

Operations Division Occupational Health and Safety

Field Visit Report

Page 1 of 9

OHS Case ID: **04645RWTS425**

Field Visit no: **04645SCHL458**

Visit Date: **2023-JAN-25**

Field Visit Type: **CONTINUATION**

Workplace Identification: **ERNEST C DRURY SR SCHOOL FOR THE DEAF
255 ONTARIO STREET SOUTH, MILTON, ON, CANADA L9T 2M5**

Notice ID:

Telephone:
(905) 878-2851

JHSC Status:
Active

Work Force #:
35

Completed %:

Persons Contacted: **SEE DETAILED NARRATIVE**

Visit Purpose: **CONDUCT INVESTIGATION UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT**

Visit Location: **TEACHER'S LOUNGE - CI- 126A**

Visit Summary: **1 ORDER ISSUED, 1 REQUIREMENT ISSUED**

Detailed Narrative:

The below information was collected during Field Visit # 04645SCGV457 on January 24, 2023.

The Ministry of Labour, Immigration, Training, and Skills Development (MLITSD) attended this workplace due to a complaint reported to the MLITSD contact centre. The Inspector was accompanied by MLITSD Inspector Andrew Tin.

Workplace Parties Contacted: Jeanne Leonard, Principal; Sheila Rees, Vice Principal; Aaron Moffatt, Director of Operations; Scott Garant, JHSC Worker Representative; Michelle Bourgeois, Elementary Union Representative; David Sykes, Executive Coordinator for Provincial Schools Authority Teachers (PSAT); Complainant/Refusing Worker; Tammy Care, Interpreter; Rachel Burgess, Interpreter

Circumstances:

A complaint was made to the MLITSD contact centre as a follow up from a previous MLITSD visit surrounding the topic of violence in the workplace. The complaint outlined that there are continued concerns of violence in the workplace that have not been resolved through the Internal Responsibility System.

Upon arrival to the complaint field visit, the MLITSD Inspectors were informed the workplace parties were undergoing a Stage 1 work refusal process. The workplace parties did not resolve the work refusal through the Stage 1 process.

The Inspectors discussed the details of the work refusal with the refusing worker, JHSC Worker Representative, Elementary Union Representative, and Executive Coordinator for PSAT. The Inspectors treated this work refusal as a complaint, with the permission of the refusing worker. The workplace parties contacted provided additional details which are outlined in the below complaint.

Recipient	Inspector Data	Worker Representative
Name <u>Jeanne Leonard</u>	Chelsea Henry O.H.S.A. & B.O.S.T.A. INSPECTOR PROVINCIAL OFFENCES OFFICER 119 King St W, 13th Fl., Hamilton, ON, L8P 4Y7 MOLIHSHamiltonWest@ontario.ca Tel: (289) 925-3958 Fax: (905) 577-1324	Name <u>Scott Garant</u>
Title <u>Principal</u>		Title <u>JHSC Worker rep (elementary)</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>	Signature <u>[Signature]</u>

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The complaint details are as follows:

Safety Plans:

- Reviews of student safety plans are not always held in conjunction with a worker representative or all workers who work with the students requiring the safety plan and overall, a collaborative approach is not taken by the employer.
- Review of student safety plan meetings have not been completed in a timely manner before a worker is required to return to the classroom with the identified student.
- Updated student safety plans are posted on google drive by the employer for the workers to view. Workers are not given the updated safety plans with appropriate time to review, learn the new information, or ask questions.

Summoning Immediate Assistance:

- Card System
 - o A card system for summoning immediate assistance has been implemented by the employer without consulting with or collaborating with the JHSC, and the workers don't believe the card system is effective or safe for workers and students.
 - o Not all workers in the workplace have been provided information and instruction on the card system.
- Cow Bell
 - o A document provided to workers by the employer indicates that a 'Cow Bell' is to be used in emergency situations. The workers do not know that a 'Cow Bell' exists in the workplace, and if so, where it exists. The workers do not feel this is an appropriate means of summoning immediate assistance and have not received information and instruction regarding it.

Violent Incidents:

- A new violent incident occurred on January 20, 2023, with a student in the refusing worker/complainant's classroom, where a student became aggressive. The workers who work with the student were not provided with an updated student safety plan until the morning of January 24, 2023. PPE was provided to the workers who work with the student on January 23, 2023.

Joint Health and Safety Committee (JHSC) Collaboration:

- The employer representative is not always scheduling meetings/discussions with the JHSC workers to collaborate with them and give them the opportunity to participate in health and safety discussions such as updating safety plans or creating a plan for workers to summon immediate assistance.

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255 ONTARIO STREET SOUTH, MILTON, ON, CANADA L9T 2M5**

INSPECTOR COMMENTS:

The Employer Representative provided the following documents to this Inspector:

1. Ontario Workplace Violence Prevention Policy, review date: 2022 (1 page) - Ontario Public Service Document
2. Workplace Violence Prevention Policy, review date: 2022 (15 pages) - Ontario Public Service Document
3. Appendix Twelve - Ontario Government Workplace Violence Risk Assessment Tool, date of assessment: November 30, 2022 (15 pages)
4. Ontario Ministry of Education System Memo Re: 2022-23 Policy and Training Checklists - Annual and New Hire, dated August 31, 2022
5. Ontario Ministry of Education Provincial and Demonstration Schools Branch, PDSB Staff Policy and Training Checklist - Annual, revised August 31, 2022 (4 pages)

The above documentation was reviewed by the MLTSD personnel.

WORK REFUSALS:



- s. 43 of the Occupational Health and Safety Act (Act) was reviewed and discussed with the workplace parties.

VIOLENCE POLICY:

- The employer representative provided a copy of the document titled 'Ontario Workplace Violence Prevention Policy'. This Policy was observed to be posted in the workplace.
- The employer representative stated the Policy is an Ontario Public Service Document and a workplace specific Violence Policy has not been created.
- The employer representative stated workers are provided a copy of this Policy to review, and a record of review for each worker is maintained (recorded on document 'Ontario Ministry of Education Provincial and Demonstration Schools Branch, PDSB Staff Policy and Training Checklist - Annual')

WORKPLACE VIOLENCE RISK ASSESSMENT:

- The employer representative provided a completed copy of the document titled 'Appendix Twelve - Ontario Government Workplace Violence Risk Assessment Tool' to this Inspector. The document was completed on November 30, 2022.
- The employer representative stated the document template is provided by Ontario Public Service for workplace completion.
- Page 1 of 15 on the identified Risk Assessment reads: The Workplace Violence Risk Assessment Tool includes

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examples of risk factors to consider when assessing the potential for violence in your workplace. This generic tool is applicable to all workplaces. Ministries may want to consider including an additional section for ministry specific work environments and/or work processes.

- Discussed s. 32.0.3(1) of the Act with the employer, where: An employer shall assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work and (2) the assessment shall take into account, (a) circumstances that would be common to similar workplaces; and (b) circumstances specific to the workplace. The identified Risk Assessment does not include all areas of the workplace, and the workplace parties contacted agree that the identified Risk Assessment completed is a generic tool, and has not been completed in full, specific to the workplace environment.

- The employer has not assessed the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work, and the assessment has not taken into account circumstances that would be common to similar workplaces and circumstances specific to the workplace. SEE ORDER ISSUED.

- The employer shall communicate the results of the risk assessment to the joint health and safety committee, or workers as the case may be and provide copies if the assessment is in writing.

- The employer is reminded of its obligation to provide a copy of the completed written risk reassessment to the Joint Health and Safety Committee, as required by sections 32.0.3(3)(a) and 32.0.3(5) of the Act.

- Per s. 55.2 of the Act: An inspector may in writing order that the following be in written form: 1. The assessment of the risks of workplace violence required under subsection 32.0.3 (1). SEE REQUIREMENT ISSUED.

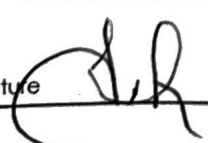
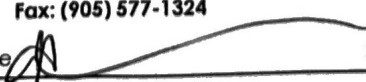

VIOLENCE PROGRAM:

- The employer representative provided a copy of the document titled 'Workplace Violence Prevention Policy' to this Inspector. This full document (15 pages) includes elements of a Violence Program.

- The employer representative stated the document is an Ontario Public Service Document and a workplace specific Violence Program has not been created.

- As per s. 32.0.2 (2) of the Act, the following elements of the program were discussed with the workplace parties contacted:

(a) include measures and procedures to control the risks identified in the assessment required under the subsection 32.0.3 (1) as likely to expose a worker to physical injury: The completed document titled 'Appendix Twelve - Ontario Government Workplace Violence Risk Assessment Tool' is a generic, non-specific workplace tool provided by Ontario Public Service which does not include all areas of the workplace. The Workplace Violence Risk Assessment has not been completed in full to reflect all areas of the workplace, and in turn, the Violence Program is not in compliance. The workplace parties agreed that some measures and procedures in place include but are not limited to: Individualized Education Programs (IEPs) for identified students, Behavioural Plans for identified students, Safety Plans for identified students, and Behavioural Management

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System (BMS) information and instruction for workers.

(b) include measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur: The employer representative stated that the 'card system' currently in place is not a means of summoning immediate assistance. The employer representative stated that the workplace regarding the use of a 'cow bell' in an emergency. The employer representative stated that the workplace operates with a longstanding 'buddy system' that is meant to be a means of summoning immediate assistance. Discussed the 'buddy system' with the workplace parties and the workplace parties agree that the current means of summoning immediate assistance is not effective and agree to work together to create an effective means of summoning immediate assistance to include in the violence program.

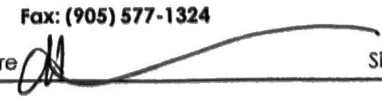

(c) include measures and procedures for workers to report incidents of workplace violence to the employer or supervisor: The workplace parties agree that a reporting process is in place, which includes workers completing a document titled 'Incident/Accident Report'. The employer representative confirmed that there have been four incident reports of violence in the workplace from the beginning of the school calendar year (September 2022) to the current date of January 24, 2023, with no lost time incidents, and the workplace parties contacted agree.

(d) set out how the employer will investigate and deal with incidents or complaints of workplace violence: The employer representative stated that the workplace follows the processes outlined in the Ontario Public Service document titled 'Workplace Violence Prevention Policy'. The workers stated they were unclear on how previously reported incidents or complaints of workplace violence have been investigated or dealt with by the employer.

- The employer is reminded of s. 32.0.2(1) and 32.0.2.(2) (a)(b)(c)(d) of the Act
- The employer is reminded of s. 32.0.5(2) of the Act that an employer shall provide a worker with (a) information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace violence.

STUDENT SAFETY PLANS/RE-ASSESSMENT:

- Discussed the student safety plan used as a control measure in place in the workplace with the workplace parties contacted.
- Discussed the time surrounding reassessments of the risks of workplace violence, including the reassessment of a student safety plan with the workplace parties contacted.
- Discussed consulting and collaborating with all workers who work with the student requiring a safety plan during a process of the reassessment of a student safety plan, including but not limited to the review of the violent incident and the review of the safety plan.

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INFORMATION/INSTRUCTION/SUPERVISION:

- The employer representative stated that workers have been provided a copy of the 'Ontario Workplace Violence Prevention Policy' and the 'Workplace Violence Prevention Policy' for review but have not received further employer - worker training on the documents of the Violence Policy or Program.

- Discussed appropriate employer communication to workers regarding information and instruction on workplace violence, including providing notice to workers of an update to information and instruction, and time for workers to review documentation and ask questions prior to implementing the information.

- Behaviour Management System (BMS) training:

o The employer representative stated that some workers have received both the theoretical and physical components of the BMS training and that workers have not received an updated training since prior to COVID-19.

o BMS training for all workers requiring the training was scheduled on December 23, 2022. Due to inclement weather, the school was closed, and the training did not occur.

o The employer representative confirmed that BMS training for all workers requiring the training has been rescheduled for February 18, 2023. The employer representative confirmed that the training provided includes both the theoretical and physical components of the BMS training. This Inspector will not be issuing an order for the employer to conduct information and instruction to workers on BMS training due to the training being already scheduled for those workers in need.

o The refusing worker/complainant has received the theoretical component of the BMS training, and not the physical component of the BMS training. The workplace parties contacted confirm that the refusing worker/complainant works in a classroom with a student with a safety plan who is identified to have physical outbursts. The employer representative stated that interim measures and procedures are in place for the protection of a worker who does not have the complete BMS training, including ensuring a second worker who does have the complete BMS training is always in the presence of the partially BMS trained worker or the identified student, and the workers are to utilize the employer's 'buddy system' where the fully BMS trained worker will contact the workplace employer for assistance when required.

- It was evident at the time of the visit, that not all workers are clear on the instruction of how to protect themselves from a violent incident in the workplace. The employer is reminded of s. 25(2)(a) of the Act that the employer shall provide information, instruction, and supervision to a worker to protect the health and safety of a worker.

- The employer is reminded of s. 25(2)(h) of the Act where an employer shall take every precaution reasonable in the circumstances for the protection of a worker, including implementing appropriate interim measures and procedures and information and instruction on the topic of violence in the workplace to workers. Interim measures and procedures are in place to protect the refusing worker/complainant from violence in the

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workplace and were discussed in detail with the workplace parties contacted. The workplace parties contacted agree that the interim measures and procedures in place are appropriate.

PERSONAL PROTECTIVE EQUIPMENT (PPE):

- The workplace parties contacted stated that protective sleeves have been provided by the employer to the required workers in response to a safety plan review after a violent incident that occurred on January 20, 2023. Protective sleeves were provided to the identified workers on January 23, 2023 by being placed in their workplace mailbox and the identified workers received an email stating the protective sleeves are mandatory to wear while working with the identified student.
- The workplace parties indicate that no further PPE has been made a requirement by the employer nor provided to the workers.

JOINT HEALTH AND SAFETY COMMITTEE (JHSC) MEETINGS:

- Discussed s.9(18) of the Act with the workplace parties. The employer is reminded that it is the function of a committee and it has power to: (a) identify situations that may be a source of danger or hazard to workers; (b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers; (c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers

RESOURCES PROVIDED TO THIS EMPLOYER:

Workplace violence in school boards: A guide to the law:

<<https://www.ontario.ca/document/workplace-violence-school-boards-guide-law>>

Understand the law on workplace violence and harassment:


<<https://www.ontario.ca/page/understand-law-workplace-violence-and-harassment>>

Public Services Health and Safety Association - Workplace Violence Risk Assessment:

<<https://www.pshsa.ca/resources/workplace-violence-risk-assessment-tools>>

Toolkit for the Education Sector (pshsa.ca)

<<https://www.pshsa.ca/emerging-issues/issues/workplace-violence-in-education>>

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REPRISALS PROHIBITED:

The employer is reminded, as a normal part of complaint investigation, that REPRISALS BY EMPLOYER PROHIBITED under Section 50 of the Act. 50. (1) No employer or person acting on behalf of an employer shall, (a) dismiss or threaten to dismiss a worker; (b) discipline or suspend or threaten to discipline or suspend a worker; (c) impose any penalty upon a worker; or (d) intimidate or coerce a worker, because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the Coroners Act. R.S.O. 1990, c. O.1, s. 50 (1).

The Employer shall post a copy of this report in the workplace in a conspicuous location where it will come to the attention of the workers and shall provide a copy of this report to the joint health and safety committee.

Recipient

Inspector Data

Worker Representative

Chelsea Henry

Name _____

O.H.S.A. & B.O.S.T.A. INSPECTOR

Name _____

PROVINCIAL OFFENCES OFFICER

Title _____

119 King St W, 13th Fl., Hamilton, ON, L8P 4Y7

Title _____

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Notice ID:

Order(s) /Requirement(s) Issued To:

To:

MINISTRY OF EDUCATION

Org/Ind Role

Primary Employer

Mailing Address:

315 FRONT ST W, TORONTO, ON, CA M7A 0B8

Order(s) /Requirement(s) Description:

You are required to comply with the order(s) /requirement(s) by the dates listed below.

No	Type Code	ActReg	Year	Sec.	Sub Sec.	Clause	Text of Order/Requirement	Comply by Date
1	Time 04645SCJR466	OHS	1990	32.0.3	1		The employer shall assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work, where considerations of the assessment shall take into account, circumstances that would be common to similar workplaces and circumstances specific to the workplace. At the time of the visit, an assessment with respect to workplace violence had not been conducted with the above considerations.	2023-FEB-14
2	Rqmt 04645SCJR467	OHS	1990	55.2			The employer shall complete, in written form, the assessment of the risks of workplace violence specified in Order #1 (Order ID: 04645SCJR466), above.	2023-FEB-16

Recipient

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Worker Representative

Chelsea Henry

O.H.S.A. & B.O.S.T.A. INSPECTOR

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119 King St W, 13th Flr., Hamilton, ON, L8P 4Y7

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Tel: (289) 925-3958

Fax: (905) 577-1324

Name

Name

Title

Title

Signature

Signature

Signature

Safe At Work

Operations
Division

Occupational
Health and Safety

Return To:
Chelsea Henry
O.H.S.A. & B.O.S.T.A. INSPECTOR
PROVINCIAL OFFENCES OFFICER
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Notice of Compliance

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Take Notice

Orders were issued under the authority of the Occupational Health and Safety Act or Regulations made there under. A notice of compliance shall be submitted to the Ministry of Labour within three days after the Constructor or Employer believes that compliance with the Order(s) / Requirement(s) have been achieved.

Order(s) / Requirement(s) Issued:

To:

MINISTRY OF EDUCATION

Role

Primary Employer

Mailing Address:

315 FRONT ST W, TORONTO, ON, CA M7A 0B8

Order(s) / Requirement(s) Description:

You are required to comply with the Order(s) / Requirement(s) by the Comply by Dates listed below.

No.	Type	ActReg	Year	Sec.	Sub	Clause	Compliance Details / Date	JHSC Worker Member / Comply by Worker Representative Date:
1	Time	OHSA	1990	32.0.3	1			<input type="checkbox"/> Agree 2023-FEB-14
								<input type="checkbox"/> Disagree
								(Signature) _____

Form completed by: _____

Title: _____

For / on behalf of _____

Signature: _____

Joint Health and Safety Committee Member representing workers or Worker Representative agrees or disagrees that compliance has been achieved with all the Order(s) as indicated above.

Name: _____

Signature: _____