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## *The Complete Guide to School Law for K-12 Education Professionals*

Gain an in-depth understanding of the complex legal issues facing today's education professionals, and how to best handle these issues. Attend this program and you will:

- Learn practical strategies for minimizing exposure to liability
- Get the information you need to be prepared for the implementation of the Ontario Equity and Inclusive Education Strategy
- Get answers to your questions on student disciplinary investigations, harassment, privacy rights, search and seizure issues, bullying and more!

**Plus!** Don't miss the Optional Post-Conference Workshop: "Reducing School Violence: Roundtable on the Legal Challenges and How to Manage Them"

### Course Chairs

Robert G. Keel, Keel Cottrelle LLP  
Nadya Tymochenko, Keel Cottrelle LLP

### Workshop Leader

Julian N. Falconer, Falconer Charney LLP

*"Thank you for a wonderful, useful professional development day! One of the best I have ever attended in my entire teaching career!" (2009)*



### **DATES & TIME**

November 30 & December 1, 2009  
8:30 a.m. - 4:15 p.m. EDT/EST

### **WORKSHOP**

December 2, 2009  
9:00 a.m. - 12:00 p.m.

### **LOCATION**

Osgoode Professional  
Development Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON

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# The Complete Guide to School Law for K-12 Education Professionals

**Do you understand your legal obligations and risks well enough to make efficient, sound and confident decisions?**

**"Excellent! I would love to see this training offered to all school administrators!" (2008)**

**T**oday's education environment is more demanding than ever. The Ontario school system and its governing legal framework are sprawling, diverse and constantly evolving - impacting the roles and responsibilities of education professionals. As an educator, school administrator, supervisory officer, board official, trustee or lawyer, it is imperative that you have a clear understanding of the law that governs the education system in Ontario. Failure to understand or keep current in this area can have serious and potentially costly ramifications.

Using case studies and real life examples, this *Osgoode Professional Development* program, **School Law for K-12 Education Professionals** will guide you through the education law labyrinth and provide you with an understanding of the most pertinent legal issues that continually plague educational leaders and their legal advisors. The program will help you identify when a situation may have legal repercussions and arm you with the tools you need to act accordingly.

The program provides educational professionals with a unique opportunity to learn and apply the law, while obtaining practical tips and insights from top practitioners and educational leaders who tackle these issues on a daily basis. You'll take away information that can be readily implemented in your school, board, law firm or other educational institution and receive written materials that will act as a valuable resource long after the course is over.

**This program is essential for those involved in the education system and their legal advisors. Space is limited - register now by visiting [www.osgoodepd.ca](http://www.osgoodepd.ca), call 416.597.9725 or 1.888.923.3394, email [opd-registration@osgoode.yorku.ca](mailto:opd-registration@osgoode.yorku.ca) or fax 416.597.9736.**

## Course Chairs

**Robert G. Keel, Keel Cottrelle LLP**

**Nadya Tymochenko, Keel Cottrelle LLP**

## Faculty

**Peter Barrans, Principal, Safe Schools  
Toronto Catholic District School Board**

**Brenda Bowlby, Hicks Morley Hamilton  
Stewart Storie LLP**

**David Brady, Hicks Morley Hamilton  
Stewart Storie LLP**

**Anthony G. Bryant, Barrister**

**Teresa Drijber, Claims Manager, Ontario  
School Boards' and Insurance Exchange**

**Julian N. Falconer, Falconer Charney LLP**

**Roderick C. Flynn, Evenson Bundgard Flynn**

**Randolph Hammond, Counsel, Children's Aid  
Society (Middlesex County)**

**Lynn H. Harnden, Emond Harnden LLP**

**Paul Howard, Shibley Righton LLP**

**Allan Hoyle, Superintendent, York Region  
District School Board; Chair, Character  
Community Foundation of York Region**

**Bruce Hutchison, Genest Murray LLP**

**Martha Mackinnon, Executive Director, Justice  
for Children and Youth**

**Kurt McIntosh, Central Supervising Principal  
for Equity, Toronto District School Board**

**Scott McLarty, Director of Risk Management  
Safety & Health, Strathcona-Tweedsmuir School Board**

**Allyson Otten, General Counsel, Ontario  
Principals' Council**

**Joshua Phillips, Green & Chercover LLP**

**Tony Pontes, Superintendent, Staff Development  
& School Support Services, Peel District School Board**

**Michael Prospero, Superintendent of Schools  
(retired), Mississauga North, Dufferin-Peel  
Catholic District School Board**

**Brenda Stokes Verworn, Board Lawyer, District  
School Board of Niagara**

**Alex Tucciarone, Superintendent of Schools  
Mississauga North, Dufferin-Peel Catholic  
District School Board**

**Sandy Yep, Director of Education and Training  
Canadian Race Relations Foundation**

**Rob W. Weir, Borden Ladner Gervais LLP**

**The Hon. Justice Marvin A. Zuker, Ontario Court  
of Justice**

# Agenda

## Day One - November 30, 2009

**8:00** Registration and Continental Breakfast

**8:30** Welcome from the Chairs

**8:35** The Essentials of Education Law: The Statutory Framework

Robert G. Keel, Keel Cottrelle LLP

Nadya Tymochenko, Keel Cottrelle LLP

It is critical that education professionals and their legal advisors have a thorough understanding of the legal regime that governs educational institutions in Ontario. This session will steer you through this minefield.

The intersecting legislation includes: The *Education Act* and *Regulations*; The *Charter of Rights and Freedoms* ("Charter"); *Ontario Human Rights Code* ("Code"); *Teaching Profession Act*; *Ontario College of Teachers Act*; *Youth Criminal Justice Act* ("YCJA"); *Criminal Code* ("CC"); *Child and Family Services Act*; *Children's Law Reform Act*; *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"); *Occupational Health and Safety Act*; *Labour Relations Act, 1995*; *Employment Standards Act, 2000* in addition to Police Protocols, the Ontario Schools Code of Conduct and common law.

**9:45** An Educator's Guide to Employment Law and Teacher Misconduct

David Brady, Hicks Morley Hamilton Stewart Storie LLP

Lynn H. Harnden, Emond Harnden LLP

Joshua Phillips, Green & Chercover LLP

### Part One: Statutory Regime

- Overview of employment regime and relevant legislation
- Understanding collective agreements
  - role of school administration
- Practical issues and strategies during a strike and/or lockout
  - teachers and support staff
- Duties of employer and employee under common law and statute

### Part Two: Teacher Misconduct - Role of the Principal

- Grounds for professional misconduct defined by the Ontario College of Teachers in the context of ethics, information, protection of students and supervisory duties - both in and out of the classroom
- Supervisory duties of the principal
  - what is an appropriate level and/or protocol to follow/ implement?
- Teacher performance appraisals
- Handling teacher insubordination

### Part Three: Health and Safety Concerns in Schools

- Workplace and occupational health and safety
  - overview of governing legislation
  - worker's right to refuse unsafe work
- Liability for physical injury and/or illness of worker
- Tips to create a safe work environment
  - areas of concern that require increased security and scrutiny
  - informing teachers about problematic and/or violent students

*Note: A 15 minute break will be taken during this session.*

**11:30** Bill 212 Implementation & Evaluation 18 Months Later

Rob W. Weir, Borden Ladner Gervais LLP

Martha Mackinnon, Executive Director  
Justice for Children and Youth

The *Safe Schools Act* was significantly amended by Bill 212, which came into force on February 1, 2008. This session is your chance to hear how Boards have dealt with these additional obligations and changes.

- Implementation and evaluation of strategies
- Interpretation of safety of the school vs. mitigating factors and other factors
- Investigations and searches
- Impact on school climate
- Issues and strategies with respect to special education
  - mitigating factors; progressive discipline; intervention strategies
- Tracking students and behaviour relative to suspension/expulsion/violent incidents
- Child and Family Services Review Board decisions

**12:15** Networking Luncheon

**1:00** A Primer on Harassment

Roderick C. Flynn, Evenson Bundgard Flynn

Allyson Otten, General Counsel, Ontario Principals' Council

- Developing proper policies to prevent and/or deal with harassment
- Parental harassment
  - when parental discord becomes harassment and/or abuse
  - strategies for addressing harassment
  - proactive and reactive responses to parental concerns
  - overview of statutory and civil remedies, and defamation
- Workplace harassment
  - what is workplace harassment and how is it different from a human rights issue?
  - what are the legal and practical considerations (both common and labour law) school boards must entertain in devising a workplace harassment policy?
- What are the important elements of a workplace harassment investigation?
- Formal vs. informal resolution processes
- Investigating internal complaints
  - how should these be conducted?
  - timing issues - when must allegations be responded to?
  - protecting confidentiality
  - knowing when to call in Board officials
  - failure to deal with allegations
  - disciplinary process
  - liability of School Board

**2:00** Refreshment Break

**2:15** Personal and Confidential: Safeguarding Student/Staff Privacy in Schools

Brenda Stokes Verworn, Board Lawyer, District School Board of Niagara

School boards in Ontario operate in a complex legal environment in which various pieces of legislation must be taken into account when making determinations regarding student information and privacy. It is essential education professionals comprehend these requirements to avoid costly errors.

# Agenda

- Understanding the evolving privacy and access-to-information legislation
  - MFIPPA and FIPPA
  - PHIPA
  - balancing openness and accountability with privacy and confidentiality
- Collection, usage and disclosure of personal information
  - definition of personal information
  - notice requirements
  - rules of collecting personal information
  - rules for using personal information
  - rules for disclosing personal information
  - discretionary and mandatory exemptions to disclosure
- Emergency disclosure of personal information
  - does life trump privacy?
  - medical scenarios
  - threat assessment scenarios
  - risk of harm to self or others
- Posting information on websites
  - access and privacy issues on the internet
  - best practices
- Labour and employment matters
  - employment status and salary ranges
  - employment history or credentials
  - terminations
- Requests for information
  - ten ways to get information from school boards
  - making a formal FOI request – to whom and how?
- Tips for schools on handling requests for information from various entities
  - Medical Officer of Health
  - Children's Aid Societies
  - Office of the Children's Lawyer
  - police services
  - OSBIE insurers
  - legal counsel for parents/students
- Access to school records
  - the OSR - what you need to know
  - s.266 *Education Act* and the OSR Guidelines
  - who is a parent/guardian?
  - custodial disputes
  - court proceedings
- New initiatives at school boards
  - PIM Task Force
  - school transportation consortiums

## 3:15 Ontario Equity and Inclusive Education Strategy: What You Need to Know

**Kurt McIntosh**, Central Supervising Principal for Equity  
Toronto District School Board

**Sandy Yep**, Director of Education and Training  
Canadian Race Relations Foundation

Ontario is taking important steps forward to promote equity, reduce discrimination and embrace diversity in schools to improve overall student achievement and reduce achievement gaps. The Ontario Equity and Inclusive Education Strategy – launched in April 2009 – ensures that all members of the school community are treated with respect and dignity, and helps educators better identify and remove discriminatory biases and systemic barriers to student achievement.

Included in the strategy document is a four-year plan that mandates all of Ontario's school boards to develop and/or

revise policies on equity and inclusive education for implementation by September 2010.

This session is your chance to hear how this will impact your roles and obligations, what you need to know to be prepared and strategies for implementation.

## 4:15 Chairs' Wrap-up; Day One Adjourns

### Day Two - December 1, 2009

## 8:30 Welcome from the Chairs and Review of Day One

## 8:35 Negligence and Liability Concerns for Schools

**Bruce Hutchison**, Genest Murray LLP

**Teresa Drijber**, Claims Manager, Ontario School Boards' and Insurance Exchange

**Scott McLarty**, Director of Risk Management, Safety & Health  
Strathcona-Tweedsmuir School Board

Concern over the safety of students in and out of the school has increased, which has meant a significant increase in the possible liability of schools and school boards. This session will provide an in-depth overview of key concepts and your legal obligations. Topics include:

- Impact of liability on school administration
- Liability issues in school settings
  - duty of care – when are you responsible?
  - standard of care – what is expected of you?
  - conduct off school property
  - liability outside of school hours
  - occupier's liability
  - establishing and maintaining a supervision system
  - duty to warn third parties
  - legislated duties pertaining to health and safety
- Bullying – in and out of the school
- Medical conditions, allergies and anaphylaxis
- Practical strategies for managing risk
- Extra-curricular activities and school excursions
- Using students in risk management strategies
- How school principals and administrators can effectively and efficiently fulfill their legislated responsibilities specific to safety, security and risk management

## 10:10 Refreshment Break

## 10:25 Understanding the *Charter of Rights and Freedoms* and *Human Rights Code*

**Paul Howard**, Shibley Righton LLP

The *Charter of Rights and Freedoms* and the *Human Rights Code* are complex and complicated. It is vital for educators and their counsel to understand that the *Charter* and the *Code* impact decisions that are made on a day-to-day basis within the school community. Topics include:

- *Charter* and *Code* rights in the school discipline context
- Freedom of expression: teachers and students
  - right to speak out – where is the line?
  - when does this become harassment? bullying?
  - inside vs. outside the school
  - teacher communication boards
- Freedom of conscience and religion
  - opening exercises; holiday celebrations; religious artifacts; dress code policies

# Agenda

## 11:35 Child Protection Investigations

**Randolph Hammond**, Counsel, Children's Aid Society  
(Middlesex County)

**The Hon. Justice Marvin A. Zuker**, Ontario Court of Justice

- Role of the educator and administrator
  - what are your obligations?
  - understanding the child's rights
  - role of the Office of the Children's Lawyer and CAS

## 12:20 Networking Luncheon

## 1:00 The Youth Criminal Justice Act – Understanding Your Obligations and Responsibilities

**Martha Mackinnon**, Executive Director  
Justice for Children and Youth

**Brenda Bowlby**, Hicks Morley Hamilton Stewart Storie LLP

School boards and senior school administrators have many issues to consider as part of their responsibility when providing a safe learning and working environment for students and staff. This session will focus on:

- Privacy rights and search and seizure issues within the school
- Role of police and the criminal justice system
- Dealing with juvenile crime in and out of the school
- Student's right to privacy in schools (under the YCJA; the *Charter*)
- What information can school board administrators receive from the police about students who have been charged pursuant to the YCJA?
  - can schools use this information?

## 2:20 Refreshment Break

## 2:35 Safe Schools: Understanding and Managing Your Legal Risks and Obligations

### Moderator

**Robert G. Keel**, Keel Cottrelle LLP

### Panellists

**Tony Pontes**, Superintendent, Staff Development & School Support Services, Peel District School Board

**Michael Prospero**, Superintendent of Schools (retired)  
Mississauga North, Dufferin-Peel Catholic District School Board, Consultant

**Alex Tucciarone**, Superintendent of Schools, Mississauga North Dufferin-Peel Catholic District School Board

How do you balance your duty to follow the *Education Act*, keeping the school safe, while not violating civil liberties? Participants, along with faculty, will reflect, discuss and analyze fact situations that will reinforce your grasp of critical issues. Topics include:

- Student disciplinary rights
- Avoiding human rights complaints in disciplinary matters
- When must parents/guardians be called and become involved?
- Overview of school board settlements with the Ontario Human Rights Commission
- Extent of school's responsibility with respect to discipline and students' rights a school administrator must follow
- Considerations when developing disciplinary guidelines
- Importance of fostering relationships with police and community
- Handling disciplinary problems through effective classroom management regimes

- what is the role of the administration? the teacher?
- Understanding the legal protocols that must be followed when investigating student disciplinary matters
  - how should the interview be conducted?
  - where can the interview be conducted?
  - questions that must and should be asked
  - what can and should be recorded?
- Procedures that must be followed when suspending/expelling
- Bullying in a digital age
- Search and seizure concerns: scope, procedures when conducting search, search of student vs. search of student property. What is student property? School property?

3:45

## Course Review & Concluding Remarks; Course Concludes

### Optional Post-Conference Workshop

#### *Reducing School Violence: Roundtable on the Legal Challenges and How to Manage Them*

December 2, 2009 - 9:00 a.m. - 12:00 p.m.

#### Moderator:

**Julian N. Falconer**, Falconer Charney LLP

#### Panellists:

**Anthony Bryant**, Barrister

**Allan Hoyle**, Superintendent, York Region District School Board; Chair, Character Community Foundation of York Region

**Peter Barrans**, Principal, Safe Schools, Toronto Catholic District School Board

Join an interactive discussion on the current safe schools issues affecting educators today, to deepen your understanding of the complex legal issues in this area and how to handle them. Using real-life examples and fact scenarios, you'll hear first-hand how stakeholders are dealing with the escalation in school violence and the steps they have taken to minimize exposure to liability. Led by Julian N. Falconer, Chair of the TDSB School Community Advisory Panel (established in response to the Jordan Manners shooting at C.W. Jefferies C.I.) the discussion will include:

- Knowing your legal obligations, risks and responsibilities
- What can be done to strengthen the commitment of school boards to ensuring a safe learning environment in schools?
- Response of the boards
- Considerations to be aware of
- Practical strategies for minimizing liability
- Progressive discipline
  - operational framework for administrators, teachers, students and parents with a structure, protocol and process to deal with student behaviour
- School culture and character development
  - proactive initiatives, including: character education, committees and police programs

# Registration

**"Sign up for both days - both are very valuable and interrelated!" (2009)**

Register me for:  Day 1: November 30, 2009  on site  via webcast - single viewer

Register me for:  Day 2: December 1, 2009  on site  via webcast - single viewer

Register me for:  Post-Conference Workshop: December 2, 2009 \* On site only

I am unable to attend. Please send me information about ordering program materials.

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Workshop Only: \$200 plus 5% GST for a total of \$210.00 (not available via webcast)

Fees include attendance, program materials, break refreshments, continental breakfast and lunch (conference only). Please inquire about financial assistance. The fee is for a single webcast viewer. For group discount information, please contact us.

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## Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

## Dates & Times

November 30 & December 1, 2009

Day One: 8:30 a.m. to 4:15 p.m. EDT/EST

Day Two: 8:30 a.m. to 3:45 p.m. EDT/EST

December 2, 2009

Post-Conference Workshop: 9:00 a.m. - 12:00 p.m.

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

## Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute a full refund (less \$50 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

## Location

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-  2. **ONLINE** at  
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-  3. **FAX** your registration to  
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1.888.923.3394