

January 1998



---

***Information for parents  
and pupils about the  
Policy for the Protection of Pupils  
in the Public School System  
from Misconduct by Adults***

***(Policy 701)***

---

The New Brunswick Department of Education  
Student Services  
P. O. Box 6000  
Fredericton, N. B. E3B 5H1

Phone: (506) 453-2816  
Fax: (506) 453-3325

## **Introduction:**

### **What is the Department of Education doing to create a safe and welcoming environment for all participants in the learning process?**

The Department of Education has implemented a Policy for the Protection of Students from Misconduct by Adults in the Public School system. This policy affords pupils the same protection as the government's Harassment in the Workplace policy affords adults. These policies, along with the upcoming Positive Learning Environment Policy, are intended to create an environment in schools in which pupils can learn in a safe and orderly fashion and in which teachers can teach with dignity within a mutually respectful environment. It is expected that through the application of these policies, and through the authority of the *Education Act*, adults in the school system will be mindful of their responsibilities to students, and equally, that students and parents will be mindful of their rights as well as their responsibilities to teachers, volunteers, and other school personnel. Through the cooperation of teachers, students and parents, New Brunswick schools will be positive and constructive centers of learning for academic achievement and civil and ethical behaviour.

### **What does the Pupil Protection policy do?**

It protects pupils in the public school system from physical, sexual and emotional abuse and discrimination. The policy is intended to eliminate abusive behaviours through prevention and effective intervention, and to define acceptable standards of behaviour for adults who have responsibility for pupils in the public school system. Inappropriate behaviours towards pupils are classified into three categories: abuse, n-dsconduct and inappropriate behaviour management.

### **To whom does the policy apply and when?**

This policy protects all pupils enrolled in the public education system regardless of their age. It applies to all Department of Education paid and volunteer personnel who have contact with pupils including: administrators, supervisors, assessment and support staff, principals, teachers, teacher assistants, student attendants, secretaries, bus drivers, custodians, student teachers, volunteers and researchers.

The policy applies whenever a school has responsibility for a student, for example in classes, on field trips, student exchange programs, etc. It also extends to situations which are outside of school activity where adults affiliated with the school system seriously breach their position of trust.

### **What is considered abuse?**

Abuse is behaviour by adults in the school system which is counter to the position of trust conferred upon them, discriminatory under the *Human Rights Act* or a breach of the *Criminal Code of Canada* or the *Family Services Act*.

#### **Some Examples:**

- behaviour which is considered physical, sexual or emotional abuse or neglect of a child whether or not the child is a pupil in the public school system;
- behaviour of a sexual nature involving pupils such as:
  - making or accepting sexual advances or invitations
  - asking for a date
  - touching inappropriately
  - having a sexual relationship

### **What is considered misconduct?**

Misconduct is negative conduct towards pupils which would be judged as being inappropriate by New Brunswick educators. It is less severe than abuse but has damaging effects on the physical, mental, social or emotional well-being of pupils.

#### **Some Examples:**

- behaviour which would objectively be considered offensive or insulting, exceeding reasonable limits of discipline. This includes comments, conduct or displays which demean, belittle or cause unfair disadvantage that have remained unremedied after normal intervention by supervisors;
- behaviour which may not be directed at anyone in particular but creates a hostile or offensive atmosphere;
- making sexual gestures or inappropriate comments or jokes;
- attempting to pursue, isolate or see pupils individually without valid reason.

## What is considered inappropriate behaviour management?

Inappropriate behaviour management is defined as behaviour which is counterproductive to learning, reflecting poor judgment or limited behaviour management skills. It is not considered abuse or misconduct but requires attention.

### Some Examples:

- personal attacks on pupils' characters rather than dealing with their behaviour;
- continuous use of sarcasm;
- undue, non-constructive criticism in dealing with pupils;
- habitual uncontrolled temper;
- swearing at a pupil.

Failure to correct such behaviours will be treated as misconduct.

Judgments concerning what is inappropriate will be made by professionals in the school system based on available evidence.

## What is considered appropriate?

### Some examples:

- normal work or achievement evaluations and disciplinary measures taken for valid reasons which are consistent with the *Education Act*;
- physical force or restraint not exceeding that required for personal safety, the protection of others, the protection of school property or the protection of an orderly learning environment;
- compliments which respect an individual's dignity;
- patting the back, holding the hand, or hugging to comfort a pupil as appropriate to the situation and the physical or developmental age of the child;
- Assisting with toileting or personal care to the extent that a pupil is not able to perform these tasks without assistance.

## Obligation to report under Policy 701 and the Family Services Act

All adults in the school system must report abuse and misconduct as defined under Policy 701 according to the procedures specified in the policy.

In addition, all adults have an obligation to report abuse as defined under the *Family Services Act*. It states: "*Any person who has information causing him to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill treated, or otherwise abused, shall inform the Minister (Health & Community Services) of the situation without delay.*"

Furthermore, the *Family Services Act* states that failure of a professional to report a **suspicion** of child abuse to the Department of Health and Community Services is an offence.

## If I have a complaint - who do I tell? ... And then what happens?

Each school is to establish a center of responsibility to deal with complaints under Policy 701. If possible, you should contact one of the people designated by the school. If the situation is classified as abuse or misconduct under the Pupil Protection Policy, your description of the situation will be recorded on a Complaint Summary. Others who may be aware of the situation will also likely be contacted. The Complaint Summary will be sent to the Superintendent who will determine what is to be done. Action can range from having school administrators rectify the situation to the launching of a formal investigation.

The Superintendent of Schools for your school district has final responsibility for proceedings under this policy. The Superintendent will advise you of the outcome of your complaint and will determine, in consultation with the Department of Education, what disciplinary measures are to be taken if there is a breach of this policy.

If your complaint is classified as Inappropriate Behaviour Management, it will be addressed by the supervisor of the person against whom the complaint is made. The supervisor is responsible for ensuring that complaints are appropriately identified, monitored, resolved and documented. He or she will also act as a mediator between you and the person against whom the complaint is made.

## What happens if a false accusation is made?

### Falsely accusing someone under this policy can be very damaging.

Anyone making a false allegation will be dealt with severely. Consequences may include suspension in the case of pupils, dismissal of employees or banning from school premises in the case of parents or volunteers. In addition, a person against whom a false accusation is made has the right to pursue civil action.

## Screening of School System Staff

No person will be considered for paid or volunteer work in the New Brunswick public school system if:

- pending or past disciplinary actions by previous employers or supervisors call into question the person's suitability for being in contact with pupils;
- the person has been previously convicted for violent crimes or crimes against children; or
- there are previous charges related to violent crimes or crimes against children which did not result in conviction solely as a result of technical reasons stated in the court decision.

**The complete text of the policy can be accessed at our web site at:**

***[hap..llwww.gov.nb.ca/education/whatsnew.htm](http://www.gov.nb.ca/education/whatsnew.htm)***

*or please ask your principal for a copy.*