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School Excursions – Considerations and Cautions

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Provincial Guidance - Overview

- Limited provincial direction on board-specific policies
- Ontario Physical Education Safety Guidelines
- PPM No. 161 (Supporting Children And Students With Prevalent Medical Conditions)
  - Plan of Care must be in place
  - Need processes and responses for students completing activities off school property

April 19, 2018
Provincial Guidance – Deloitte Report

• Commissioned by the Ontario government as a result of a grade 9 student who drowned during a board-sponsored canoe trip in Algonquin Park
• Report recommends more monitoring and integration on a provincial level
• OPP charged supervising teacher with criminal negligence causing death, and preliminary hearing dates are set for fall 2019
Duty of Care – Prudent Parent

• School authorities owe a special duty of care to students under their charge – that of a reasonably careful or prudent parent (*Moddejonge v. Huron (country) Board of Education*, 1972 CarswellOnt 476)

• In *Myers v. Peel County Board of Education*, [1981] 2 SCR 21, the Supreme Court of Canada added specialized knowledge to the prudent parent standard
Duty of Care – On Excursions

…I am satisfied that the Defendant [teacher] owed a duty of care to the Plaintiff. The forestry tour was simply an extension of the classroom. The off-campus activity occurred during the school year, with the specific authorization of the School Board and subject to its rules and regulations. The trip took place during the school week and as part of the Plaintiff's educational program. The Defendant teacher remained in control of the students while they were on the tour to the same extent as if they were in the classroom, and he owed to them the same or a higher duty of care during the off-campus activity as in the classroom environment. A relationship of close legal proximity prevailed, the students were in his care, and subject to his control.

Duty of Care – Student Duties

• Students also have common law duties for reasonable care of their own safety


• Obligation of students: Regulation 298 of the Education Act, s. 23

• Participating in an activity approved by a teacher does not amount to voluntary assumption of risk (Bain)
Duty of Care – Standard and Liability

• School board policies are factors courts may consider in assessing the standard of care, but are not determinative (Bain v. Calgary Board of Education, [1993] A.J. No. 952, para 29)

• Boards may be liable for negligent actions of teachers on excursions (Lunenburg (County) District School Board v. Piercey, 1998 NSCA 50)
Permission Forms

- Informed consent important
- Ensure parents understand contents of permission form and risks of activity
- Third-Party waivers: Consider approval by Superintendent or Board
- Payment:
  - Cancellation policy
  - Difference between deposit and partial payment

April 19, 2018
Accommodation

• Things to consider when planning your next excursion:
  • Compliance with the *Human Rights Code*
  • Student profiles, at both the conception and planning stage
  • Accommodations for:
    • Physical, intellectual and communication disabilities
    • Religion and creed
    • Transgender students
Planning – Trip Selection

- Things to consider when planning your next excursion:
  - Whether trip has an educational purpose and reflects the curriculum
  - Cost, affordability, and fundraising options
  - Appropriate and related alternative programming for students not participating in the excursion
Planning – Emergencies

- Ensure the supervising teacher has a contact they can reach out to in case of an emergency
- Ensure contact information and trip itinerary are known to the principal
- Make contingency plans for unforeseen contingencies, including bad weather, spending an extra night at a destination, or making alternate travel plans
Planning – Supervision

• Ensure a sufficient number of teachers and adult supervisors accompany the students
• The Ontario Physical Education Safety Guidelines are a useful reference point for determining the appropriate ratio
• Supervisors should be aware of relevant medical concerns for each participant
Overnight School Trips

• Teachers should treat overnight trips as work and behave accordingly.
• Teachers are responsible for the health, safety and well-being of students, and are responsible for supervision overnight.
• Teachers should have private accommodation and should not stay in rooms with students.
Overnight School Trips

*Ontario College of Teachers v. Beebakhee, 2016*

ONOCT 3

- Teacher failed to adequately supervise students
- Students on trip purchased alcohol, consumed alcohol, and behaved disruptively at the hotel where they stayed
- Teacher committed professional misconduct
Overnight School Trips

*Ontario College of Teachers v. Derr, 2017 ONOCT 3*

- Teacher engaged in inappropriate conduct and physical contact with students:
  - Wrestled with a student on a bed in the student’s room
  - Entered the bathroom while a student was showering and threw cold water over the top of the shower curtain
  - Knocked on a bathroom door while a student was showering and asked if the student was done with the shampoo; student handed teacher shampoo while she remained in the shower behind the curtain
Overnight School Trips

*Ontario College of Teachers v. Powers, 2014 ONOCT 84*

- Teacher engaged in professional misconduct:
  - Teacher failed to notify Board when proper teacher-student ratio on trip not made out
  - Teacher allowed students access to his hotel room to iron their clothes and work on presentations
  - Left students at hotel unsupervised