³ *Pepler Affidavit*, para 21, JAR Vol 12, Tab 20, p 3287.

¹⁷⁴ *Suresh v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1 at para 77, **Applicants Book of Authorities [BoA]**, Tab 1; *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44 [*Insite*] at para 117, **BoA**, Tab 2.

¹⁷⁵ See eg *Law Society of British Columbia v Trinity Western University*, 2018 SCC 32 [*TWU*] **BoA**, Tab 3, citing *Doré v Barreau du Québec*, 2012 SCC 12 **BoA**, Tab 4; *Loyola High School v Quebec (Attorney General)*, 2015 SCC 12 [*Loyola*] **BoA**, Tab 5.

excluded from the scope of 2(b) due to its method¹⁷⁶ or location, the court considers whether either the purpose or the effect of the impugned state conduct is to limit the expression. If either a purpose or an effect-based limit is found, a finding of a s 2(b) violation will follow.¹⁷⁷

98. In this case, the activity in question – teaching – is inherently expressive. The fact that it takes place inside of classrooms by teachers does not remove it from the protection of s 2(b). The Government’s Directive is intended to limit freedom of expression, a point that is reinforced by the Reporting Line. Even if this were not its intent, it would be its effect.

viii. Classroom Instruction is Expressive Activity Within the Scope of s 2(b)

99. Teaching is, by definition, an attempt to convey meaning to students,¹⁷⁸ and thus squarely within the protection of the *Charter*. The starkest illustration of teachers’ s 2(b) rights within the classroom is the Supreme Court’s decision in *Keegstra*, in which the Court found a s 2(b) protection for a teacher’s right to teach anti-Semitic lies to students because it conveyed meaning.¹⁷⁹ While *Keegstra* was a criminal case, teachers’ s 2(b) rights apply more generally.

100. In *Morin*, the PEI Court of Appeal found a s 2(b) violation when a school principal intervened to prevent a teacher from delivering a lesson that the principal felt was overly controversial and not age appropriate.¹⁸⁰ While the School Board argued that Mr. Morin did not have a right to free expression in his capacity as a teacher, the Court disagreed. The Court recognized that the teacher’s selection of materials and assignments conveyed meaning, not only in terms of the information being provided to students, but also as an expression of a teacher’s

¹⁷⁶ *Irwin Toy Ltd. v Quebec (Attorney General)*, [1989] 1 SCR 927 [*Irwin Toy*] at 969, **BoA, Tab 6**; *R v Khawaja*, 2012 SCC 69 at para 70, **BoA, Tab 7**.

¹⁷⁷ *Irwin Toy*, *supra*, **BoA, Tab 6**; *Canadian Broadcasting Corporation v Canada (Attorney General)*, 2011 SCC 2 at para 38, **BoA, Tab 8**.

¹⁷⁸ Kevin A Kindred, “The Teacher in Dissent: Freedom of Expression and the Classroom” (2006) 15 *Education & L.J.* 207 at 216. **BoA, Tab 41**.

¹⁷⁹ *R v Keegstra*, [1990] 3 SCR 697 at 713-714, 730, **BoA, Tab 9**.

¹⁸⁰ *Morin v Regional Administration Unit #3 (PEI)* (2002), 213 DLR (4th) 17 (PEISCAD), **BoA, Tab 10**.

own beliefs as to what is or is not an appropriate vehicle for his or her teaching activity.¹⁸¹ To the extent that the state has an interest in regulating what it is that teachers say to their students, this goes to s 1 justifications and not to the s 2(b) stage.¹⁸²

101. *Morin* was followed by the BC Court of Appeal in *BCTF*. The Court rejected the argument that *Morin* was wrongly decided, affirmed that teachers continue to have s 2(b) rights while inside schools, and found a school policy that prohibited teachers from discussing political issues related to their collective bargaining activities inside classrooms was unconstitutional.¹⁸³ In the words of the Court, the state “cannot prevent teachers from expressing opinions just because they step onto school grounds.”¹⁸⁴

ix. *The Expressive Activity in Question is at the Core of s 2(b)*

102. The expression at issue in this case lies at the core of s 2(b). Freedom of expression is one of the foundational concepts that has formed the basis for the development of educational institutions in western society.¹⁸⁵ There is a strong link between teaching and the essence of s 2(b). The Court in *Irwin Toy* articulated the core values of freedom of expression: truth seeking; participation in social and political life; and individual self-fulfillment.¹⁸⁶ All three values are implicated by the teaching of sexual health information to students.

103. With respect to truth seeking, there is no question that the 2015 Curriculum reflects a factually accurate approach to sexual health topics. Section 2(b) protects both the sender and

¹⁸¹ *Morin*, *supra* at paras 49-56. See also para. 224 (McQuaid JA, dissenting, but not on this point), **BoA, Tab 10**.

¹⁸² *Kindred*, *supra* at 230, **BoA, Tab 41**; *Morin*, *supra* at para 71, **BoA, Tab 10**.

¹⁸³ *British Columbia Public School Employers' Association v British Columbia Teachers' Federation*, 2005 BCCA 393 [*BCTF 2005*] at paras. 27-30, 33-34, 38, **BoA, Tab 11**. See also *British Columbia Teachers' Federation v British Columbia Public School Employers' Association*, 2013 BCCA 241 [*BCTF 2013*] **BoA, Tab 12** (holding rules prohibiting teachers from wearing buttons and posting posters inside of classrooms with political messages violating s. 2(b) of the *Charter*).

¹⁸⁴ *BCTF 2005*, *supra* at para 65, **BoA, Tab 11**.

¹⁸⁵ *RWDSU v Dolphin Delivery Ltd.*, [1986] 2 SCR 573 at 583, **BoA, Tab 13**.

¹⁸⁶ *Irwin Toy*, *supra* at 976, **BoA, Tab 6**.

receiver of information,¹⁸⁷ and to the extent that the Government's action constrains the flow of factually accurate information between teachers and students, it implicates this core value.

104. The state conduct in this case also implicates the political core of s 2(b). As the Supreme Court wrote in *Ross*, "A school is a communication centre for a whole range of values and aspirations of a society. In large part, it defines the values that transcend society through the educational medium."¹⁸⁸ Education plays a significant role in children's development into active and informed members of the polity. The 2015 curriculum, with its focus on the recognition and acceptance of difference, is directly linked to political and social decision making. Classroom lessons that challenge students to understand diverse experiences, perspectives and points of view is key to building the skills necessary for participation in public life in a democratic state.¹⁸⁹

105. Finally, the 2015 Curriculum plays an integral role in some teachers' sense of self and their self-fulfillment. The Applicant Gangaram is a clear example. Pursuing equity and inclusion is of "central importance" to her life as reflected in her pursuits both inside and outside of the classroom.¹⁹⁰ She derives personal meaning from her efforts to contribute to a more accepting, just and equal society. Her role as an educator is a critical part of this, and to the extent that the Government's actions interfere with her ability to do so, it strikes at the heart of her own understanding of herself as both an educator and a member of her community.¹⁹¹

x. *The Purpose of the Directive & Reporting Line is to Restrict Expressive Activity*

106. On any fair reading of the Government's actions, their purpose was to change and restrict the substance of what teachers teach inside of their classrooms. The many statements from the

¹⁸⁷ See e.g. *Vancouver Sun (Re)*, 2004 SCC 43 at para 26, BoA, Tab 14.

¹⁸⁸ *Ross v New Brunswick School District No. 15*, [1996] 1 SCR 825 at para 42, BoA, Tab 15.

¹⁸⁹ *Morin*, *supra* at paras 105-107, BoA, Tab 10.

¹⁹⁰ *Gangaram Affidavit*, paras 10-11, JAR Vol 5, Tab 9, p 1097.

¹⁹¹ *Gangaram Affidavit*, paras 45-46, JAR, Vol 5, Tab 9, p 1109.

Government all point to an intention to restrict the ability of teachers to teach the content of the 2015 Curriculum to their students. In her July 11 letter, the Minister indicated her intent to “restore” the previous sex-ed curriculum.¹⁹² The Throne Speech pledged the Government to “replacing the current sex-education curriculum”.¹⁹³ The Reporting Line itself stated that, during the parental consultation process “fundamental lessons will be restored to classrooms.”¹⁹⁴ All of these statements necessarily imply an intention to change what teachers are expected to teach.

107. While government statements can sometimes be rhetorical and imprecise, they remain a critical source of information when ascertaining the objectives of their actions.¹⁹⁵ This is particularly true for carefully prepared statements like these.

108. The Respondent’s evidence also demonstrates an intention to constrain teacher speech. Prior to the Directive, Ministry officials alerted the Minister to the fact that the learning expectations under the 2018 Curriculum were different from those in the 2015 Curriculum.¹⁹⁶ The Government was aware that its Directive would change what was being taught, and must be taken to have intended the inevitable consequences of its actions.

109. The thrust of the Respondent’s argument appears to be that nothing in the 2018 Curriculum specifically *prohibits* teachers from addressing topics like consent or gender identity, or using words like penis or vulva. Because the 2018 curriculum is so general and vague, teachers *may* still do so, and that to the extent that they do not, this is a failing of their professional judgment, not the fault of the Minister.

¹⁹² Letter from the Minister of Education, dated July 11, 2018, JAR Vol 4, Tab 8(M), p 828.

¹⁹³ *Throne Speech* at 4, JAR Vol 4, Tab 8(L), p 820.

¹⁹⁴ For the Parents Website, JAR Vol 5, Tab 9(J), p 1263.

¹⁹⁵ *R v Safarzadeh-Markhali*, 2016 SCC 14 at para 36, BoA, Tab 16. See also *Reference re Upper Churchill Water Rights Reversion Act*, [1984] 1 SCR 297 at 318 BoA, Tab 17 (extrinsic evidence of purpose, if reliable, is admissible evidence, particularly in constitutional cases where there are allegations of colourability).

¹⁹⁶ *Beckett Cross*, 60:10-21, 63:6-12, JBT, Tab 1.

110. This argument rests on a fundamentally de-contextualized reading of the curriculum, ignoring the Government's conduct surrounding the change. It is not simply that teachers have a curriculum with general and vague expectations. They have a curriculum where specific and detailed direction on a wide range of topics have been intentionally stripped out by the government in conjunction with statements insisting that the 2018 curriculum is *different*. To expect teachers to read 2015 content back into the 2018 curriculum, at a time when the government rejected ETFO's calls for teachers to continue to exercise their professional judgment with respect to 2015 materials,¹⁹⁷ is simply unrealistic.

xi. The Effect of the Directive & Reporting Line is to Chill Expressive Activity

111. Even where there is no intent to restrict speech, government action will still violate s 2(b) when it has this effect.¹⁹⁸ The Government's actions have significantly chilled the ability of teachers to engage in expressive activities in relation to the HPE Curriculum.

112. Government statements surrounding the announcement of the Directive and creation of the Reporting Line consistently targeted teachers, and spoke of taking action against them. In formally announcing the repeal of the 2015 Curriculum, the Premier condemned people "using our children as pawns" and indicated that "if we find someone failing to do their job, we will act."¹⁹⁹ The backgrounder urged "any parent who believes that their child's teacher is jeopardizing their child's education by deliberately ignoring Ontario's curriculum should contact the Ontario College of Teachers" as well as refer "any concerns" to the Reporting Line.²⁰⁰ The

¹⁹⁷ *Beckett Affidavit*, paras 97-99, JAR Vol 27, Tab 29, pp 8544-8545; ETFO Media Release – August 13, 2018, JAR Vol 31, Tab 29(40), p 11266; *Beckett Cross*, 77:11-79:6, JBT, Tab 1.

¹⁹⁸ *Irwin Toy*, *supra* at 971-972, BoA, Tab 6; *R v Guignard*, 2002 SCC 14 at para 27. BoA, Tab 18.

¹⁹⁹ Press Release dated Aug 22, 2018, JAR Vol 5, Tab 9(M), p 1277.

²⁰⁰ Backgrounder on Consultation into Education Reform, JAR Vol 28, Tab 29(5), p 8841.

Reporting line not only solicited complaints about the “curriculum currently being taught”²⁰¹ but also stated that those complaints would be collected and shared with the OCT.²⁰²

113. While the Government has responded to particularized complaints solicited through the Reporting Line by referring the complainants to the OCT,²⁰³ this procedure was never disclosed on the Reporting Line itself, and has never been communicated to teachers or the public.²⁰⁴ All teachers know is that the Reporting Line solicited complaints to be forwarded to the OCT.

114. The frequent reference to the OCT is particularly significant when it comes to assessing the chilling effect of the Government’s conduct. Where the state restricts speech through threats of prosecution, the chill that is produced will often go beyond what the state purports to restrict. The threat of prosecution or litigation inevitably discourages speech near the boundaries of what is permitted²⁰⁵ because individuals will self-censor out of fear of running afoul of the law. This is why the Supreme Court struck down the offence of “spreading false news” in *Zundel*. While the prohibition on conveying false information itself violated s. 2(b), the Court’s real concern was with the chill the law could have on expression not actually captured by the section. The Court recognized that the threat of prosecution could inhibit individuals from saying what they wanted to, even if such statements would not meet the definition of the offence.²⁰⁶

²⁰¹ For the Parents Website, JAR Vol 5, Tab 9(K), p 1265.

²⁰² For the Parents Website, JAR Vol 5, Tab 9(K), p 1266.

²⁰³ *Beckett Affidavit*, para. 101, JAR Vol 27, Tab 29, p 8546; Letter Signed by Deputy Minister Naylor to OCT Re: Submissions to Website – Oct 5, 2018, JAR Vol 31, Tab 29(43); Letter from Ministry of Education to 13 Individuals Who Alleged Professional Misconduct – Nov 2, 2018, JAR Vol 31, Tab 29(44).

²⁰⁴ *Beckett Cross*, 88:23-89:18, JBT, Tab 1.

²⁰⁵ *Halton Hills (Town) v Kerouac* (2006), 80 OR (3d) 577 (SC) [*Kerouac*] at para 27, BoA, Tab 19. See also *Iorfida v MacIntyre* (1994), 21 OR (3d) 186 (Gen Div), BoA, Tab 20 (invalidating criminal prohibition against possession of literature that promotes drug use due to risk that it could chill expression beyond conduct intended to be captured by the law).

²⁰⁶ *Rv Zundel*, [1992] 2 SCR 731 at 771-772, 777-778, BoA, Tab 21.

115. Threat of prosecution by the OCT is similarly chilling. Discipline proceedings at the OCT carry significant stigma, and penalties can be severe and career ending.²⁰⁷ It was on a similar basis that this Court in *Klein* struck down Rule 13, Commentary 18 of the Law Society's *Rules of Professional Conduct* as violating s. 2(b). That rule prohibited lawyers from initiating contact with the media in respect of matters that they were or were likely to become involved in, or for the purpose of publicizing themselves.²⁰⁸ The majority of the court wrote:

A threat of discipline by one's governing professional body is a grave and weighty one which will substantially restrict the willingness to speak out on matters of public interest. The effect of the Rule, in my view, is to impair the right of the lawyer, client and the public to disseminate and receive information to an extent which greatly exceeds any legitimate legislative or regulatory purpose of the respondent Law Society. This Rule, in my view, will have an unjustifiable chilling effect on the exercise of the freedom of expression. Even lawyers who do not "initiate" contact with the news media or who "initiate" contact for a purpose will be dissuaded from exercising their freedom of expression as the Law Society itself has taken the position that:

... any interview with the media about court proceedings invites the inference that it was given to publicize a lawyer and carries the danger of being a contempt of court. The Society intends to institute discipline proceedings where appropriate to ensure that the Rule is observed.²⁰⁹

116. The Government's statements with respect to repercussions for teachers is more severe than the Law Society's. It should come as no surprise to the Government that its conduct has frightened teachers away from discussing politically charged topics that, while expressly contained within the 2015 Curriculum, have been conspicuously removed from the 2018 Curriculum.

117. The Supreme Court of Canada has on two recent occasions had occasion to comment on the evidentiary basis required to make out a chilling effect. In *Khawaja*, the Court held that "[i]n

²⁰⁷ Affidavit of Vanora Simpson, Affirmed Oct 3, 2018, paras 14-15, JAR Vol 10, Tab 17, pp 2496-2497.

²⁰⁸ *Klein and Law Society of Upper Canada (Re)* (1985), 50 OR (2d) 118 (Div Ct) at 151, BoA, Tab 22.

²⁰⁹ *Klein*, supra at 170, BoA, Tab 22.

some situations, a chilling effect can be inferred from known facts and experience.”²¹⁰ More recently, in *Vice Media*, the Court discussed the empirical difficulties in proving a chilling effect:

Proving the existence and extent of such effects is, of course, no easy feat. Chilling effects do not lend themselves to scientific or empirical proof. Rather, they are intangible in nature and difficult — if not impossible — to measure with exactitude. But that does not mean they are insignificant or unimportant. To the contrary, to the extent that chilling effects do arise, their consequences can be considerable.²¹¹

118. Proving chilling effects is necessarily difficult, and the evidentiary threshold must be sensitive to this.²¹² While the majority held that there is never an *automatic* presumption of a chilling effect that flows from a particular form of state conduct — in that case, production orders directed at the press — it was still open to Courts to presume such an effect in an appropriate case.²¹³ The minority of the Court was even more willing to presume chilling effects.²¹⁴

119. While such a presumption is open to the Court in this case, it is unnecessary since there is ample evidence from fact and expert affidants that a chill on teacher expression exists. The academic literature clearly establishes that teachers are less willing to provide comprehensive sexual health education when they see a lack of support from parents and education officials.²¹⁵ Relying on this research and the current state of public discourse about the HPE Curricula, Professor Bialystok deposed that it would be difficult to imagine that at least some teachers would *not* be chilled and take a conservative approach to teaching.²¹⁶

²¹⁰ *Khawaja*, *supra* at para 79, **BoA, Tab 7**.

²¹¹ *R v Vice Media Canada Inc.*, 2018 SCC 53 at para 27, **BoA, Tab 23**.

²¹² *Blatch v Archer* (1774), 1 Cowp. 63, 98 ER 969 at 970 **BoA, Tab 24** (“It is certainly a maxim that all evidence is to be weighed according to the proof which it was in the power of one side to have produced, and in the power of the other side to have contradicted.”); Cf. *Clements v Clements*, 2012 SCC 32 at paras 17-28, **BoA, Tab 25**. (Courts take “common sense” approach to proof of causation in negligence, based on capacity to prove causation in specific context).

²¹³ *Vice Media*, *supra* at paras 28-29, **BoA, Tab 23**.

²¹⁴ *Vice Media*, *supra* at para 167 (*per* Abella J, dissenting), **BoA, Tab 23**.

²¹⁵ *Bialystok Affidavit*, paras 9, 12, **JAR Vol 8, Tab 14**, pp 2131-2132; Cohen at 312, **JAR Vol 8, Tab 14(G)**, p 2247.

²¹⁶ *Bialystok Affidavit*, para 25, **JAR Vol 8, Tab 14**, pp 2136-2137.

120. The evidence from teachers and education partners confirms that this is exactly what is taking place. Both the Applicant Gangaram and Ms. Peace deposed that they understand the Government's statements to be threats that teaching content that was put front and centre in the 2015 Curriculum but removed in the 2018 version could result in professional sanctions.²¹⁷ Many teachers share this view, fearing for their jobs.²¹⁸ The record in this Application contains evidence of teachers who are extremely concerned about participating in Pride parades,²¹⁹ or using gender non-conforming students' preferred pronouns,²²⁰ and data respecting declining rates of teachers using external resources tied to topics removed from the 2018 Curriculum.²²¹

121. The chilling effect evidence in this case is more extensive than what appears to have been presented in other successful s 2(b) claims like *Zundel*,²²² *Klein*,²²³ *Iorfida*²²⁴ or *Kerouac*²²⁵ and is more extensive than what the Supreme Court suggested is necessary in *Vice Media*.²²⁶

C. The Directive and Reporting Line Violate Students' s 7 Rights

137. As a result of the chilling effect on teacher's expression, at least some students in Ontario schools will be taught sex ed in a manner that reflects a cautious and conservative interpretation of the 2018 Curriculum. The impugned decisions thereby infringes students' rights to security of the person, and in some cases to life. This infringement does not accord with the principles of fundamental justice, in particular the rules against arbitrariness and gross disproportionality.

²¹⁷ *Gangaram Affidavit*, paras 42-43, JAR Vol 5, Tab 9, pp 1108-1109; *Gangaram Cross*, 161:14-62:1, JBT, Tab 5; *Peace Affidavit*, para 16, JAR Vol 5, Tab 10, pp 1304-1305.

²¹⁸ *Gangaram Affidavit*, para 44, JAR Vol 5, Tab 9, p 1109; *Meyer Odell Affidavit*, para 20, JAR Vol 8, Tab 13, pp 2125-2126; *Shubat Cross*, 51:14-21, 57:12-22, JBT, Tab 14.

²¹⁹ *Gangaram Cross*, 149:5-19, JBT, Tab 5.

²²⁰ *Gangaram Affidavit*, para 44, JAR Vol 5, Tab 9, p 1109.

²²¹ *Meyer Odell Affidavit*, paras 4(b), 6-19, JAR Vol 8, Tab 13, pp 2120-2125; *Meyer Odell Cross*, 37:24-8:3, 53:1-55:10, JBT, Tab 10.

²²² *Zundel, supra*, BoA, Tab 21.

²²³ *Klein, supra*, BoA, Tab 22.

²²⁴ *Iorfida, supra*, BoA, Tab 20.

²²⁵ *Kerouac, supra*, BoA, Tab 19.

²²⁶ *Vice Media, supra*, BoA, Tab 23.

i. Section 7 is Engaged

138. In order to meet the threshold for engaging s 7, the applicants need only show a sufficient causal connection between the state action and the prejudice suffered. This is a flexible standard that is sensitive to the context of each particular case.²²⁷ While the causal connection must be real and not speculative, it does not require scientific proof; rather, it is satisfied by a reasonable inference on a balance of probabilities.²²⁸ Government action need not be the only or even the dominant cause of the harm. A sufficient causal connection is made out where the state action contributes to the harm.²²⁹ Further, the harm need not be manifest or inevitable; an increased risk is sufficient to establish an infringement. The evidence in this case readily meets that threshold.

ii. The Decision Does Not Accord With the Principles of Fundamental Justice

139. The principles of fundamental justice include basic norms against arbitrariness and gross disproportionality, which guard against “failures of instrumental rationality” – that is, state action that is inadequately connected or even antithetical to its underlying purpose, or that goes too far in seeking to achieve it.²³⁰ Determining whether the Minister’s Directive and decision to create the Reporting Line were arbitrary or grossly disproportionate thus requires first identifying the statutory objectives pursuant to which those actions were purportedly taken.

140. The objectives of the *Education Act*, which the Minister is obliged to pursue, are to enhance student achievement and wellbeing; close gaps in student achievement; and maintain confidence in Ontario’s publically funded education systems.²³¹ The Minister’s actions must target the purpose of the *Education Act*, and thus be aimed at achieving one or more of these

²²⁷ *Canada (Attorney General) v Bedford*, 2013 SCC 72 [*Bedford*] at para 75, BoA, Tab 26.

²²⁸ *Bedford*, *supra* at para 76, BoA, Tab 26.

²²⁹ *Bedford*, *supra* at para 76, BoA, Tab 26; *Canada (Prime Minister) v Khadr*, 2010 SCC 3 at para 21, BoA, Tab 27.

²³⁰ *Bedford*, *supra* at para 107, BoA, Tab 26, citing Hamish Stewart, *Fundamental Justice: Section 7 of the Canadian Charter of Rights and Freedoms*. Toronto: Irwin Law, 2012, p 151.

²³¹ *Education Act*, *supra*, s 0.1(3).

objectives.²³² The Minister has articulated two reasons for repealing the 2015 curriculum and replacing it with the 2018 curriculum: first, that the 2015 curriculum is not “age appropriate”; and second, that there was inadequate consultation with parents in its development. While the Minister has not specifically identified the objectives to which these relate, they can only possibly be grounded in the objectives of enhancing student well-being and maintaining confidence in the school system.

141. The Minister’s actions are not rationally connected to either of these objectives and is therefore arbitrary, or at the very least overbroad. Further, the effect of the Minister’s actions on the *Charter*-protected interests of students is grossly disproportionate to the objectives.

a. Arbitrariness

142. The norm against arbitrariness requires a rational connection between the objective of state action and the limits it imposes on s 7 interests. State action that infringes those interests in a manner that is unrelated or contrary to its objective is arbitrary. In order not to be arbitrary, a limit on a s 7 interest requires “not only a theoretical connection between the limit and the legislative goal, but a real connection on the facts.”²³³ Unproven “common sense” arguments, amounting to little more than assertions of belief, lie in the realm of theory – and a “theoretically defensible limitation may be arbitrary if in fact the limit lacks a connection to the goal.”²³⁴

143. The Minister’s actions are not merely unconnected to but actually contravene the objective of enhancing student well-being. There is no evidence to suggest that the 2015 curriculum, developed in consultation with a number and variety of experts in education, physical and mental health, and child development, is in any way age inappropriate. Equally,

²³² *Insite*, *supra* at para 129, BoA, Tab 2.

²³³ *Chaoulli v Quebec (Attorney General)*, 2005 SCC 35 [*Chaoulli*] at para 131, BoA, Tab 28; *A.C. v Manitoba (Director of Child and Family Services)*, 2009 SCC 30 at para 103, BoA, Tab 29.

²³⁴ *Chaoulli*, *supra* at para 138, BoA, Tab 28

there is no evidence to suggest that the “Growth and Development” portion of the 1998 Curriculum *is* age appropriate, or more age appropriate than the 2015 curriculum.

144. As set out above, the evidence of ADM Beckett is that the government did not seek advice from Ministry staff as to the age appropriateness of either curriculum, nor has it requested an expert or evidence-based assessment of that issue. There is accordingly no basis on which to conclude that repealing the 2015 Curriculum is connected to the objective of enhancing student well-being by ensuring students are not exposed to age inappropriate content.

145. There is, in contrast, considerable evidence that replacing the 2015 Curriculum with the 2018 Curriculum significantly undermines the objective of enhancing student well-being. This consists not only of the evidence discussed in detail above, but also the Minister’s own statements in the Legislature. On July 16, 2018, the Minister stated that the government was

going to stand firmly in support of students and **the realities they face in 2018. We know they need to learn about consent. We know they need to learn about cyber safety. We know they need to learn about gender identity and appreciation [sic].** But we also know that the former Liberal government’s consultation process was completely flawed, and that’s where we’re going to focus, and we’re going to respect parents and allow them a chance to once and for all have their voices heard in a very fulsome, thoughtful, inclusive consultation.²³⁵

146. Despite the government’s recognition that students in 2018 need to learn about issues such as consent and gender identity – matters included in the learning objectives of the 2015 Curriculum – the 2018 Curriculum does not mention either issue in the learning objectives.

147. The government’s statements indicate that it has chosen to prioritize pursuing the objective of maintaining confidence at the expense of the objective of student well-being. The jurisprudence on the s 7 implications of achieving one statutory objective through means that

²³⁵ *Beckett Affidavit*, Exhibit 37, JAR Vol 31, Tab 37, p 11253.

undermine another suggests that this is an instance of arbitrariness or at least overbreadth.²³⁶

Here, however, there is equally no rational connection between withdrawing the 2015 curriculum pending the outcome of further consultations and the objective of maintaining public confidence.

148. The evidence the Respondent has adduced to establish a decline in confidence is dated and speculative. The most recent parent communication cited by ADM Beckett is from August 2016; the most recent media report is from May of that year. While ADM Beckett noted that public elementary school enrollment had declined modestly, he was unable to draw any causal connection between this and the 2015 Curriculum. Similarly, Dr. Van Pelt could do no more than speculate that increased enrollment in independent schools, many of them religiously oriented, “*could well be*, in part, a reflection of parental dissatisfaction in the trends in the highly profiled changes in sexual health education which received extensive media attention in 2015.”²³⁷

149. Given the complex, multifaceted, and nebulous nature of public confidence,²³⁸ the government is owed some deference in its assessment both of confidence itself and the measures by which it can best be maintained. Here, however, there is no evidence to suggest that the Minister’s decision is responsive to an actual current loss of confidence. On the other hand, there is significant evidence that the Government’s actions have in fact undermined confidence.

150. On the Minister’s own record, that evidence includes a letter from the parent of a transgender child read to the Legislative Assembly by Jamie West, MPP for Sudbury,²³⁹ and a petition presented to the Minister of Health by Opposition Leader Andrea Horvath signed by 19 health care organizations and nearly 1,800 doctors, nurses, and health care professionals calling

²³⁶ *R v Michaud*, 2015 ONCA 585 at para 70, BoA, Tab 30.

²³⁷ Affidavit of Deani Van Pelt, affirmed Nov 5, 2018, para 30, JAR Vol 45, Tab 32, p 18997.

²³⁸ See *eg R v Bryan*, 2007 SCC 12 at para 36, BoA, Tab 31.

²³⁹ *Beckett Affidavit*, Exhibit 37, JAR Vol 31, Tab 38, p 11260.

on the government to restore the 2015 Curriculum.²⁴⁰ While confidence will never be consistent across all parents or the public more generally, neither can the erosion of confidence among a significant portion of the population be ignored in assessing whether and to what degree the Minister's decision is rationally connected to the public confidence objective.

151. Perhaps more significantly, while some of the communications from parents and organizations described by ADM Beckett raised concerns with the content of the 2015 Curriculum, most focused on perceived inadequacies in consultation. The government's position is clear: confidence is impaired by inadequate consultation, and maintaining confidence in the education system requires that the sex ed curriculum implemented in Ontario classrooms is one that was developed through broad consultation. Yet repealing the 2015 Curriculum and replacing it with the 2018 Curriculum achieves precisely the opposite outcome.

152. The evidence establishes that there was in fact extensive consultation undertaken in connection with the 2015 Curriculum, involving not only a wide variety of experts and other stakeholders but also parents and parent organizations. The consultation included two meetings with both the Ontario Association of Parents in Catholic Education (OAPCE) and the Ontario Federation of Home and School Associations (OFHSA); a meeting with People for Education, and Parents Partenaires en Education; written submissions from OAPCE and People for Education; and a survey made available to 4000 parents and completed by 1,683.²⁴¹

153. There is in contrast no evidence of *any* consultation process associated with the 1998 Growth and Development component, which was developed prior to the Ministry's 2003 review framework. The depth of consultation with respect to all curricula has increased since 2003, and

²⁴⁰ *Beckett Affidavit*, Exhibit 39, JAR Vol 31, Tab 39, p 11264.

²⁴¹ *Beckett Affidavit*, paras 73-77, JAR Vol 27, Tab 29, pp 8535-8536.

the consultation in respect of the 2015 Curriculum was “significantly more extensive than for other comparable processes, both in terms of its scope and duration.”²⁴² Even had a process equivalent to that which preceded the release of the 2015 Curriculum been in place in 1998, very few if any of the parents of children currently in elementary school would have had a say in it.

154. The effect of the Minister’s decision is to impose a curriculum that is the product of far less consultation than the one it replaces. To do so in the name of maintaining confidence though greater consultation is facially absurd, and a paradigmatic example of arbitrariness.

155. The Minister’s decision is therefore arbitrary in relation to either or both of the relevant statutory objectives. A failure to rationally pursue one objective while validly pursuing another still constitutes a violation of s 7,²⁴³ and so either failure described above (student wellbeing or public confidence) is sufficient to make out the Applicant’s claim. In the alternative, the fact that it undermines confidence among some members of the public renders it overbroad.²⁴⁴

b. Gross Disproportionality

156. The rule against gross disproportionality is offended where the impacts of state action on s. 7 rights are so profoundly incommensurate with the objective that they cannot be rationally supported.²⁴⁵ Gross disproportionality is not concerned with the number of people whose rights are prejudiced; a grossly disproportionate impact on one individual is enough.²⁴⁶

157. The negative impacts of the Minister’s decision on students’ right to life and security of the person, including psychological security, are both multiple and extensive. The evidence establishes that the Minister’s decision will increase students’ vulnerability to sexual

²⁴² *Dawson Affidavit*, para 21, JAR Vol 8, Tab 12, p 2114.

²⁴³ *Michaud, supra*, BoA, Tab 30.

²⁴⁴ *Michaud, supra*, at para 75, BoA, Tab 30.

²⁴⁵ *Bedford, supra* at para 120, BoA, Tab 26.

²⁴⁶ *Bedford, supra* at para 122, BoA, Tab 26.

exploitation, abuse and violence; increase their risk of exposure to STIs and unwanted pregnancy; and increase the likelihood of bullying, particularly for LGBTQ+ students, and more generally increase their risk of poor mental health – up to and including suicidality.

158. These effects are grossly disproportionate to the objectives of enhancing student well-being and maintaining confidence in Ontario’s education systems. If knowing the proper names for genitals; being taught about consent; being provided accurate and up-to-date information about STIs; or seeing all gender identities reflected in the curriculum would otherwise prevent a single student from being harmed, the severity of the impact is established.²⁴⁷

D. The Directive & Reporting Line Violate Students’ s 15 Rights

159. The Directive infringes s 15(1) of the *Charter* by adversely affecting students based on age, disability, Indigeneity, sex, family status, gender identity/expression, and sexual orientation.

160. There is a two-step test for analyzing a s 15 claim:

- a. Does the impugned action, on its face or in its impact, create a distinction based on enumerated or analogous grounds?
- b. If so, does the action impose (directly or indirectly) a burden or deny a benefit in a manner that has the effect of reinforcing, perpetuating or exacerbating disadvantage?²⁴⁸

161. The Supreme Court has emphasized that substantive equality is an “animating norm” of the s 15(1) right.²⁴⁹ In *Andrews* and subsequent cases, the Court drew attention to the fact that: “identical treatment may frequently produce serious inequality”²⁵⁰; the main consideration is the

²⁴⁷ *Bedford*, *supra* at para 158, BoA, Tab 26.

²⁴⁸ *Quebec (Attorney General) v Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17 at para 25, BoA, Tab 32; *Kahkewistahaw First Nation v Taypotat*, 2015 SCC 30 [*Taypotat*] at paras 17-21, BoA, Tab 33; *Quebec (Attorney General) v A*, 2013 SCC 5 [*A*] at para 331 (*per* Abella J), and para 418 (*per* McLachlin CJ), BoA, Tab 34; *Withler v Canada (Attorney General)*, 2011 SCC 12 [*Withler*] at paras 29-39 and 65-67, BoA, Tab 35; *R v Kapp*, 2008 SCC 41 at para 17, BoA, Tab 36.

²⁴⁹ *Withler* at para 2, BoA, Tab 35.

²⁵⁰ *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143 [*Andrews*] at para 164, BoA, Tab 37.

real impact of an action on the claimant/group, rather than its purpose;²⁵¹ and that factors that may justify discrimination are for the government to raise under s 1.²⁵²

i. The Government actions create a distinction

162. Although the impugned actions do not distinguish amongst different groups of students on their face, they produce adverse effects felt more strongly by some groups than others. A facially neutral decision will still draw a distinction for the purposes of s 15 when its impact is more strongly felt on the basis of enumerated or analogous grounds.²⁵³ In this case, the effects of removing learning expectations that ensure students can accurately describe their own bodies and experiences, teach consent and related skills, address HIV stigma, and include a range of gender identities and sexual orientations are felt more strongly by younger children, girls, Indigenous students, students who are HIV+, and trans and gender diverse students – as well as students whose identities intersect two or more of those grounds.

163. Because the affected students experience complex discrimination on the basis of multiple grounds, rather than making a series of isolated comparisons, the Court should adopt the approach established in *Withler*: “It is unnecessary to pinpoint to a particular group that precisely corresponds to the claimant group except for the personal characteristic or characteristics alleged to ground the discrimination.”²⁵⁴

ii. The actions impose burdens and denies benefits that exacerbate disadvantage

²⁵¹ *Ibid* at 165, BoA, Tab 37. See also *Withler* at para 2, BoA, Tab 35.

²⁵² *Andrews* at 176, BoA, Tab 37.

²⁵³ *Andrews* at paras 173-174, BoA, Tab 37; *British Columbia (Public Service Employees Relations Commission) v British Columbia Government and Service Employees Union (BCGSEU)* [1999] 3 SCR 3 at para 42, BoA, Tab 38; *A*, at para 198, BoA, Tab 34.

²⁵⁴ *Withler*, *supra*, at paras 56-59, 63, BoA, Tab 35. See also *Inglis v British Columbia (Minister of Public Safety)*, 2013 BCSC 2309 at para. 517, BoA, Tab 39.

164. In *A*, Justice Abella – writing for the majority on this point – described the second prong of the s. 15 test concisely: “If the state conduct widens the gap between the historically disadvantaged group and the rest of society rather than narrowing it, then it is discriminatory.”²⁵⁵

165. The impugned actions leave all children less informed about important subjects of health and sexuality, thus rendering them less safe and more vulnerable to abuse and other harms. This increased risk of harm disproportionately affects students from identified groups, and the actions therefore impose a burden that exacerbates disadvantage.

166. In other words, it is not simply that the government actions impose a differential burden on students who are members of equality-seeking groups, but that the differential burden consists of an even more acute increase in the risks of the harms discussed above in the context of s. 7. For example, all students can be victims of bullying and sexual harassment, but these problems tend to target children on the basis of sex, sexual orientation and gender identity.²⁵⁶ The harms become even more acute when intersecting grounds like race or disability are engaged.²⁵⁷ To the extent that the Directive increases the general risk of harm flowing from bullying, it causes substantive discrimination against these groups because they are the children who are most in need of protection against this form of violence.

167. But even if the absence of harm in the sense of s 7 violations, the Government actions still widen the gap between already disadvantaged students and other youth. This is most clearly the case for transgender students. The near total elimination of content related to trans people mean that trans youth no longer receive sexual health education that recognizes and affirms their

²⁵⁵ *A*, *supra* at para 332, BoA, Tab 34; *Taypotat*, *supra* at para 20, BoA, Tab 33.

²⁵⁶ *Peace Affidavit*, para 25, JAR Vol 5, Tab 10, p 1305.

²⁵⁷ *Pepler Affidavit*, para 11, JAR Vol 12, Tab 20, p 3284.

bodies, a burden not born by cisgender students.²⁵⁸ Moreover, the removal of this content “sends a strong and sinister message” that trans children are not as deserving of recognition in the HPE curriculum as their cisgender peers. This is a subtle but pernicious form of discrimination.²⁵⁹

168. The Applicant relies upon and adopts the submissions made by the intervenors, JFCY, HALCO, and the Grand Council of Treaty 3 with respect to discrimination on the basis of age, disability, and Indigeneity respectively.

E. Proportionate Balancing

169. Under the *Doré /Loyola* framework, the court reviewing an administrative decision that engages the *Charter* should apply “a robust proportionality analysis consistent with administrative law principles”.²⁶⁰ An administrative decision will be reasonable if it “reflects a proportionate balancing of the *Charter* protection with the statutory objective at issue.”²⁶¹

170. The reviewing court must be satisfied that the decision limits the *Charter* right “as little as reasonably possible” in light of the applicable statutory objectives, and consider whether there were other reasonable possibilities that would give effect to *Charter* protections more fully.²⁶² If there was an alternative “*reasonably* open to the decision-maker that would reduce the impact on the protected right while still permitting him or her to sufficiently further the relevant statutory objectives” the decision is disproportionate.²⁶³ The reviewing court is also required to weigh the severity of the interference with *Charter* rights against the benefits to its statutory objectives.²⁶⁴

²⁵⁸ *Pyne Affidavit*, paras 27-29, JAR Vol 18, Tab 24, pp 5546-5547.

²⁵⁹ *Vriend v Alberta*, [1998] 1 SCR 493 at para 100, BoA, Tab 40.

²⁶⁰ *Loyola*, *supra* at para 3, BoA, Tab 5.

²⁶¹ *TWU*, *supra* at para 79, BoA, Tab 3.

²⁶² *Ibid* at paras 80-81, BoA, Tab 3.

²⁶³ *Ibid* at para 81, BoA, Tab 3 [emphasis in original].

²⁶⁴ *Ibid* at paras 82, 85, BoA, Tab 3.

171. There remains significant debate over various aspects of the *Doré /Loyola* framework, including which party bears the onus of demonstrating that the impugned decision does – or does not – achieve a proportionate balance. Someone must do so, yet as Justices Côté and Brown observe in their dissenting judgment in *TWU*, the majority’s resort to the passive voice (“the reviewing court *must be satisfied* that the decision reflects a proportionate balance”) provides no guidance as to where the onus lies.²⁶⁵

172. The applicants submit that for the reasons set out in the concurring and dissenting judgments in *TWU*, the government should bear the burden of justifying rights limitations. On the facts of this case, however, even if the burden lies on the applicants to show that the Minister’s decision did not reflect a proportionate balance, that burden is readily discharged.

173. Assuming that further consultation was necessary to maintain confidence in the education system, there were multiple options reasonably open to the Minister pending the outcome of that consultation, including preserving the *status quo* and continuing with the 2015 Curriculum, or making targeted amendments to the 2015 Curriculum to address only those matters about which specific concern had been raised. Either would have been substantially less rights-impairing while still permitting the Minister to further the relevant statutory objectives sufficiently. It is irrational to – in the name of public consultation – remove a curriculum that was the subject of extensive consultation.

174. The Minister’s decision also failed to strike a reasonable balance between the severity of the interference with the *Charter* protected rights and the benefits to its statutory objectives. With respect to teachers’ expressive freedom, the limitation is severe and goes to the core of 2(b). With respect to students’ equality rights, the severity of the breach is similarly profound.

²⁶⁵ *Ibid* at para 313, **BoA, Tab 3**.

The effect of the Minister's decision is disproportionality to increase students' vulnerability to harm on the basis of sex, sexual orientation, gender identity, disability, and age; and to deny these groups the equal benefit of a curriculum that reflects their realities and meets their needs.

175. With respect to students' rights to life and security of the person, while Applicants are not aware of any cases where the *Doré /Loyola* framework has been applied to a s 7 breach, it is extremely difficult to conceive that an arbitrary or grossly disproportionate law could ever reflect a proportionate balance. State action that is not rationally connected to statutory objectives cannot be said to have furthered the decision maker's mandate;²⁶⁶ similarly, where the *Charter*-infringing effects of a decision are grossly disproportionate to the statutory objective, it seems highly unlikely if not impossible that the "benefits to the furtherance" of that objective could outweigh the impairment. In any event, they clearly do not do so here.

PART IV – ORDER REQUESTED

176. The Applicants seek an order:

- a. Quashing the Directive withdrawing the 2015 Curriculum for use in Ontario's public elementary schools for the 2018/19 academic year and replacing it with the reissued 2018 curriculum;
- b. Declaring that the Government's creation of the reporting line violated teachers' right to freedom of expression;
- c. Granting the Applicants' costs on a partial indemnity scale.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DONE at the City of Toronto, this 17th day of December, 2018




Howard Goldblatt/Adriel Weaver
Daniel Sheppard/Kiran Kang

²⁶⁶ *Ibid* at para 82, *per* McLachlin CJ concurring, **BoA**, Tab 3.

CERTIFICATE

I, Howard Goldblatt, lawyer for the Applicants, hereby certify pursuant to rule 68.04(3)(d.1) the following

I estimate that 3.5 hours will be required for oral argument, not including reply


for _____
Howard Goldblatt
Lawyer for the Applicants

SCHEDULE A – AUTHORITIES CITED

Tab Case

1. *Suresh v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1.
2. *Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44.
3. *Law Society of British Columbia v Trinity Western University*, 2018 SCC 32.
4. *Doré v Barreau du Québec*, 2012 SCC 12.
5. *Loyola High School v Quebec (Attorney General)*, 2015 SCC 12.
6. *Irwin Toy Ltd. v Quebec (Attorney General)*, [1989] 1 SCR 927.
7. *R v Khawaja*, 2012 SCC 69.
8. *Canadian Broadcasting Corporation v Canada (Attorney General)*, 2011 SCC 2.
9. *R v Keegstra*, [1990] 3 SCR 697.
10. *Morin v Regional Administration Unit #3 (PEI)* (2002), 213 DLR (4th) 17 (PEISCAD).
11. *British Columbia Public School Employers' Association v British Columbia Teachers' Federation*, 2005 BCCA 393.
12. *British Columbia Teachers' Federation v British Columbia Public School Employers' Association*, 2013 BCCA 241.
13. *RWDSU v Dolphin Delivery Ltd.*, [1986] 2 SCR 573.
14. *Vancouver Sun (Re)*, 2004 SCC 43.
15. *Ross v New Brunswick School District No. 15*, [1996] 1 SCR 825.
16. *R v Safarzadeh-Markhali*, 2016 SCC 14.
17. *Reference re Upper Churchill Water Rights Reversion Act*, [1984] 1 SCR 297.
18. *R v Guignard*, 2002 SCC 14.
19. *Halton Hills (Town) v Kerouac* (2006), 80 OR (3d) 577 (SC).
20. *Iorfida v MacIntyre* (1994), 21 OR (3d) 186 (Gen Div).
21. *R v Zundel*, [1992] 2 SCR 731.

22. *Klein and Law Society of Upper Canada (Re)* (1985), 50 OR (2d) 118 (Div Ct).
23. *R v Vice Media Canada Inc.*, 2018 SCC 53.
24. *Blatch v Archer* (1774), 1 Cowp. 63, 98 ER 969.
25. *Clements v Clements*, 2012 SCC 32.
26. *Canada (Attorney General) v Bedford*, 2013 SCC 72.
27. *Canada (Prime Minister) v Khadr*, 2010 SCC 3.
28. *Chaoulli v Quebec (Attorney General)*, 2005 SCC 35.
29. *A.C. v Manitoba (Director of Child and Family Services)*, 2009 SCC 30.
30. *R v Michaud*, 2015 ONCA 585.
31. *R v Bryan*, 2007 SCC 12.
32. *Quebec (Attorney General) v Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17.
33. *Kahkewistahaw First Nation v Taypotat*, 2015 SCC 30.
34. *Quebec (Attorney General) v A*, 2013 SCC 5.
35. *Withler v Canada (Attorney General)*, 2011 SCC 12.
36. *R v Kapp*, 2008 SCC 41.
37. *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143.
38. *British Columbia (Public Service Employees Relations Commission) v British Columbia Government and Service Employees Union (BCGSEU)* [1999] 3 SCR 3.
39. *Inglis v British Columbia (Minister of Public Safety)*, 2013 BCSC 2309.
40. *Vriend v Alberta*, [1998] 1 SCR 493.

Secondary Source

41. Kevin A Kindred, “The Teacher in Dissent: Freedom of Expression and the Classroom” (2006) 15 Education & L.J.

SCHEDULE B – STATUTORY PROVISIONS

Education Act, RSO 1990 c E-2

PURPOSE

Strong public education system

0.1 (1) A strong public education system is the foundation of a prosperous, caring and civil society.

Purpose of education

(2) The purpose of education is to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to their society.

Partners in education sector

(3) All partners in the education sector, including the Minister, the Ministry and the boards, have a role to play in enhancing student achievement and well-being, closing gaps in student achievement and maintaining confidence in the province's publicly funded education systems.

INTERPRETATION AND OTHER GENERAL MATTERS

Interpretation, other general matters

1. (1) In this Act and the regulations, except where otherwise provided in the Act or regulations,

...

“teacher” means a member of the Ontario College of Teachers;

Powers of Minister

8. (1) The Minister may,

diplomas and certificates

1. name the diplomas and certificates that are to be granted to pupils and prescribe their form and the conditions under which they are to be granted;

courses of study

2. prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions;

courses and areas of study

3. in respect of schools under the jurisdiction of a board,

(a) issue curriculum guidelines and require that courses of study be developed therefrom and establish procedures for the approval of courses of study that are not developed from such curriculum guidelines,

(b) prescribe areas of study and require that courses of study be grouped thereunder and establish procedures for the approval of alternative areas of study under which courses of study shall be grouped, and

(c) approve or permit boards to approve,

(i) courses of study that are not developed from such curriculum guidelines, and

(ii) alternative areas of study under which courses of study shall be grouped,

and authorize such courses of study and areas of study to be used in lieu of or in addition to any prescribed course of study or area of study;

**PART VI
BOARDS
Duties and Powers**

Board responsibility for student achievement and effective stewardship of resources

169.1 (1) Every board shall,

(a) promote student achievement and well-being;

(a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

(a.2) promote the prevention of bullying;

PART X
TEACHERS, DESIGNATED EARLY CHILDHOOD EDUCATORS, PUPIL RECORDS
AND EDUCATION NUMBERS

Teachers and Designated Early Childhood Educators

Membership in Ontario College of Teachers

262 Except as otherwise provided in or under this Act, no person shall be employed in an elementary or secondary school to teach or to perform any duty for which membership in the College is required under this Act unless the person is a member of the Ontario College of Teachers. 1996, c. 12, s. 64 (11).

Duties

264. (1) It is the duty of a teacher and a temporary teacher,

teach

(a) to teach diligently and faithfully the classes or subjects assigned to the teacher by the principal;

learning

(b) to encourage the pupils in the pursuit of learning;

religion and morals

(c) to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

co-operation

(d) to assist in developing co-operation and co-ordination of effort among the members of the staff of the school;

discipline

(e) to maintain, under the direction of the principal, proper order and discipline in the teacher's classroom and while on duty in the school and on the school ground;

language of instruction

(f) in instruction and in all communications with the pupils in regard to discipline and the management of the school,

(i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or

(ii) to use the French language in schools or classes in which French is the language of instruction except where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;

timetable

(g) to conduct the teacher's class in accordance with a timetable which shall be accessible to pupils and to the principal and supervisory officers;

professional activity days

(h) to participate in professional activity days as designated by the board under the regulations;

absence from school

(i) to notify such person as is designated by the board if the teacher is to be absent from school and the reason therefor;

school property

(j) to deliver the register, the school key and other school property in the teacher's possession to the board on demand, or when the teacher's agreement with the board has expired, or when for any reason the teacher's employment has ceased; and

textbooks

(k) to use and permit to be used as a textbook in a class that he or she teaches in an elementary or a secondary school,

(i) in a subject area for which textbooks are approved by the Minister, only textbooks that are approved by the Minister, and

(ii) in all subject areas, only textbooks that are approved by the board;

duties assigned

(l) to perform all duties assigned in accordance with this Act and the regulations.

264.1 (1) It is the duty of the following persons to co-ordinate the matters listed in subsection (2) and to co-operate with each other with respect to those matters:

1. Teachers.

2. Temporary teachers.

3. Designated early childhood educators.

4. Persons who, under the authority of a letter of permission, are appointed by a board to positions designated by the board as requiring an early childhood educator.

(2) The matters referred to in subsection (1) are:

1. Planning for and providing education to pupils in junior kindergarten and kindergarten.
2. Observing, monitoring and assessing the development of pupils in junior kindergarten and kindergarten.
3. Maintaining a healthy physical, emotional and social learning environment.
4. Communicating with families.
5. Performing all duties assigned to them by the principal with respect to junior kindergarten and kindergarten.

Ontario College of Teachers Act, 1996, SO 1996, c 12

Objects

3. (1) The College has the following objects:

1. To regulate the profession of teaching and to govern its members.
2. To develop, establish and maintain qualifications for membership in the College.
3. To accredit professional teacher education programs offered by post-secondary educational institutions.
4. To accredit ongoing education programs for teachers offered by post-secondary educational institutions and other bodies.
5. To issue, renew, amend, suspend, cancel, revoke and reinstate certificates of qualification and registration.
6. To provide for the ongoing education of members of the College.
7. To establish and enforce professional standards and ethical standards applicable to members of the College.
8. To receive and investigate complaints against members of the College and to deal with discipline and fitness to practise issues.
9. To develop, provide and accredit educational programs leading to certificates of qualification additional to the certificate required for membership, including but not limited to certificates of qualification as a supervisory officer, and to issue, renew, amend, suspend, cancel, revoke and reinstate such additional certificates.

10. To communicate with the public on behalf of the members of the College.
11. To perform such additional functions as are prescribed by the regulations.

SCHEDULE C – COMPARISON OF HPE CURRICULA

Starts on next page

Grade	2015		2018	
Gr.1	C. Healthy Living			
1-3	Overview of Grades 1-3	<p>Student Development and Program Implications Program design and delivery must take into account the physical, cognitive, and emotional development of students. The following descriptions of the developmental characteristics of students in the primary grades are general in nature, and individual student characteristics will vary depending on the child's age, sex, gender identity,¹ body size, experience, and background.</p> <p>Physical Development Muscular endurance is often limited, and there is no significant difference in physical abilities between the sexes. [1722]²</p>		<p>Student Development and Program Implications Program design and delivery must take into account the physical, cognitive, and emotional development of students. The following descriptions of the developmental characteristics of students in the primary grades are general in nature, and individual student characteristics will vary depending on the child's age, sex, body size, experience, and background.</p> <p>Physical Development Muscular endurance is often limited, and there is no significant gender difference in physical abilities.[1954]</p>
Gr.1	C1 Understanding Health Concepts		Growth & Development	<p>N/A – See Growth & Development (1998)</p> <p>Overall: identify the stages in development of humans (e.g., comparing physical changes from birth to childhood) and other living things; Specific: -describe simple life cycles of plants, animals, including humans; -recognize that rest, food, and exercise affect growth; -identify the major parts of the body by their proper names. [1970]</p>
Gr.1	C1.3 Human Development and Sexual Health	<p>identify body parts, including genitalia (<i>e.g., penis, testicles, vagina, vulva</i>), using correct terminology [PS] Teacher prompt: “We talk about all body parts with respect. Why is it important to know about your own body, and use correct names for the parts of your body?” Student: “All parts of my body are a part of me, and I need to know how to take care of and talk about my own body. If I’m hurt or need help, and I know the right words, other people will know what I’m talking about.” [1736]</p>		N/A – see Growth & Development (1998). [1970]

¹ Words that appear in grey highlighting are those that are included in the 2015 HPE Curriculum but not the 2018 HPE Curriculum, or vice versa.

² Italicized pinpoints in square brackets refer to the associated page number from the 2015 HPE Curriculum or 2018 HPE Curriculum. Please refer to: 2015 HPE Curriculum, JAR Vol 7; 2018 HPE Curriculum, JAR Vol 8.

Gr.1	C1.4 Human Development and Sexual Health	Identify the five senses and describe how each functions (e.g., <i>sight: the eyes give the brain information about the world to help us see colours, shapes, and movement; touch: receptors in the skin tell us how things feel – if they are hot, cold, wet, dry, hard, soft; hearing: the ears pick up vibrations and send messages to the brain to help us hear sounds that are loud or soft, high- or low-pitched; smell and taste: the tongue is covered with thousands of taste buds and the nose has tiny hairs and nerves that send messages to the brain about how things taste and smell</i>) [PS] Teacher prompt: “How do you use your senses as you explore outside in the natural world? If you close your eyes, what other senses can you use to get information about what is around you?” [1736]		N/A -See Grade 2 Growth and Development: identify the five senses and describe how each function. [1985]
Gr. 1	C2 Making Healthy Choices			
Gr. 1	C2.5 Human development and Sexual Health	demonstrate an understanding of and apply proper hygienic procedures for protecting their own health and preventing the transmission of disease to others (e.g., <i>washing hands with soap, using a tissue, sleeve sneezing, brushing and flossing teeth, not sharing hats or hairbrushes</i>) [PS] Teacher prompt: “Why is it important to wash your hands before you eat and after you use the washroom?” Student: “Washing your hands helps to stop germs from spreading. We should wash with warm water and soap for as long as it takes to say the alphabet.” [1737-1738]		N/A -See Grade 2 Growth and Development: describe how germs are transmitted and how this relates to personal hygiene (e.g., using tissues, washing hands before eating); [1985]
			Growth and Development	N/A – See Growth & Development (1998) Overall: identify the stages in development of humans (e.g., comparing physical changes from birth to childhood) and other living things; Specific: -describe simple life cycles of plants, animals, including humans; -recognize that rest, food, and exercise affect growth; -identify the major parts of the body by their proper names. [1970]

Gr. 2	C Healthy Living			
Gr. 2	C1 Understanding Health Concepts			
Gr. 2	C1.4 Human Development and Sexual Health	<p>outline the basic stages of human development (<i>e.g., infant, child, adolescent, adult, older adult</i>) and related bodily changes, and identify factors that are important for healthy growth and living throughout life [PS]</p> <p>Teacher prompt: "How does your body change as you grow? What helps you to grow and be healthy?"</p> <p>Student: "As you grow, you get taller and bigger. Your bones grow. Your muscles grow. You grow faster at some stages than at others and not everyone grows the same amount at the same time. When you're an adult, your body doesn't grow anymore, but it still changes – for example, your skin gets more wrinkled and your hair might turn grey. Things that help make you healthy all through your life are eating well, being active, getting enough sleep, and having people to care for you."</p> <p>Teacher prompt: "When we look at growth and change throughout life, we can consider teachings from different cultures, including First Nation, Métis, and Inuit cultures, about the cycles of birth, life, and death. Different First Nations have different teachings and ceremonies for each life stage, and about growing and changes in roles and responsibilities at each stage. For example, the Anishinabe People teach about seven stages of life, and believe that at each stage, learning traditional teachings, such as the seven grandfather teachings, from family, community, and elders contributes to healthy growth and living." [1751]</p>		<p>N/A</p> <p>-See Grade 3 Growth and Development: - describe basic changes in growth and development from birth to childhood (<i>e.g., changes to teeth, hair, feet, and height</i>). [1999]</p>
Gr. 2	C2 Making Healthy Choices			
Gr. 2	C2.3 Personal Safety and Injury Prevention	<p>explain the importance of standing up for themselves, and demonstrate the ability to apply behaviours that enhance their personal safety in threatening situations (<i>e.g., speaking confidently; stating boundaries; saying no; respecting the right of a person to say no and encouraging others to respect that right also; reporting exploitive behaviours, such as</i></p>	C2.3 Personal Safety and Injury Prevention	<p>explain the importance of standing up for themselves, and demonstrate the ability to apply behaviours that enhance their personal safety in threatening situations (<i>e.g., speaking confidently; stating boundaries; saying no; reporting exploitive behaviours, such as improper touching of their bodies or others' bodies</i>)[PS, IS]</p>

		<p><i>improper touching of their bodies or others' bodies</i>) [PS, IS] Teacher prompt: "What can standing up for yourself look like?" Student: "You can hold your head up high, make eye contact, and speak strongly." Teacher: "In some cultures, making eye contact is considered disrespectful. What can you do then?" Student: "You can stand up for yourself in other ways, by saying no in a polite but firm way, and not doing anything that makes you uncomfortable. You can also try to stay away from people or places where there may be trouble." Teacher: "Why is standing up for yourself and showing respect for others important in a friendship?" Student: "It helps you when you can say what you think or what you need. Friends should listen to each other and show respect. When someone tells a person to stop, that person should stop. For example, if someone teases me about my allergy to nuts, I can tell them to stop and let them know that contact with nuts could make me stop breathing." Teacher: "If someone does something that you do not like, touches you in an inappropriate way, or asks to touch you in a way that makes you feel uncomfortable or confused, how can you stand up for yourself?" Student: "I can say no and move away. My body is mine. I can tell someone – like a parent, a teacher, an elder, a doctor – that I need help. I can keep telling until I get help." [1752]</p>		<p>Teacher prompt: "What can standing up for yourself look like?" Student: "You can hold your head up high, make eye contact, and speak strongly." Teacher: "In some cultures, making eye contact is considered disrespectful. What can you do then?" Student: "You can stand up for yourself in other ways, by saying no in a polite but firm way, and not doing anything that makes you uncomfortable. You can also try to stay away from people or places where there may be trouble." Teacher: "Why is standing up for yourself important in a friendship?" Student: "It helps you when you can say what you think or what you need. Friends should listen to each other and show respect. For example, if someone teases me about my allergy to nuts, I can tell them to stop and let them know that contact with nuts could make me stop breathing." Teacher: "If someone does something that you do not like, touches you in an inappropriate way, or asks to touch you in a way that makes you feel uncomfortable or confused, how can you stand up for yourself?" Student: "I can say no and move away. My body is mine. I can tell someone – like a parent, a teacher, an elder, a doctor – that I need help. I can keep telling until I get help." [1983-1984]</p>
Gr. 2	C2.4 Human Development and Sexual Health	<p>demonstrate an understanding of and apply practices that contribute to the maintenance of good oral health (<i>e.g., brushing, flossing, going to the dentist regularly for a checkup</i>) [PS] Teacher prompt: "How should you care for your teeth when you lose a tooth?" Student: "I should make sure my hands are clean when I touch my teeth and remember to brush the gap between the teeth." Teacher: "It is important to brush your teeth after eating, but if you can't, what else can you do?" Student: "I can rinse my mouth with water." [1753]</p>		<p>N/A – see Growth & Development (1998)</p> <p>Overall: describe the parts of the human body, the functions of these parts, and behaviours that contribute to good health. Specific: - distinguish the similarities and differences between themselves and others (<i>e.g., in terms of body size or gender</i>); - describe how germs are transmitted and how this relates to personal hygiene (<i>e.g., using tissues, washing hands before eating</i>); - identify the five senses and describe how each function. [1985]</p>
Gr. 2	C3 Making Connections for Healthy Living			

Gr. 2	C3.1 Personal Safety and Injury Prevention	<p>describe how to relate positively to others (<i>e.g., cooperate, show respect, smile, manage anger, pay attention to what people say and to their facial expressions and body language</i>); and describe behaviours that can be harmful in relating to others (<i>e.g., verbal abuse, including both online and face-to-face name calling, insults, and mocking; deliberately ignoring someone, or ignoring the feelings they express; physical violence, including pushing, kicking, and hitting</i>) [IS]</p> <p>Teacher prompt: “What does being a good friend look like? How can you show that you’re a friend while working in groups?”</p> <p>Student: “I can make sure to include everyone, be nice to anyone who wants to be my partner, share toys and equipment, be encouraging, keep my hands to myself, and speak nicely.”</p> <p>Teacher: “Calling someone a name or leaving them out of a group because of how they learn, speak, or look are examples of abusing or mistreating someone with your words or behaviour. We are learning how to prevent and change this behaviour and also how to respond to this behaviour if it happens. What could you do to help in this kind of situation?”</p> <p>Student: “I could make sure I don’t behave that way. If I saw someone else doing it, I could tell the person to stop, or get help from an adult. I could also be friendly to the person who is being treated badly.” [1753]</p>	C 3.1 Personal Safety and Injury Prevention	<p>describe how to relate positively to others (<i>e.g., cooperate, show respect, smile, manage anger</i>), and describe behaviours that can be harmful in relating to others (<i>e.g., verbal abuse, including name calling, insults, and mocking; deliberately ignoring someone; physical violence, including pushing, kicking, and hitting</i>) [IS]</p> <p>Teacher prompt: “What does being a good friend look like? How can you show that you’re a friend while working in groups?”</p> <p>Student: “I can make sure to include everyone, be nice to anyone who wants to be my partner, share toys and equipment, be encouraging, keep my hands to myself, and speak nicely.”</p> <p>Teacher: “Calling someone a name or leaving them out of a group because of how they learn, speak, or look are examples of abusing or mistreating someone with your words or behaviour. What could you do if you saw someone doing something like this?”</p> <p>Student: “I could tell the person to stop, or get help from an adult, or be friendly to the person who is being treated badly.”</p> <p>Teacher prompt: “Getting help for someone or telling can be a positive or helpful thing. Tattling on someone can be harmful. What is the difference between telling and tattling?”</p> <p>Student: “When you tattle, you are telling to get someone into trouble. When you are telling, you are telling to get someone out of trouble.” [1984]</p>
Gr. 2			Growth & Development (1998)	<p>Overall: describe the parts of the human body, the functions of these parts, and behaviours that contribute to good health.</p> <p>Specific:</p> <ul style="list-style-type: none"> -distinguish the similarities and differences between themselves and others (<i>e.g., in terms of body size or gender</i>); -describe how germs are transmitted and how this relates to personal hygiene (<i>e.g., using tissues, washing hands before eating</i>); -identify the five senses and describe how each function. <p>[1985]</p>

Gr. 3	C Healthy Living			
Gr. 3	C1 Understanding Health Concepts			
Gr. 3	C1.3 Human Development and Sexual Health	<p>identify the characteristics of healthy relationships (<i>e.g., accepting differences, being inclusive, communicating openly, listening, showing mutual respect and caring, being honest</i>) and describe ways of overcoming challenges (<i>e.g., bullying, exclusion, peer pressure, abuse</i>) in a relationship [IS]</p> <p>Teacher prompt: “Consider different types of relationships – with friends, siblings, parents, other adults – and think about the kinds of behaviour that help to make those relationships healthier. What can you do if you are having problems with a relationship?”</p> <p>Student: “I can tell the person how I’m feeling, and we can try to work something out, or if we can’t solve the problem, we can just say we disagree. We could also try to get advice from someone else.” [1764-1765]</p>		<p>N/A</p> <p>-See Grade 4 Growth and Development: identify characteristics of healthy relationships (<i>e.g., showing consideration of others’ feelings by avoiding negative communication</i>); [2019]</p>
Gr. 3	C1.4 Human Development and Sexual Health	<p>identify factors (<i>e.g., sleep, food, physical activity, heredity, environment, support from a caring adult, sense of belonging, peer influence</i>) that affect physical development (<i>e.g., of hair, skin, teeth, body size and shape</i>) and/or emotional development (<i>e.g., of self-awareness, adaptive skills, social skills</i>) [PS]</p> <p>Teacher prompt: “There are factors that affect your development that you can control and other factors that you cannot control. Can you give me examples of both types of factors?”</p> <p>Student: “I can’t control my heredity, which affects my body size and shape. I can’t control my family situation, or my cultural background, or where I grow up. I can usually control how often I brush my teeth, what foods I choose to eat from those that are available, how I choose my friends, and some of the activities I do.”</p> <p>Teacher: “Having a sense of belonging, of being accepted and understood, is important for emotional development. How can you show acceptance or understanding of students who may be different in some way – in shape and size,</p>	Growth & Development	<p>N/A – see Growth & Development (1998)</p> <p>Overall:</p> <ul style="list-style-type: none"> - describe the relationship among healthy eating practices, healthy active living, and healthy bodies; - outline characteristics in the development and growth of humans from birth to childhood. <p>Specific:</p> <ul style="list-style-type: none"> - outline the basic human and animal reproductive processes (<i>e.g., the union of egg and sperm</i>); - describe basic changes in growth and development from birth to childhood (<i>e.g., changes to teeth, hair, feet, and height</i>) [1999]

		<p>ability, background, family, or the way they do things – from others around them?”</p> <p>Student: “I can stand up for someone who is being teased because they are different. I could try to learn more about people who do things differently than I do – such as learning about how some people who are deaf can talk using their hands, how some people with physical disabilities move with a wheelchair, or what someone who has a different religion from mine believes in.” [1765]</p>		
Gr. 3	C3 Making Connections for Healthy Living			
Gr. 3	C3.3 Human Development and Sexual Health	<p>describe how visible differences (<i>e.g., skin, hair, and eye colour, facial features, body size and shape, physical aids or different physical abilities, clothing, possessions</i>) and invisible differences (<i>e.g., learning abilities, skills and talents, personal or cultural values and beliefs, gender identity, sexual orientation, family background, personal preferences, allergies and sensitivities</i>) make each person unique, and identify ways of showing respect for differences in others [PS, IS]</p> <p>Teacher prompt: “Sometimes we are different in ways you can see. Sometimes we are different in ways you cannot see – such as how we learn, what we think, and what we are able to do. Give me some examples of things that make each person unique.”</p> <p>Student: “We all come from different families. Some students live with two parents. Some live with one parent. Some have two mothers or two fathers. Some live with grandparents or with caregivers. We may come from different cultures. We also have different talents and abilities and different things that we find difficult to do.”</p> <p>Teacher: “How can you be a role model and show respect for differences in other people?”</p> <p>Student: “I can include others in what I am doing, invite them to join a group, be willing to be a partner with anyone for an activity, and be willing to learn about others.” [1767]</p>	Growth and Development	N/A
			Growth & Development	<p>Overall:</p> <ul style="list-style-type: none"> - describe the relationship among healthy eating practices, healthy active living, and healthy bodies; - outline characteristics in the development and growth of

				humans from birth to childhood. Specific: - outline the basic human and animal reproductive processes (e.g., the union of egg and sperm); - describe basic changes in growth and development from birth to childhood (e.g., changes to teeth, hair, feet, and height) [1999]
Gr. 4	Healthy Living			
Gr. 4 - 6	Overview of Grades 4 to 6	Physical Domain Students in the junior grades tend to have significant individual differences, reflecting different growth rates and different life experiences. Some may have begun a major growth spurt. Sex-and gender-related differences in development are also evident. As they approach puberty, the average weights and heights of the girls will generally be greater than those of the boys. Some students may begin to develop secondary sex characteristics, and some may feel awkward performing skills as they get used to changes in their bodies. As a result, there is a significant need for differentiated instruction and assessment in these grades. Students in these grades also have more developed locomotor and fine motor skills than students in the primary grades and are developing a greater ability to combine motor skills in sequence. Their bodies are less flexible than those of the younger students, however, unless they work directly on maintaining flexibility. [1768]	Overview of Grades 4 to 6	Physical Domain Students in the junior grades tend to have significant individual differences, reflecting different growth rates and different life experiences. Some may have begun a major growth spurt. Gender-related differences in development are also evident. As they approach puberty, the average weights and heights of the girls will generally be greater than those of the boys. Some students may begin to develop secondary sex characteristics, and some may feel awkward performing skills as they get used to changes in their bodies. As a result, there is a significant need for differentiated instruction and assessment in these grades. Students in these grades also have more developed locomotor and fine motor skills than students in the primary grades and are developing a greater ability to combine motor skills in sequence. Their bodies are less flexible than those of the younger students, however, unless they work directly on maintaining flexibility. [2000]
Gr. 4	C1 Understanding Health Concepts			
Gr. 4	C1.2 Personal Safety and Injury Prevention	identify risks associated with communications technology (e.g., Internet and cell phone use, including participation in gaming and online communities and the use of text messaging), and describe precautions and strategies for using these technologies safely [IS] Teacher prompt: "Advances in technology have greatly increased our ability to get and share information and to communicate and collaborate with each other. But these benefits also come with some risks and potential difficulties, such as a possible loss of privacy, addiction, increased	C1.2 Personal Safety and Injury Prevention	identify risks associated with communications technology (e.g., Internet and cell phone use, including participation in gaming and online communities and the use of text messaging), and describe precautions and strategies for using these technologies safely [IS] Teacher prompt: "Modern communications technology has greatly increased our ability to get and share information and to communicate with each other. Possible risks associated with communications technology include loss of privacy, addiction, and exposure to sexual predators. What are some

		<p>sedentary behaviour, or exposure to people who ask you for sexual pictures or want you to share personal information. What are some things you should do to use this technology safely? How can you get help if you get into trouble?"</p> <p>Student: "I should make sure that an adult knows what I am doing when I'm using the computer, the Internet, or a cell phone, so I have someone who can help if needed. When I can, I should use a computer in a public space like a kitchen, living room, or library, instead of alone in my bedroom. I shouldn't share my password or personal information. I should be aware that people are not always who they say they are online. I should close and delete pop-ups and spam messages without responding. If there's a problem, I should stop right away and tell an adult instead of trying to solve the problem online. I should help my friends by reminding them of these tips." [1783]</p>		<p>things you should do to use communications technology safely? How can you get help if you get into trouble?"</p> <p>Student: "I should make sure that an adult knows what I am doing when I'm using the computer, the Internet, or a cell phone, so I have someone who can help if needed. When I can, I should use a computer in a public space like a kitchen, living room, or library, instead of alone in my bedroom. I shouldn't share my password or personal information. I should be aware that people are not always who they say they are online. I should close and delete pop-ups and spam messages without responding. If there's a problem, I should stop right away and tell an adult instead of trying to solve the problem online. I should help my friends by reminding them of these tips." [2015]</p>
Gr. 4	C1.5 Human Development and Sexual Health	<p>describe the physical changes that occur in males and females at puberty (e.g., <i>growth of body hair, breast development, changes in voice and body size, production of body odour, skin changes</i>) and the emotional and social impacts that may result from these changes [PS]</p> <p>Teacher prompt: "During puberty, the male and female bodies undergo many changes. Everyone experiences these changes at different rates and at different times. Increases in weight and body fat are normal. Sometimes it is difficult getting used to the changes that are happening so quickly. Feelings can be much more intense. What are some of the feelings you might have as you start to experience changes with puberty?"</p> <p>Student: "Excitement, happiness, embarrassment, confusion, and fear are some of the feelings I might have. It is sometimes hard to recognize what I am feeling and why things feel different."</p> <p>Teacher prompt: "What can change socially as you start to develop physically?"</p> <p>Student: "Relationships with friends can change, because sometimes people start being interested in different things at different times. Some people start 'liking' others. They want to be more than 'just friends' and become interested in going out. Sometimes people treat you as if you are older than you actually are because of how you look. Sometimes classmates, friends, or family make comments or tease you about the changes."</p>	Growth and Development	<p>N/A – See Growth & Development (1998)</p> <p>Overall</p> <ul style="list-style-type: none"> - explain the role of healthy eating practices, physical activity, and heredity as they relate to body shape and size; -identify the physical, interpersonal, and emotional aspects of healthy human beings. <p>Specific:</p> <ul style="list-style-type: none"> -describe the four stages of human development (infancy, childhood, adolescence, and adulthood) and identify the physical, interpersonal, and emotional changes appropriate to their current stage; -identify the characteristics of healthy relationships (e.g., showing consideration of others' feelings by avoiding negative communication) -identify the challenges (e.g., conflicting opinions) and responsibilities in their relationships with family and friends. <p>[2019]</p> <p>See also Grade 5 Growth and Development: describe the secondary physical changes at puberty (e.g., growth of body hair, changes in body shape); [2034]</p>

		<p>Teacher prompt: “Some cultures have traditions associated with puberty that mark the transition from childhood to adulthood. Can you give me some examples of these?”</p> <p>Student: “In Judaism, a bar mitzvah or bat mitzvah is celebrated at age thirteen, when a boy or girl comes of age, according to religious law, and can now participate as an adult in the religious life of the community. Many Aboriginal societies have rites of passage that signal that adolescent boys and girls are ready to take on adult roles in society.” [1784]</p>		
Gr. 4	C2 Making Healthy Choices			
Gr. 4	C2.3 Substance Use, Additions and Related Behaviours	<p>C2.3 demonstrate the ability to make and support healthy, informed choices about smoking, using their understanding of factors that affect decisions about smoking and a variety of personal and interpersonal skills and thinking processes (e.g., applying decision-making, assertiveness, and refusal skills; thinking in advance about values and personal choices; identifying the pros and cons of both making a change and not making a change; being aware of peer pressure; avoiding situations where people will be smoking; using conversational strategies, such as saying no strongly and clearly, giving reasons, changing the topic, making a joke, asking a question) [CT]</p> <p>Teacher Prompt: “Although the number of young people smoking is declining, some still choose to smoke. What are some examples of things that might influence someone to smoke or not smoke?”</p> <p>Student: “Kids might be more likely to try smoking if their friends and family members smoke, or if someone dares them to smoke, or if it is easy for them to get cigarettes. They might be less likely to try smoking if they are not old enough to buy cigarettes legally so cigarettes are harder to get or if they know someone who got cancer or emphysema because of smoking.”</p> <p>Teacher prompt: “How is tobacco used traditionally in First Nation and Métis societies? What is the difference between the spiritual or sacred use of tobacco in First Nation and Métis culture and the commercial use of tobacco?”</p>	C2.3 Substance Use, Additions and Related Behaviours	<p>C2.3 demonstrate the ability to make and support healthy, informed choices about smoking, using their understanding of factors that affect decisions about smoking and a variety of personal and interpersonal skills and thinking processes (e.g., applying decision-making, assertiveness, and refusal skills; thinking in advance about values and personal choices; identifying the pros and cons of both making a change and not making a change; being aware of peer pressure; avoiding situations where people will be smoking; using conversational strategies, such as saying no strongly and clearly, giving reasons, changing the topic, making a joke, asking a question) [CT]</p> <p>Teacher Prompt: “What are some examples of things that might influence someone to smoke or not smoke?”</p> <p>Student: “Kids might be more likely to try smoking if their friends and family members smoke, or if someone dares them to smoke, or if it is easy for them to get cigarettes. They might be less likely to try smoking if they are not old enough to buy cigarettes legally so cigarettes are harder to get or if they know someone who got cancer or emphysema because of smoking.”</p> <p>Teacher prompt: “How is tobacco used traditionally in First Nation and Métis societies? What is the difference between the spiritual or sacred use of tobacco in First Nation and Métis culture and the commercial use of tobacco?”</p> <p>Student: “Among the First Nations and the Métis, tobacco is often used in small amounts in ceremonies connected to</p>

		<p>Student: “Among the First Nations and the Métis, tobacco is often used in small amounts in ceremonies connected to cleansing and communicating with the spirit world. In these cultures tobacco is one of the four sacred medicines (natural tobacco, cedar, sage, and sweetgrass). In its original form, tobacco had a spiritual purpose. The tobacco used in cigarettes and cigars is harmful to our health and not connected to spirituality.” [1786]</p>		<p>cleansing and communicating with the spirit world. In these cultures tobacco is one of the four sacred medicines (natural tobacco, cedar, sage, and sweetgrass). In its original form, tobacco had a spiritual purpose. The tobacco used in cigarettes and cigars is harmful to our health and not connected to spirituality.” [2017-2018]</p>
Gr. 4	C2.4 Human Development and Sexual Health	<p>Demonstrate an understanding of personal care needs and the application of personal hygienic practices associated with the onset of puberty (<i>e.g., increased importance of regular bathing/showering and regular clothing changes; use of hygiene products; continuing importance of regular hygiene practices, including hand washing, oral health care, and care of prosthetic devices and residual limbs</i>) [PS]</p> <p>Teacher prompt: “Why is it important to shower and change clothes more often as you approach puberty? What other things do you need to think about?”</p> <p>Student: “As our bodies change, we perspire more. We should also be aware of spreading germs, and avoid sharing hats, lip gloss, hairbrushes, drinks, or towels.” [1786]</p>	Growth and Development	<p>N/A</p> <p>See Grade 5 Growth and Development: describe the increasing importance of personal hygiene following puberty [2034]</p>
			Growth & Development	<p>Overall Expectations: (Page 132) explain the role of healthy eating practices, physical activity, and heredity as they relate to body shape and size; identify the physical, interpersonal, and emotional aspects of healthy human beings.</p> <p>Specific Expectations: describe the four stages of human development (infancy, childhood, adolescence and adulthood) and identify the physical, interpersonal, and emotional changes appropriate to their current stage; identify the characteristics of healthy relationships (<i>e.g., showing consideration of others' feelings by avoiding negative communication</i>); identify the challenges (<i>e.g., conflicting opinions</i>) and responsibilities in their relationships with family and friends; [2019]</p>

Gr. 5	Healthy Living			
Gr. 5	Living Skills			
Gr. 5	Personal Skills 1.2	1.2 use adaptive, management, and coping skills to help them respond to the various challenges they encounter as they participate in physical activities, develop movement competence, and acquire knowledge and skills related to healthy living (e.g., Active Living : demonstrate a positive attitude, persistence, and a willingness to seek support when working at developing fitness, and explain how these factors help them meet their goals; Movement Competence : try different approaches, such as adjusting body position or speed, to help maintain control of a ball with their feet while running down the field; Healthy Living : identify how to get help in different situations – <u>when feeling really sad or worried</u> , in emergencies, when confronted with violence, when being bullied or witnessing someone else being bullied, to prevent injury) [1789]	Personal Skills 1.2	1.2 use adaptive, management, and coping skills to help them respond to the various challenges they encounter as they participate in physical activities, develop movement competence, and acquire knowledge and skills related to healthy living (e.g., Active Living : demonstrate a positive attitude, persistence, and a willingness to seek support when working at developing fitness, and explain how these factors help them meet their goals; Movement Competence : try different approaches, such as adjusting body position or speed, to help maintain control of a ball with their feet while running down the field; Healthy Living : identify how to get help in different situations – in emergencies, when confronted with violence, when being bullied or witnessing someone else being bullied, to prevent injury) [2021]
	Personal Skills 1.4	apply relationship and social skills as they participate in physical activities, develop movement competence, and acquire knowledge and skills related to healthy living to help them interact positively with others, build healthy relationships, and become effective team members (e.g., Active Living : demonstrate leadership skills by taking turns leading warm-up activities; Movement Competence : collaborate with teammates to plan how to move the ball up the field, then follow through with the plan; Healthy Living : show respect for others by giving classmates encouragement and praise and by avoiding behaviours such as calling people names or excluding them; show respect for cultural and all other forms of diversity) [1790]	Personal Skills 1.4	apply relationship and social skills as they participate in physical activities, develop movement competence, and acquire knowledge and skills related to healthy living to help them interact positively with others, build healthy relationships, and become effective team members (e.g., Active Living : demonstrate leadership skills by taking turns leading warm-up activities; Movement Competence : collaborate with teammates to plan how to move the ball up the field, then follow through with the plan; Healthy Living : show respect for others by giving classmates encouragement and praise and by avoiding behaviours such as calling people names or excluding them; show respect for cultural diversity) [2022]
Gr. 5	C1 Understanding Health Concepts			
Gr. 5	C 1.3 Human Development and Sexual Health	identify the parts of the reproductive system, and describe how the body changes during puberty [PS] Teacher prompt: “Female body parts that mature and develop as a part of puberty include the vagina, cervix, uterus, fallopian tubes, ovaries, endometrium, and clitoris. Male body parts that mature and develop during puberty	Growth and Development	N/A See: Overall - describe physical, emotional, and interpersonal changes associated with puberty Specific Expectations -identify strategies to deal positively with stress and

		<p>include the penis (with or without the foreskin), scrotum, urethra, testicles, prostate gland, seminal vesicles, and vas deferens. These changes occur as people become capable of reproduction. What are some physical changes that happen during puberty?"</p> <p>Student: "During puberty, girls will develop breasts and get their periods for the first time. An increase in weight and body fat is normal. Boys will become more muscular, get deeper voices, and grow facial and body hair. The penis and testicles will grow larger. Both boys and girls will grow hair under their arms, on their legs, and in their pubic area. The rate at which these changes occur will vary for each individual." [1799]</p>		<p>pressures that result from relationships with family and friends;</p> <ul style="list-style-type: none"> -identify factors (e.g., trust, honesty, caring) that enhance healthy relationships with friends, family, and peers; -describe the secondary physical changes at puberty (e.g., growth of body hair, changes in body shape); -describe the processes of menstruation and spermatogenesis; -describe the increasing importance of personal hygiene following puberty. <p>See also Grade 6 growth and Development: relate the changes at puberty to the reproductive organs and their functions [2034]</p>
	C 1.4 Human Development and Sexual Health	<p>describe the processes of menstruation and spermatogenesis, and explain how these processes relate to reproduction and overall development</p> <p>Teacher prompt: "Menstruation is the medical term for having a 'period' and is the monthly flow of blood from the uterus. This begins at puberty. Not all girls begin menstruation at the same age. Generally, every month, an egg leaves one of the ovaries and travels down one of the fallopian tubes towards the uterus. In preparation, the walls of the uterus develop a lining of extra blood and tissue to act as a cushion for the egg in case fertilization occurs. When an egg is fertilized, it attaches itself to the lining of the uterus and begins to develop into a baby. If fertilization does not occur, the lining of the uterus is no longer needed and is discharged through the vagina. This is the monthly flow of blood. The whole process is called the menstrual cycle. Can you summarize its purpose?"</p> <p>Student: "It is how the female body gets ready for pregnancy."</p> <p>Teacher: "The testicles are glands within the scrotum that produce sperm and hormones, beginning at puberty. After sperm develops in the testicles, it can travel through the epididymis until it reaches the vas deferens where it is stored until ejaculation occurs. During ejaculation, the prostate gland releases a liquid that mixes with the sperm from the vas deferens to make semen, which then leaves the body through the urethra. Fertilization can occur when the penis is</p>	Growth and Development	<p>N/A See: Growth and Development (1998)</p> <p>Overall</p> <ul style="list-style-type: none"> - describe physical, emotional, and interpersonal changes associated with puberty <p>Specific Expectations</p> <ul style="list-style-type: none"> -identify strategies to deal positively with stress and pressures that result from relationships with family and friends; -identify factors (e.g., trust, honesty, caring) that enhance healthy relationships with friends, family, and peers; -describe the secondary physical changes at puberty (e.g., growth of body hair, changes in body shape); -describe the processes of menstruation and spermatogenesis; -describe the increasing importance of personal hygiene following puberty. [2034] <p>See also Grade 6 growth and Development: relate the changes at puberty to the reproductive organs and their functions [2050]</p>

		<p>in the vagina, sperm is ejaculated, and the sperm and egg connect. Babies can also be conceived by having the sperm and egg connect using assisted reproductive technologies. What is the purpose of sperm production?"</p> <p>Student: "Sperm is needed for fertilization. When the sperm from the male and the egg from the female join together, pregnancy occurs."</p> <p>Teacher: "We've described what menstruation and spermatogenesis mean from a physical point of view. How do these changes affect you in other ways?"</p> <p>Student: "Not everyone experiences these changes at the same time and in the same way, so teasing people about these changes isn't right. It can be very hurtful." "In my culture and my family, becoming an adult is a cause for celebration." "We don't talk about it in my family. What I see in the media and online is a bit confusing, so it's good to know what these changes in my body actually mean. The more I know, the better I can take care of myself." [1799-1800]</p>		
Gr. 5	C2 Making Healthy Choices			
Gr. 5	C2.2 Personal Safety and Injury Prevention	<p>demonstrate the ability to deal with threatening situations by applying appropriate living skills (<i>e.g., personal skills, including self-monitoring and anger management; interpersonal skills, including conflict resolution skills; communication skills, including assertiveness and refusal skills</i>) and safety strategies (<i>e.g., having a plan and thinking before acting; looking confident; being aware of their surroundings and of people's body language, tone of voice, or facial expressions; seeking help; drawing on cultural teachings, where appropriate, to analyse situations and develop responses</i>) [PS, IS, CT]</p> <p>Teacher prompt: "What strategies could you use in a situation where you were being harassed because of your sex, gender identity, race, religion, sexual orientation, gender expression, body shape, weight, or ability?"</p> <p>Student: "Different situations may require different strategies. Sometimes it is best to be assertive and stand up to the person who is harassing by speaking confidently. If you feel threatened, it is safer to avoid confrontation by ignoring the person, making an excuse and walking away, or getting help."</p>	C2.2 Personal Safety and Injury Prevention	<p>demonstrate the ability to deal with threatening situations by applying appropriate living skills (<i>e.g., personal skills, including self-monitoring and anger management; interpersonal skills, including conflict resolution skills; communication skills, including assertiveness and refusal skills</i>) and safety strategies (<i>e.g., having a plan and thinking before acting; looking confident; being aware of surroundings; seeking help; drawing on cultural teachings, where appropriate, to analyse situations and develop responses</i>)[PS, IS, CT]</p> <p>Teacher prompt: "What strategies could you use in a situation where you were being harassed because of your sex, race, religion, sexual orientation, body shape, weight, or ability?"</p> <p>Student: "Different situations may require different strategies. Sometimes it is best to be assertive and stand up to the person who is harassing by speaking confidently. If you feel threatened, it is safer to avoid confrontation by ignoring the person, making an excuse and walking away, or getting help."</p> <p>Teacher prompt: "As a bystander, what could you do to help</p>

		<p>Teacher prompt: “As a bystander, what could you do to help if a friend tells you about a situation where he or she is feeling bullied or unsafe?”</p> <p>Student: “I can listen to my friend and talk about ways we can stand up for ourselves when someone is bullying us. I can stand up for my friend if I am there when it happens, or I can get help by telling an adult.”</p> <p>Teacher prompt: “How might the medicine wheel concept, which is used in some First Nation teachings, help you to consider strategies for personal safety?”</p> <p>Student: “The four elements of the medicine wheel can help me think about my safety and well-being in terms of my physical, emotional, spiritual, and mental health.” [1800-1801]</p>		<p>if a friend tells you about a situation where he or she is feeling bullied or unsafe?”</p> <p>Student: “I can listen to my friend and talk about ways we can stand up for ourselves when someone is bullying us. I can stand up for my friend if I am there when it happens, or I can get help by telling an adult.”</p> <p>Teacher prompt: “How might the medicine wheel concept, which is used in some First Nation teachings, help you to consider strategies for personal safety?”</p> <p>Student: “The four elements of the medicine wheel can help me think about my safety and well-being in terms of my physical, emotional, spiritual, and mental health.” [2032]</p>
Gr. 5	C2.4 Human Development and Sexual Health	<p>describe emotional and interpersonal stresses related to puberty (<i>e.g., questions about changing bodies and feelings, adjusting to changing relationships, crushes and more intense feelings, conflicts between personal desires and cultural teachings and practices</i>), and identify strategies that they can apply to manage stress, build resilience, and enhance their mental health and emotional well-being (<i>e.g., being active, writing feelings in a journal, accessing information about their concerns, taking action on a concern, talking to a trusted peer or adult, breathing deeply, meditating, seeking cultural advice from elders</i>) [PS]</p> <p>Teacher prompt: “Think about some things that could lead to stress for adolescents. For example, as they grow, people sometimes feel self-conscious about their bodies, but we all grow at different rates and you can’t control how fast you grow. When you think about how to respond to stress, consider what is within your control and what is not.”</p> <p>Student: “Things I can control include whether I have a positive or negative attitude about things, how I show respect for myself and others, whether I ask for help when I need it, whether I am involved in activities at school and in my community, actions I take, whether I am open to new ideas, and whether I make my own decisions about things or let myself be influenced by others. Things I cannot control include where I was born, who is in my family, how much money my family has, and personal characteristics such as my skin colour, hair colour, whether I am male or female, my</p>	Growth & Development	<p>Overall</p> <ul style="list-style-type: none"> - describe physical, emotional, and interpersonal changes associated with puberty <p>Specific Expectations</p> <ul style="list-style-type: none"> -identify strategies to deal positively with stress and pressures that result from relationships with family and friends; -identify factors (<i>e.g., trust, honesty, caring</i>) that enhance healthy relationships with friends, family, and peers; -describe the secondary physical changes at puberty (<i>e.g., growth of body hair, changes in body shape</i>); -describe the processes of menstruation and spermatogenesis; -describe the increasing importance of personal hygiene following puberty. [2034]

		<p>gender identity, sexual orientation, and overall body shape and structure. I could have a learning disability, a physical disability, or a health issue. All of these things are a part of who I am. I cannot control these things, but I can control what I do and how I act.”</p> <p>Teacher prompt: “It is normal to have stress and to have different feelings, including being happy, sad, angry, and excited at different times. Part of taking care of your mental health and emotional well-being is learning to be aware of and to monitor your own feelings. How do you know if you need help with your feelings?”</p> <p>Student: “If you feel one way for a very long time – for example, if you always feel sad, anxious, or tired – that might be a sign that you need to get help to learn what is causing those feelings and what you can do about them.”</p> <p>Teacher prompt: “As you enter adolescence, you may begin to develop new kinds of relationships and new feelings that you have not had before. Your relationships with your peers can become more stressful. Understanding how to respond to these new feelings and situations can reduce some of the stress that goes with them. For example, if you feel you ‘like someone in a special way’, what are some appropriate ways of sharing that information with someone else and what are ways that are inappropriate?”</p> <p>Student: “You can show that you like someone by being extra nice to them, talking with them more, spending time with them, or telling them that you like them. Ways of showing that you like someone that are inappropriate include touching them without their permission, spreading rumours about them to others or online, and making fun of them in order to get attention. Sharing private sexual photos or posting sexual comments online is unacceptable and also illegal.” [1801-1802]</p>		
Gr. 5	C3 Making Connections for Healthy Living			
Gr. 5	C3.2 Personal Safety and	explain how a person’s actions, either in person or online, can affect their own and others’ feelings, self-concept,	C3.2 Personal	explain how a person’s actions (e.g., negative actions such as name calling, making homophobic or racist remarks,

Injury Prevention	<p>emotional well-being, and reputation (e.g., <i>negative actions such as name calling, making homophobic or racist remarks, mocking appearance or ability, excluding, bullying, sexual harassment [including online activities such as making sexual comments, sharing sexual pictures, or asking for such pictures to be sent]; positive actions such as praising, supporting, including, and advocating</i>) [PS, IS]</p> <p>Teacher prompt: “Negative actions that hurt the feelings of others can also result in stigma. When someone appears to be different from us, whether it is because of something visible like a physical disability or something less visible like having an illness such as HIV/AIDS or a mental health problem like depression, we may view him or her in a stereotyped manner and make assumptions. Stereotypes can have a strong, negative impact on someone’s self-concept and well-being. On the other hand, you can also make a big difference in a positive way with your actions. Give an example of an action that can affect someone’s feelings, self-concept, or reputation in a positive way.”</p> <p>Student: “Actions that can have a positive effect include asking someone who has been left out to be a partner, praising someone for their accomplishments, recognizing someone’s talent or skill, and making sure everyone gets a turn.”</p> <p>Teacher: “How do your actions – positive or negative – have an impact on your own self-concept and reputation?”</p> <p>Student: “Having a positive attitude towards other people can make you feel good about yourself. It can also make people want to be around you. Always being negative or putting other people down reflects badly on you and can make you feel worse about yourself.” [1803]</p>	Safety and Injury Prevention	<p><i>mocking appearance or ability, excluding, bullying, sexual harassment; positive actions such as praising, supporting, including</i>) can affect the feelings, self-concept, emotional well-being, and reputation of themselves and others [PS, IS]</p> <p>Teacher prompt: “Negative actions that hurt the feelings of others can also result in stigma. When someone appears to be different from us, whether it is because of something visible like a physical disability or something invisible like having an illness such as schizophrenia or HIV/AIDS, we may view him or her in a stereotyped manner and make assumptions. Stereotypes can have a strong, negative impact on someone’s self-concept and well-being. On the other hand, you can also make a big difference in a positive way with your actions. Give an example of an action that can affect someone’s feelings, self-concept, or reputation in a positive way.”</p> <p>Student: “Actions that can have a positive effect include asking someone who has been left out to be a partner, praising someone for their accomplishments, recognizing someone’s talent or skill, and making sure everyone gets a turn.”</p> <p>Teacher: “How do your actions – positive or negative – have an impact on your own self-concept and reputation?”</p> <p>Student: “Having a positive attitude towards other people can make you feel good about yourself. It can also make people want to be around you. Always being negative or putting other people down reflects badly on you and can make you feel worse about yourself.” [2033]</p>
		Growth & Development	<p>Overall</p> <ul style="list-style-type: none"> - describe physical, emotional, and interpersonal changes associated with puberty <p>Specific Expectations</p> <ul style="list-style-type: none"> -identify strategies to deal positively with stress and pressures that result from relationships with family and friends; -identify factors (e.g., trust, honesty, caring) that enhance healthy relationships with friends, family, and peers; -describe the secondary physical changes at puberty (e.g., growth of body hair, changes in body shape); -describe the processes of menstruation and spermatogenesis;

				-describe the increasing importance of personal hygiene following puberty. [2034]
Gr. 6	C Healthy Living			
Gr. 6	C1 Understanding Health Concepts			
	C1.3 Human Development and Sexual Health	<p>identify factors that affect the development of a person's self-concept (<i>e.g., environment, evaluations by others who are important to them, stereotypes, awareness of strengths and needs, social competencies, cultural and gender identity, support, body image, mental health and emotional well-being, physical abilities</i>) [PS]</p> <p>Teacher prompt: "A person's self-concept and emotional health and well-being can be affected by a number of factors. Some of these are external factors – they come from outside ourselves. Others are internal factors – they come from within ourselves. Can you give me examples of external and internal factors that are protective – things that help a person develop a positive self-concept and improve their emotional well-being?"</p> <p>Student: "Protective external factors include having support from family and caring adults, having a safe place to live, and being involved in activities that make you feel proud of what you've accomplished. Protective internal factors include having a sense of purpose in life, being able to attain and sustain a clear sense of who you are, feeling that you have the right and are capable of taking steps to make things better, having clear boundaries, being optimistic, having high expectations of yourself, and having the skills you need to solve problems." [1815-1816]</p>	Growth and Development	N/A
Gr. 6	C2 Making Healthy Choices			
Gr. 6	C2.5 Human Development and Sexual	describe how they can build confidence and lay a foundation for healthy relationships by acquiring a clearer understanding of the physical, social, and emotional changes that occur	Growth and Development	N/A see: Overall:

	Health	<p>during adolescence (<i>e.g., physical: voice changes, skin changes, body growth; social: changing social relationships, increasing influence of peers; emotional: increased intensity of feelings, new interest in relationships with boys or girls, confusion and questions about changes</i>) [PS]</p> <p>Teacher prompt: “By getting questions answered and understanding that questions and changes are ‘normal’, adolescents will be better equipped to understand themselves, relate to others, respond to challenges and changes in relationships, and build confidence. What are some questions that young people might have as changes happen during puberty and adolescence?”</p> <p>Student: “Is how I am feeling normal? Why is my body different from everybody else’s? How do you tell someone you like them? Who can answer my questions about...?”</p> <p>Teacher prompt: “Things like wet dreams or vaginal lubrication are normal and happen as a result of physical changes with puberty. Exploring one’s body by touching or masturbating is something that many people do and find pleasurable. It is common and is not harmful and is one way of learning about your body.” [1817-1818]</p>		<p>- identify the major parts of the reproductive system and their functions and relate them to puberty;</p> <p>Specific:</p> <p>-relate the changes at puberty to the reproductive organs and their functions</p> <p>-apply a problem solving/decision-making process to address issues related to friends, peers and family relationships [2050]</p>
Gr. 6	C2.6 Human Development and Sexual Health	<p>make informed decisions that demonstrate respect for themselves and others and help to build healthier relationships, using a variety of living skills (<i>e.g., personal and interpersonal skills; critical and creative thinking skills; skills based on First Nation, Métis, and Inuit cultural teachings, such as medicine wheel teachings connected to the four colour or seven grandfather teachings, or other cultural teachings</i>) [IS, CT]</p> <p>Teacher prompt: “In many ways, dating relationships can be similar to other relationships, such as those with friends or family. Relationships we see online or in the media are not always accurate and can send false messages. What are some of the signs of a healthy relationship, and what are some signs of potential trouble?”</p> <p>Student: “In a healthy relationship, people show respect and care for each other. They try to communicate well and are honest with each other. Jealousy or behaviour that is too controlling can be signs of trouble.”</p> <p>Teacher: “How does knowing yourself help you to make healthy decisions when you are in a relationship?”</p>	Growth and Development	<p>N/A see:</p> <p>Overall:</p> <p>- identify the major parts of the reproductive system and their functions and relate them to puberty;</p> <p>Specific:</p> <p>-relate the changes at puberty to the reproductive organs and their functions</p> <p>-apply a problem solving/decision-making process to address issues related to friends, peers and family relationships [2050]</p>

		<p>Student: “Being clear about your own values, priorities, strengths, and needs can help you separate what is important to you from what is not. Knowing yourself well can help you see what you need to work on to make the relationship better.”</p> <p>Teacher: “What communication skills can help you send information, receive information, and interpret information in an effective way in a relationship?”</p> <p>Student: “Being respectful but clear about your ideas and feelings; listening actively; interpreting body language, tone of voice, and facial expressions; respecting signals of agreement or disagreement and consent or lack of consent; and negotiating – all these are important skills. A clear “yes” is a signal of consent. A response of “no”, an uncertain response, or silence needs to be understood as no consent.”</p> <p>Teacher: “What social attitudes and behaviours are important in building a healthy relationship?”</p> <p>Student: “It is important to have respect for others, show that you value differences, and be cooperative.”</p> <p>Teacher: “What should you consider when making any decision regarding a relationship?”</p> <p>Student: “My comfort level, my personal and family values, my personal limits, and the limits and comfort of others are some of the things I should consider.”</p> <p>Teacher: “Changing or ending relationships can be difficult. What are some ways to deal positively with changing or ending relationships?”</p> <p>Student: “Talk about how you feel with someone you trust. Think about what you can learn from the situation that you can apply in the future. Remember that although the hurt feelings can be very intense at the beginning, you will start feeling a little better over time. If you are the one ending the relationship, treat the other person with respect and consider how they may be feeling. Try to explain how you feel. Ending a relationship over the phone or online may not be a sensitive approach.” [1818]</p>		
Gr. 6 Gr. 6	C3 Making Connections for Healthy			

	Living			
	C3.3 Human Development and Sexual Health	<p>assess the effects of stereotypes, including homophobia and assumptions regarding gender roles and expectations, sexual orientation, gender expression, race, ethnicity or culture, mental health, and abilities, on an individual's self-concept, social inclusion, and relationships with others, and propose appropriate ways of responding to and changing assumptions and stereotypes [PS, CT]</p> <p>Teacher prompt: "Can you give examples of some stereotypes that might have a negative effect on a person's self-concept and social inclusion? What can we do to change stereotypes and discrimination?"</p> <p>Student: "People who are overweight are sometimes labelled as lazy. That's not fair. And it's not fair to make assumptions about what people with disabilities are able to do. We need to base our opinions of people on who they are and what they do and not judge them by their appearance or make assumptions about them. There are also negative stereotypes about people who receive extra help or people who receive good marks in class. These can be hurtful and cause people to avoid getting help when they need it or, sometimes, to hide their abilities. Someone who has a mental illness like depression or an anxiety disorder may be seen as being different. We need to remember that mental illness can affect anyone, and it can be treated. Cultural stereotypes are also common. Sometimes people make assumptions that people from a certain cultural background all like the same things or are all good at the same things. That makes us misjudge them. To change stereotypes, we need to get to know people and respond to them as individuals. We need to challenge stereotypes when we hear them."</p> <p>Teacher prompt: "Assumptions are often made about what is 'normal' or expected for males and females -- for example, men take out the garbage; nursing is a woman's job; boys play soccer at recess and girls skip rope or stand around and talk; boys are good at weightlifting and girls are good at dancing. Assumptions like these are usually untrue, and they can be harmful. They can make people who do not fit into the expected norms feel confused or bad about themselves, damaging their self-concept, and they can cause people to discriminate against and exclude those who are seen as</p>	Growth and Development	N/A

		<p>'different'. Assumptions about different sexual orientations or about people with learning disabilities or mental illness or about people from other cultures are harmful in similar ways. Everyone needs to feel accepted in school and in the community. Why do you think these stereotyped assumptions occur? What can be done to change or challenge them?"</p> <p>Students: "Stereotypes are usually formed when we do not have enough information. We can get rid of a lot of stereotypes just by finding out more about people who seem different. By being open-minded, observing and listening, asking questions, getting more information, and considering different perspectives, we can work to change stereotypes. We can understand people's sexual orientations better, for example, by reading books that describe various types of families and relationships. Not everyone has a mother and a father – someone might have two mothers or two fathers (or just one parent or a grandparent, a caregiver, or a guardian). We need to make sure that we don't assume that all couples are of the opposite sex, and show this by the words we use. For example, we could use a word like 'partner' instead of 'husband' or 'wife'. We need to be inclusive and welcoming." "If we have newcomers from another country in our class, we can try to find out more about them, their culture, and their interests." "If we hear things that are sexist, homophobic, or racist, we can show our support for those who are being disrespected." "If we hear someone using words like 'crazy' or 'nuts' to describe a person who has a mental illness, we can explain that mental illness is no different from other illnesses, and that we wouldn't call someone names if they were suffering from any other illness." [1820]</p>		
			Growth and Development	<p>Overall:</p> <ul style="list-style-type: none"> - identify the major parts of the reproductive system and their functions and relate them to puberty; <p>Specific:</p> <ul style="list-style-type: none"> - relate the changes at puberty to the reproductive organs and their functions - apply a problem solving/decision-making process to address issues related to friends, peers and family relationships [2050]
7-8	Overview	<p>Healthy Living Strand (p. 182)</p> <p>The human development and sexual health expectations recognize that students at this age are developing their sense</p>		<p>Healthy Living Strand (p. 168)</p> <p>The Growth and Development expectations from the 1998 curriculum document focus on age-appropriate questions</p>

		<p>of personal identity, which includes their sexual identity. Students may already be involved in or contemplating sexual activity or dealing with relationship issues that affect their self-concept and sense of well-being. Consequently, there is an emphasis on developing the skills needed for maintaining healthy relationships and acquiring the knowledge and skills needed to make informed decisions about their sexual health. Key topics include delaying sexual activity, preventing pregnancy and disease, understanding how gender identity and sexual orientation affect overall identity and self-concept, and making decisions about sexual health and intimacy. [1825]</p>		<p>related to human sexuality. Students have opportunities to explore the physical, emotional, interpersonal, and spiritual aspects of healthy sexuality, and to develop the communication skills they need to express their concerns and feelings in these areas. They also learn to identify local sources of support related to sexuality and sexual health. Students are expected to develop an understanding of reproductive systems, the possible consequences of risky behaviours, pregnancy and disease prevention, and abstinence as a positive choice for adolescents [2054-2055]</p>
Gr. 7	C. Healthy Living			
Gr. 7	C1 Understanding Health Concepts			
	C1.1 Personal Safety and Injury Prevention	<p>Teacher prompt: “What are some ways of protecting your safety when using a computer at home or in a public place?”</p> <p>Student: “Everyone should be aware that anything they write or post could become public information. If you do not want someone else to know about something, you should not write about it or post it. You should never share your password. If you are a target of online harassment, you should save and print the messages you received and get help from a parent, teacher, or other trusted adult.”</p> <p>Teacher prompt: “Sexting – or the practice of sending explicit sexual messages or photos electronically, predominantly by cell phone – is a practice that has significant risks. What are some of those risks? What can you do to minimize those risks and treat others with respect?”</p> <p>Students: “Photos and messages can become public even if shared for only a second. They can be manipulated or misinterpreted. If they become public, they can have an</p>		<p>Teacher prompt: “What are some ways of protecting your safety when using a computer at home or in a public place?”</p> <p>Student: “Everyone should be aware that anything they write or post could become public information. If you do not want someone else to know about something, you should not write about it or post it. You should never share your password. If you are a target of online harassment, you should save and print the messages you received and get help from a parent, teacher, or other trusted adult.”</p> <p>Teacher prompt: “The practice of sending explicit sexual messages or photos electronically, predominantly by cell phone – is a practice that has significant risks. What are some of those risks? What can you do to minimize those risks and treat others with respect?”</p> <p>Students: “Photos and messages can become public. They can be manipulated or misinterpreted. If they become public, they can have an impact on their future relationships, and</p>

		<p>impact on the well-being of the persons involved, their future relationships, and even their jobs. There are also legal penalties for anyone sharing images without consent.”</p> <p>“You shouldn’t pressure people to send photos of themselves. If someone does send you a photo, you should not send it to anyone else or share it online, because respecting privacy and treating others with respect are just as important with online technology as with face-to-face interactions.” [1838]</p>		<p>even their jobs. [2067-2068]</p>
Gr. 7	C1.3 Human Development and Sexual Health	<p>explain the importance of having a shared understanding with a partner about the following: delaying sexual activity until they are older (e.g., choosing to abstain from any genital contact; choosing to abstain from having vaginal or anal intercourse; choosing to abstain from having oral-genital contact); the reasons for not engaging in sexual activity; the concept of consent and how consent is communicated; and, in general, the need to communicate clearly with each other when making decisions about sexual activity in the relationship.</p> <p>Teacher prompt: “The term abstinence can mean different things to different people. People can also have different understandings of what is meant by having or not having sex. Be clear in your own mind about what you are comfortable or uncomfortable with. Being able to talk about this with a partner is an important part of sexual health. Having sex can be an enjoyable experience and can be an important part of a close relationship when you are older. But having sex has risks too, including physical risks like sexually transmitted infections – which are common and which can hurt you – and getting pregnant when you don’t want to. What are some of the emotional considerations to think about?”</p> <p>Student: “It’s best to wait until you are older to have sex because you need to be emotion-ally ready, which includes being able to talk with your partner about how you feel, being prepared to talk about and use protection against STIs or pregnancy, and being prepared to handle the emotional ups and downs of a relationship, including the ending of a relationship, which can hurt a lot. Personal values, family values, and religious beliefs can influence how you think about sexuality and sexual activity. A person should not have sex if their partner is not ready or has not given consent, if</p>	Growth and Development	<p>N/A See:</p> <p>Overview:</p> <ul style="list-style-type: none"> - describe age-appropriate matters related to sexuality (e.g., the need to develop good interpersonal skills, such as the ability to communicate effectively with the opposite sex). <p>Specific</p> <ul style="list-style-type: none"> - explain the male and female reproductive systems as they relate to fertilization; -distinguish between the facts and myths associated with menstruation, spermatogenesis, and fertilization; -identify the methods of transmission and the symptoms of sexually transmitted diseases (STDs), and ways to prevent them; -use effective communication skills (e.g., refusal skills, active listening) to deal with various relationships and situations; -explain the term abstinence as it applies to healthy sexuality; -identify sources of support with regard to issues related to healthy sexuality (e.g., parents/guardians, doctors); [2071]

		they are feeling pressured, if they are unsure, or if they are under the influence of drugs or alcohol.” [1838-1839]		
Gr. 7	C1.4 Human Development and Sexual Health	<p>identify common sexually transmitted infections (STIs), and describe their symptoms</p> <p>Teacher prompt: “Common sexually transmitted infections include human papilloma-virus (HPV), herpes, chlamydia, gonorrhea, and hepatitis B. Some have visible symptoms but most do not, so it’s hard to tell if you or someone else has an STI. All STIs can have a significant impact on your health. What are some symptoms of an STI? If an STI has no symptoms, how can you find out if you have it?”</p> <p>Student: “You can see some STIs, such as pubic lice or genital warts, and other STIs have symptoms such as redness or pain while urinating. Even if you don’t see or experience any symptoms, you should be tested by a doctor if you are sexually active. Depending on the STI, tests can be done by taking swabs from the cervix, vagina, or urethra or by taking urine or blood samples.” [1839]</p>	Growth and Development	<p>N/A See:</p> <p>Overview:</p> <ul style="list-style-type: none"> - describe age-appropriate matters related to sexuality (e.g., the need to develop good interpersonal skills, such as the ability to communicate effectively with the opposite sex). <p>Specific</p> <ul style="list-style-type: none"> - explain the male and female reproductive systems as they relate to fertilization; -distinguish between the facts and myths associated with menstruation, spermatogenesis, and fertilization; -identify the methods of transmission and the symptoms of sexually transmitted diseases (STDs), and ways to prevent them; -use effective communication skills (e.g., refusal skills, active listening) to deal with various relationships and situations; -explain the term abstinence as it applies to healthy sexuality; -identify sources of support with regard to issues related to healthy sexuality (e.g., parents/guardians, doctors); [2071]
Gr. 7	C1.5 Human Development and Sexual Health	<p>identify ways of preventing STIs, including HIV, and/or unintended pregnancy, such as delaying first intercourse and other sexual activities until a person is older and using condoms consistently if and when a person becomes sexually active</p> <p>Teacher prompt: “Engaging in sexual activities like oral sex, vaginal intercourse, and anal intercourse means that you can be infected with an STI. If you do not have sex, you do not need to worry about getting an STI. (By the way, statistics show that young people who delay first intercourse are more likely to use protection when they choose to be sexually active.) If a person is thinking of having sex, what can they do to protect themselves?”</p> <p>Student: “They should go to a health clinic or see a nurse or doctor who can provide important information about protection. People who think they will be having sex sometime soon should keep a condom with them so they will have it when they need it. They should also talk with their partner about using a condom before they have sex, so both partners</p>	Growth and Development	<p>N/A See:</p> <p>Overview:</p> <ul style="list-style-type: none"> - describe age-appropriate matters related to sexuality (e.g., the need to develop good interpersonal skills, such as the ability to communicate effectively with the opposite sex). <p>Specific</p> <ul style="list-style-type: none"> - explain the male and female reproductive systems as they relate to fertilization; -distinguish between the facts and myths associated with menstruation, spermatogenesis, and fertilization; -identify the methods of transmission and the symptoms of sexually transmitted diseases (STDs), and ways to prevent them; -use effective communication skills (e.g., refusal skills, active listening) to deal with various relationships and situations; -explain the term abstinence as it applies to healthy sexuality; -identify sources of support with regard to issues related to healthy sexuality (e.g., parents/guardians, doctors); [2071]

will know a condom will be used. If a partner says they do not want to use a condom, a person should say, 'I will not have sex without a condom.' If you do have sex, it is important that you use a condom every time, because condoms help to protect you against STIs, including HIV, and pregnancy."

Teacher prompt: "HIV (Human Immunodeficiency Virus) is a serious viral infection that can be controlled with treatments. HIV attacks the cells in the body that help to fight infections until they are no longer able to do their job. With treatment, the damage that HIV does to the body's immune system can be slowed or prevented. But HIV infection cannot be cured. The only way to know if you have HIV is to get an HIV test. Today, when people get tested for HIV early in the infection and access HIV treatments, they have the opportunity to live a near-to-normal lifespan. HIV can lead to AIDS (Acquired Immune Deficiency Syndrome), a state of health in which a person's immune system has been weakened by HIV and the person can no longer fight other infections. It is common for a person with AIDS to develop other infections, such as pneumonia or some kinds of cancer. HIV can be transmitted whether or not someone has symptoms of the infection. However, HIV treatment can reduce the amount of HIV in someone's body to the point where it is much less likely that HIV will be transmitted. HIV transmission results from specific activities and does not occur through everyday contact with someone living with HIV/AIDS. What are some of the ways a person can be infected with HIV, and what can be done to prevent the transmission of HIV?"

Student: "HIV is transmitted through contact with bodily fluids – semen, blood, vaginal or anal fluid, and breast milk. HIV cannot live outside the body. For you to be infected, the virus must enter your bloodstream. That can happen through the sharing of needles as well as through unprotected sexual intercourse, which is the most common method of infection. To prevent the transmission of HIV, avoid behaviours associated with greater risks of HIV transmission, like vaginal or anal intercourse without a condom and injection drug use. It is very important that you use a condom if you do have sex. Avoid sharing drug use equipment or using needles that have not been sterilized for any purpose, including

		<p>piercing, tattooing, or injecting steroids. One of the best things you can do to stop HIV is to stop the stigma that is associated with having the infection. Gossiping about someone with HIV or avoiding everyday contact with them makes it more challenging for people to tell others that they have HIV or to get tested for HIV. These things make it easier for HIV to spread.” [1839-1840]</p>		
Gr. 7	C2 Making Healthy Choices			
Gr. 7	C2.2 Personal Safety and Injury Prevention	<p>C2.2 assess the impact of different types of bullying or harassment, including the harassment and coercion that can occur with behaviours such as sexting, on themselves and others, and identify ways of preventing or resolving such incidents (e.g., communicating feelings; reporting incidents involving themselves or others; encouraging others to understand the social responsibility to report incidents and support others rather than maintaining a code of silence or viewing reporting as “ratting”; seeking help from support services; learning skills for emotional regulation; using strategies for defusing tense or potentially violent situations) [IS, CT]</p> <p>Teacher prompt: “What are some of the consequences of using homophobic put-downs or racial slurs? How can this hurtful behaviour be prevented?”</p> <p>Student: “Using homophobic or racist language is discriminatory. It hurts the people who are targeted and it can have harmful consequences for the whole atmosphere in the school. Sometimes, people speak without thinking about what they are actually saying and how they are hurting others. To change this behaviour, everyone needs to take responsibility for the words they use and also to challenge others who make discriminatory comments or put people down, whether in person or online.”</p> <p>• • • •</p> <p>Teacher prompt: “Inappropriate sexual behaviour, including things like touching someone’s body as they walk by in the hall, making sexual comments, or pulling pieces of clothing up or down, is sexual harassment. Texting someone constantly can also be harassment. What can you do to stop</p>	<p>C2.2 Personal Safety and Injury Prevention</p>	<p>C2.2 assess the impact of different types of bullying or harassment (e.g., intimidation, ostracism, pressure to conform, gang activities) on themselves and others, and identify ways of preventing or resolving such incidents (e.g., communicating feelings; reporting incidents involving themselves or others; encouraging others to understand the social responsibility to report incidents and support others rather than maintaining a code of silence or viewing reporting as “ratting”; seeking help from support services; learning skills for emotional regulation; using strategies for defusing tense or potentially violent situations) [IS, CT]</p> <p>Teacher prompt: “What kind of support will the person who was bullied and the bystander need?”</p> <p>Student: “They need to be listened to and given a chance to express their feelings about the harm that has been done and to contribute their ideas about what needs to be done to put things right. They need to be given help to make sure the bullying stops. They might be afraid and may need counselling to recover emotionally from being bullied or witnessing bullying.”</p> <p>Teacher: “Repair processes such as restorative justice might be put in place for the person who did the bullying in order to prevent the incident from happening again. Restorative justice puts the emphasis on the wrong done to the person as well as the wrong done to the community. It requires wrongdoers to recognize the harm they have caused, accept responsibility for their actions, and be actively involved in improving the situation. What has to occur before this can happen?”</p>

	<p>this kind of thing?”</p> <p>Students: “Don’t do it. Don’t encourage others to do it. Don’t accept it if you see it happening – whether in person or on social media. Tell the person to stop, or report them.”</p> <p>“Online, you can call someone on unacceptable language, but it’s better to have a face-to-face conversation about it afterwards.”</p> <p>• • • •</p> <p>Teacher prompt: “A common form of harassment is spreading hurtful gossip about others. Is this type of bullying any less harmful than physical bullying? How can it be stopped?”</p> <p>Student: “Verbal and social bullying and harassment – whether done in person, online, or through texting – are just as harmful as physical bullying. There are legal consequences for physical assault and for verbal harassment. If we hear it or see it, we should not accept it. It is up to everyone to make sure that this is not an acceptable thing to do.”</p> <p>Student: “The person who did the bullying has to admit guilt and accept responsibility for his or her actions. He or she needs to participate willingly in the process. The person who was targeted also needs to participate willingly, without feeling pressured. It is really important for their participation to be voluntary and for the process of restorative justice not to cause further harm. Trained facilitators can make sure that the restorative justice program is helpful to everyone.”</p> <p>Teacher prompt: “What kind of support will the person who was bullied and the bystander need?”</p> <p>Student: “They need to be listened to and given a chance to express their feelings about the harm that has been done and to contribute their ideas about what needs to be done to put things right. They need to be given help to make sure the bullying stops. They might be afraid and may need counselling to recover emotionally from being bullied or witnessing bullying.”</p> <p>Teacher: “Repair processes such as restorative justice might be put in place for the person who did the bullying in order to prevent the incident from happening again. Restorative</p>	<p>Student: “The person who did the bullying has to admit guilt and accept responsibility for his or her actions. He or she needs to participate willingly in the process. The person who was targeted also needs to participate willingly, without feeling pressured. [2069]</p> <p>It is really important for their participation to be voluntary and for the process of restorative justice not to cause further harm. Trained facilitators can make sure that the restorative justice program is helpful to everyone.”</p> <p>• • • •</p> <p>Teacher prompt: “What are some of the consequences of using homophobic put-downs or racial slurs? How can this hurtful behaviour be prevented?”</p> <p>Student: “Using homophobic or racist language is discriminatory. It hurts the people who are targeted and it can have harmful consequences for the whole atmosphere in the school. Sometimes, people speak without thinking about what they are actually saying and how they are hurting others. To change this behaviour, everyone needs to take responsibility for the words they use and also to challenge others who make discriminatory comments or put people down.”</p> <p>• • • •</p> <p>Teacher prompt: “Inappropriate sexual behaviour, including things like touching someone’s body as they walk by in the hall, making sexual comments, or pulling pieces of clothing up or down, is a type of harassment. What can you do to stop this kind of thing?”</p> <p>Student: “Don’t accept it if you see it happening. Tell the person to stop or report them.”</p> <p>• • • •</p> <p>Teacher prompt: “A common form of harassment is spreading hurtful gossip about others. Is this type of bullying any less harmful than physical bullying? How can it be stopped?”</p> <p>Student: “Verbal and social bullying are just as harmful as physical bullying. There are legal consequences for physical assault and for verbal harassment. If we hear it or see it, we</p>
--	--	--

		<p>justice puts the emphasis on the wrong done to the person as well as the wrong done to the community. It requires wrongdoers to recognize the harm they have caused, accept responsibility for their actions, and be actively involved in improving the situation. What has to occur before this can happen?"</p> <p>Student: "The person who did the bullying has to admit guilt and accept responsibility for his or her actions. He or she needs to participate willingly in the process. The person who was targeted also needs to participate willingly, without feeling pressured. It is really important for their participation to be voluntary and for the process of restorative justice not to cause further harm. Trained facilitators can make sure that the restorative justice program is helpful to everyone." [1841]</p>		<p>should not accept it. It is up to everyone to make sure that this is not an acceptable thing to do." [2069-2070]</p>
Gr. 7	C2.3 Substance Use, Addictions, and Related Behaviours	<p>explain how preoccupation with body image or athletic performance can contribute to substance abuse (e.g., misuse of supplements, vitamins, diuretics, diet pills, laxatives, steroids, or performance-enhancing drugs), and demonstrate the ability to make informed choices about caring for their bodies [PS, CT] [1842]</p>	C2.3 Substance Use, Addictions, and Related Behaviours	<p>C2.3 explain how preoccupation with body image can contribute to substance abuse (e.g., misuse of supplements, vitamins, diuretics, diet pills, laxatives, or steroids to alter appearance), and demonstrate the ability to make informed choices about caring for their bodies [PS, CT] [2070]</p>
Gr. 7	C 2.4 Human Development and Sexual Health	<p>demonstrate an understanding of physical, emotional, social, and psychological factors that need to be considered when making decisions related to sexual health (e.g., sexually transmitted infections [STIs], possible contraceptive side effects, pregnancy, protective value of vaccinations, social labelling, gender identity, sexual orientation, self-concept issues, relationships, desire, pleasure, cultural teachings) [PS]</p> <p>Teacher prompt: "Thinking about your sexual health is complicated. It's important to have a good understanding of yourself before getting involved with someone else. It's not just about making a decision to have sex or waiting until you are older. It's also about things such as your physical readiness; safer sex and avoiding consequences such as pregnancy or STIs; your sexual orientation and gender identity; your understanding of your own body, including what gives you pleasure; and the emotional implications of sexual intimacy and being in a relationship. It can include religious beliefs. It includes moral and ethical considerations as well, and also involves the need to respect the rights of</p>	Growth & Development	<p>N/A See:</p> <p>Overall Expectations:</p> <ul style="list-style-type: none"> - describe age-appropriate matters related to sexuality (e.g., the need to develop good interpersonal skills, such as the ability to communicate effectively with the opposite sex). <p>Specific Expectations:</p> <ul style="list-style-type: none"> - explain the male and female reproductive systems as they relate to fertilization; -distinguish between the facts and myths associated with menstruation, spermatogenesis, and fertilization; -identify the methods of transmission and the symptoms of sexually transmitted diseases (STDs), and ways to prevent them; -use effective communication skills (e.g., refusal skills, active listening) to deal with various relationships and situations; -explain the term abstinence as it applies to healthy sexuality; -identify sources of support with regard to issues related to healthy sexuality (e.g., parents/guardians, doctors); [2071]

		<p>other people. Can you explain what is meant by a moral consideration?"</p> <p>Student: "A moral consideration is what you believe is right or wrong. It is influenced by your personal, family, and religious values. Every person in our society should treat other people fairly and with respect. It is important to take this into account when we think about our relationships, sexual behaviour, and activities."</p> <p>Teacher: "Like any other decision, a decision about sexual health requires you to look at all sides of an issue. How can you do that?"</p> <p>Student: "You need to consider the pros and cons of any decision you are making, and how those decisions will affect both you and others." [1842]</p>		<p>See Grade 8 Growth and Development: apply living skills (e.g., decision-making, assertiveness, and refusal skills) in making informed decisions, and analyse the consequences of engaging in sexual activities and using drugs; [2088]</p>
Gr. 7	C3 Making Connections for Healthy Living			
Gr. 7	C3.3 Human Development and Sexual Health	<p>explain how relationships with others (e.g., family, peers) and sexual health may be affected by the physical and emotional changes associated with puberty (e.g., effect of physical maturation and emotional changes on family relationships, interest in intimate relationships and effect on peer relationships, risk of STIs and/or pregnancy with sexual contact) [IS, CT]</p> <p>Teacher prompt: "How can the changes experienced in puberty affect relationships with family and others?"</p> <p>Student: "Adolescents may be interested in having a boyfriend/girlfriend. They may feel 'grown up', but still get treated like a kid, and this sometimes leads to conflicts with parents. They may want more independence." [1843-1844]</p>	Growth & Development	<p>N/A See:</p> <p>Overall Expectations:</p> <ul style="list-style-type: none"> - describe age-appropriate matters related to sexuality (e.g., the need to develop good interpersonal skills, such as the ability to communicate effectively with the opposite sex). <p>Specific Expectations:</p> <ul style="list-style-type: none"> - explain the male and female reproductive systems as they relate to fertilization; -distinguish between the facts and myths associated with menstruation, spermatogenesis, and fertilization; -identify the methods of transmission and the symptoms of sexually transmitted diseases (STDs), and ways to prevent them; -use effective communication skills (e.g., refusal skills, active listening) to deal with various relationships and situations; -explain the term abstinence as it applies to healthy sexuality; -identify sources of support with regard to issues related to healthy sexuality (e.g., parents/guardians, doctors); [2071]

Gr. 8	C. Healthy Living			
	C1 Understanding Health Concepts			
Gr. 8	C1.2 Personal Safety and Injury Prevention	identify situations that could lead to injury or death (e.g., head injuries or concussions in contact sports; spinal cord injuries from falls or diving into unknown water; injuries in car accidents; mental, physical, emotional, or social harm resulting from mental health and/or addiction problems), and describe behaviours that can help to reduce risk (e.g., wearing protective gear, especially helmets; thinking before acting; avoiding conflicts that could lead to violence; avoiding diving into unknown water; being cautious when driving or riding ATVs, tractors, boats, or snowmobiles; being aware of food safety when cooking and preparing food; using self-acceptance, coping, and help-seeking skills) [PS, CT] [1858]	C1.2 Personal Safety and Injury Prevention	identify situations that could lead to injury or death (e.g., head injuries in contact sports, spinal cord injuries from falls or diving into unknown water, injuries in car accidents) and describe behaviours that can help to reduce risk (e.g., wearing protective gear, especially helmets; thinking before acting; avoiding conflicts that could lead to violence; avoiding diving into unknown water; being cautious when driving or riding ATVs, tractors, boats, or snowmobiles; being aware of food safety when cooking and preparing food) [CT] [2084]
Gr. 8	C1.4 Human Development and Sexual Health	<p>identify and explain factors that can affect an individual's decisions about sexual activity (e.g., previous thinking about reasons to wait, including making a choice to delay sexual activity and establishing personal limits; perceived personal readiness; peer pressure; desire; curiosity; self-concept; awareness and acceptance of gender identity and sexual orientation; physical or cognitive disabilities and possible associated assumptions; legal concerns; awareness of health risks, including risk of STIs and blood-borne infections; concerns about risk of pregnancy; use of alcohol or drugs; personal or family values; religious beliefs; cultural teachings; access to information; media messages), and identify sources of support regarding sexual health (e.g., a health professional [doctor, nurse, public health practitioner], a community elder, a teacher, a religious leader, a parent or other trusted adult, a reputable website) [PS]</p> <p>Teacher prompt: "How would thinking about your personal limits and making a personal plan influence decisions you may choose to make about sexual activity?"</p> <p>Student: "Thinking in advance about what I value and what my personal limits are would help me to respond and make</p>	Growth and Development	<p>N/A See:</p> <p>Overall Expectation:</p> <ul style="list-style-type: none"> - identify the physical, emotional, interpersonal, and spiritual aspects of healthy sexuality (e.g., respect for life, ethical questions in relationships, contraception); - identify local support groups and community organizations (e.g., public health offices) that provide information or services related to health and well-being; - apply living skills (e.g., decision-making, problem-solving, and refusal skills) to respond to matters related to sexuality, drug use, and healthy eating habits. <p>Specific Expectation:</p> <ul style="list-style-type: none"> - explain the importance of abstinence as a positive choice for adolescents; - identify symptoms, methods of transmission, prevention, and high-risk behaviours related to common STDs, HIV, and AIDS; - identify methods used to prevent pregnancy; - apply living skills (e.g., decision-making, assertiveness, and refusal skills) in making informed decisions, and analyse the consequences of engaging in sexual activities and using drugs;

		<p>decisions that I felt comfortable with in different situations. I would be able to approach a situation with more confidence and stick to what I had planned. I would be less likely to be caught off guard and have to react without having thought through the options and possible consequences.”</p> <p>Teacher prompt: “Why is it important to get information from a credible source before making a decision about being sexually active? Why is this important for all students – including those with physical or cognitive disabilities?”</p> <p>Students: “Having more information – and information that you can trust – helps you make better decisions for yourself. Taking time to get more information also gives you more time to think. Teens who consult a health professional before being sexually active are more likely to use protection, such as condoms, if they choose to be sexually active.” “Teens with physical or cognitive disabilities still need information about sexual health, just like everybody else. They may be dealing with different issues, like adapting sexual health information to their particular needs, or with variations on the same issues, like privacy and self-image.” [1858-1859]</p>		<p>- identify sources of support (e.g., parents/guardians, doctors) related to healthy sexuality issues; [2088]</p>
Gr. 8	C1.5 Human Development and Sexual Health	<p>demonstrate an understanding of gender identity (e.g., male, female, two-spirited, transgender, transsexual, intersex), gender expression, and sexual orientation (e.g., heterosexual, gay, lesbian, bisexual), and identify factors that can help individuals of all identities and orientations develop a positive self-concept [PS]</p> <p>Teacher prompt: “Gender identity refers to a person’s internal sense or feeling of being male or female, which may or may not be the same as the person’s biological sex. It is different from and does not determine a person’s sexual orientation. Sexual orientation refers to a person’s sense of affection and sexual attraction for people of the same sex, the opposite sex, or both sexes. Gender expression refers to how you demonstrate your gender (based on traditional gender roles) through the ways you act, dress, and behave. Gender identity, gender expression, and sexual orientation are connected to the way you see yourself and to your interactions with others. Understanding and accepting your gender identity and your sexual orientation can have a strong impact on the development of your self-concept. A person’s</p>		N/A

		<p>self-concept can develop positively if the person understands and accepts their gender identity and sexual orientation and is accepted by family and community. It is harder to develop a positive self-concept, however, if the way a person feels or identifies does not meet perceived or real societal norms and expectations or is not what they want, or if they do not feel supported by their family, friends, school, or community. A person's self-concept can be harmed if a person is questioning their gender identity or sexual orientation and does not have support in dealing with their feelings of uncertainty. What kind of support do people need to help them understand and accept their gender identity and sexual orientation?"</p> <p>Student: "Having role models that you can relate to – for example, people of similar ages or cultures – is important. So is having all gender identities and sexual orientations portrayed positively in the media, in literature, and in materials we use at school. Family, school, and community support are crucial. Additional help can come from trusted adults, community organizations, and school support groups such as gay-straight alliances." [1859]</p>		
Gr. 8	C2 Making Healthy Choices			
	C 2.4 Human Development and Sexual Health	<p>demonstrate an understanding of aspects of sexual health and safety, including contraception and condom use for pregnancy and STI prevention, the concept of consent, and matters they need to consider and skills they need to use in order to make safe and healthy decisions about sexual activity (e.g., self-knowledge; abstinence; delaying first intercourse; establishing, discussing, and respecting boundaries; showing respect; need for additional information and support; safer sex and pleasure; communication, assertiveness, and refusal skills) [IS, CT]</p> <p>Teacher prompt: "What do teenagers need to know about contraception and safer sex in order to protect their sexual health and set appropriate personal limits?"</p> <p>Student: "Teenagers need to know about the benefits and risks of different types of contraception. They need to understand that the only 100 per cent sure way of not becoming pregnant or getting an STI, including HIV, is not having sexual contact. Those who choose to be sexually</p>	Growth and Development	<p>N/A See:</p> <p>Overall Expectation:</p> <ul style="list-style-type: none"> - identify the physical, emotional, interpersonal, and spiritual aspects of healthy sexuality (e.g., respect for life, ethical questions in relationships, contraception); - identify local support groups and community organizations (e.g., public health offices) that provide information or services related to health and well-being; - apply living skills (e.g., decision-making, problem-solving, and refusal skills) to respond to matters related to sexuality, drug use, and healthy eating habits. <p>Specific Expectation:</p> <ul style="list-style-type: none"> - explain the importance of abstinence as a positive choice for adolescents; - identify symptoms, methods of transmission, prevention, and high-risk behaviours related to common STDs, HIV, and

		active also need to know which contraceptive methods provide a protective barrier against disease as well as pregnancy. Condoms provide protection against both pregnancy and STIs – but to be effective, they need to be used properly and used every time. Teenagers need to understand how important it is to talk with their partners about sexual health choices, consent, and keeping safe. They have to develop the skills to communicate their thoughts effectively, listen respectfully, and read body cues in these conversations. This takes practice.” [1861-1862]		AIDS; - identify methods used to prevent pregnancy; - apply living skills (e.g., decision-making, assertiveness, and refusal skills) in making informed decisions, and analyse the consequences of engaging in sexual activities and using drugs; - identify sources of support (e.g., parents/guardians, doctors) related to healthy sexuality issues; [2088]
Gr. 8	C3 Making Connections for Healthy Living			
Gr. 8	C3.2 Personal Safety and Injury Prevention	<p>analyse the impact of violent behaviours, including aggression, anger, swarming, dating violence, and gender-based or racially based violence, on the person being targeted, the perpetrator, and bystanders, and describe the role of support services in preventing violence (e.g., help lines, school counsellors, social workers, youth programs, shelters, restorative justice programs, gay-straight student alliances) [CT]</p> <p>Teacher prompt: “Managing emotions in heated situations is an essential skill. Consider this situation: Students are playing basketball on the playground; someone gets pushed aggressively and tempers flare. What is the impact on those playing and those watching?”</p> <p>Student: “This situation could escalate into a fight. Someone could be hurt, and that could lead to suspension or assault charges and damage the relationships between the players on and off the court and in the classroom. It could scare or injure the people watching.”</p> <p>Teacher prompt: “Gender-based violence includes any form of behaviour – psychological, physical, and sexual – that is based on an individual’s gender and is intended to control, humiliate, or harm the individual. When we say ‘gender-based violence’, we are often referring to violence against women and girls. Can you give me some examples?”</p> <p>Student: “It can include physical assault in a relationship, sexual assault, or rape. It can also include things like having your rear end pinched in the hallway, having your top</p>		<p>analyse the impact of violent behaviours, including aggression, anger, swarming, dating violence, and gender-based or racially based violence, on the person being targeted, the perpetrator, and bystanders, and describe the role of support services in preventing violence (e.g., help lines, school counsellors, social workers, youth programs, shelters, restorative justice programs) [CT])</p> <p>Teacher prompt: “Managing emotions in heated situations is an essential skill. Consider this situation: Students are playing basketball on the playground; someone gets pushed aggressively and tempers flare. What is the impact on those playing and those watching?”</p> <p>Student: “This situation could escalate into a fight. Someone could be hurt, and that could lead to suspension or assault charges and damage the relationships between the players on and off the court and in the classroom. It could scare or injure the people watching.”</p> <p>Teacher prompt: “Gender-based violence includes any form of behaviour – psychological, physical, and sexual – that is based on an individual’s gender and is intended to control, humiliate, or harm the individual. When we say ‘gender-based violence’, we are often referring to violence against women and girls. Can you give me some examples?”</p> <p>Student: “It can include physical assault in a relationship, sexual assault, or rape. It can also include things like having your rear end pinched in the hallway, having your top pulled down or lifted up, or being held down and touched.” [2087]</p>

		pulled down or lifted up, or being held down and touched.” [1862-1863]		
Gr. 8	C3.3 Human Development and Sexual Health	<p>analyse the attractions and benefits associated with being in a relationship (e.g., support, understanding, camaraderie, pleasure), as well as the benefits, risks, and drawbacks, for them-selves and others, of relationships involving different degrees of sexual intimacy (e.g., hurt when relationships end or trust is broken; in more sexually intimate relationships, risk of STIs and related risk to future fertility, unintended pregnancy, sexual harassment and exploitation; potential for dating violence) [IS, CT]</p> <p>Teacher prompt: “There are pros and cons to being in a relationship, and when you are in a relationship, there are positive things and drawbacks associated with different levels of intimacy. All of them are important to think about. There is a range of intimate behaviours that people can use to show caring and connection in a relationship, and different levels of risk associated with different levels of intimacy. Intimate behaviours can include holding hands, hugging, kissing, touching bodies and genitals, and engaging in sexual intercourse. When considering the level of intimacy that is appropriate for their relationship, what does a couple need to think about?”</p> <p>Student: “Both individuals need to consider their own values and beliefs and treat each other’s choices and limits with respect. If one partner chooses to abstain from a sexual activity – for example, a person might want to kiss but not want to have any genital contact – the other partner needs to respect that decision. Both partners need to have the confidence and comfort level to talk about how they can show their affection while respecting each other’s decisions.”</p> <p>Teacher: “Being intimate with someone includes having a good understanding of the concept of consent. What are some of the important things that we need to understand about consent?”</p> <p>Student: “Consent to one activity doesn’t imply consent to all sexual activity. It is important to ask for consent at every stage. Consent is communicated, not assumed. You can ask your partner simple questions to be sure that they want to continue: ‘Do you want to do this?’ or ‘Do you want to stop?’ A ‘no’ at any stage does not need any further</p>	Growth and Development	<p>N/A See:</p> <p>Overall Expectation:</p> <ul style="list-style-type: none"> - identify the physical, emotional, interpersonal, and spiritual aspects of healthy sexuality (e.g., respect for life, ethical questions in relationships, contraception); - identify local support groups and community organizations (e.g., public health offices) that provide information or services related to health and well-being; - apply living skills (e.g., decision-making, problem-solving, and refusal skills) to respond to matters related to sexuality, drug use, and healthy eating habits. <p>Specific Expectation:</p> <ul style="list-style-type: none"> - explain the importance of abstinence as a positive choice for adolescents; - identify symptoms, methods of transmission, prevention, and high-risk behaviours related to common STDs, HIV, and AIDS; - identify methods used to prevent pregnancy; - apply living skills (e.g., decision-making, assertiveness, and refusal skills) in making informed decisions, and analyse the consequences of engaging in sexual activities and using drugs; - identify sources of support (e.g., parents/guardians, doctors) related to healthy sexuality issues; [2088]

		<p>explanation.”</p> <p>Teacher: “How can being in an intimate relationship affect other relationships in your life?”</p> <p>Student: “When you have a boyfriend or a girlfriend, sometimes friends treat you differently. You might start hanging out with different people or spending less time with some friends. You might have less time to spend with family. It’s important to be aware of what is happening, so that you can take steps to avoid neglecting other relationships that are important to you.” [1863]</p>		
--	--	---	--	--

The Elementary Teachers' Federation of Ontario et al. and **Her Majesty the Queen as Represented by the Minister of Education**

Applicants

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
(Proceedings Commenced at Toronto)**

**FACTUM OF THE APPLICANTS,
THE ELEMENTARY TEACHERS'
FEDERATION OF ONTARIO and
CINDY GANGARAM**

GOLDBLATT PARTNERS LLP
20 Dundas Street West, Suite 1039
Toronto, ON M5G 2C2
Tel: 416-977-6070
Fax: 416-591-7333

Howard Goldblatt (LSO 15964M)
hgoldblatt@goldblattpartners.com

Adriel Weaver (LSO 54173P)
aweaver@goldblattpartners.com

Daniel Sheppard (LSO 59074H)
dsheppard@goldblattpartners.com

Kiran Kang (LSO 70023C)
kkang@goldblattpartners.com

Lawyers for the Applicants