

FINDINGS AND RECOMMENDATIONS

***Results of the Advocate's Investigation into the Decision of the
Department of Education and Early Childhood Development to Place
Policy 713 Under Review***

SUBMITTED TO THE LEGISLATIVE ASSEMBLY MAY 16, 2023

PURSUANT TO SECTION 19(1) OF THE CHILD, YOUTH AND SENIOR ADVOCATE ACT

KELLY A. LAMROCK, K.C.

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(NOTE: Pursuant to Section 23(2) of the *Child, Youth & Senior Advocate Act*, where materials were provided in one official language they have been reproduced in that official language)

ADVOCATE'S SUMMARY

"Last week someone told my child to kill themselves"

- A parent of an LGBTQI2S+ student

May 8, 2023

As a parent, I don't know how you could feel anything but rage upon hearing that. How could someone so casually wish for your worst nightmare to come true? How could anyone see your child's life as disposable? And over what? Because of who they love? How they dress?

An hour after that parent told their story on Twitter, someone with "Patriot" and a bunch of numbers in their Twitter handle responded by telling the parent that he hoped the government would break up his family and force his kid into foster care.

That kind of hate is out there. It knows it isn't in the majority. It feels the dustbin of history coming for it, just like it came for the angry faces in fading pictures of those who stood in front of schools to keep them segregated.

But it only takes a few hateful voices to inflict damage on a child. Adolescence is a tough time. A pimple can make you want to hide for days.

Now imagine being a kid who's just trying to figure out who you are, and hearing that who you think you are makes some people wish you were dead. That they think your life is disposable as long as they win their argument.

We know that takes a toll. LGBTQI2S+ youth are more likely to get bullied. To get assaulted. To spend every day with that feeling that you get in the pit of your stomach when you're a kid who feels alone and you never know when the next shouted insult or punch is coming. Or when you'll get cornered somewhere where no one can help you.

Some wind up in emergency rooms in crisis. And some — five times the national average — actually kill themselves.

As always, the many decent people have to stand between the few hateful ones and the children they would harm.

Fortunately, the elected members of the Legislature are decent people. All of them. Those who work for the Department of Education are decent people. All of them.

Sometimes, decent people have a hard time believing how much hate is out there. Because they would never act like that.

There's plenty of reasons why decent people might review a policy. Just trying to listen to everyone. Just wanting to have a discussion on some details. Just tweaking a few things. They really mean no harm.

Here's the thing, though. Hate will always seek a platform. Hate will play on decency of good people to grab a microphone and use words and intimidation to silence kids in ways the law won't allow. So, if you're going to review a policy, like Policy 713, you'd better be clear about what details you're reviewing. Because if you treat it like just another review, a loud minority will use that platform to attack vulnerable kids and make them feel scared and ashamed of who they are.

This is not speculation. We just saw it happen. On May 4th, the Department put out a statement suggesting that maybe it doesn't support a workshop on safe spaces. The next day, teachers had to go to work walking through a group screaming, with someone holding up a sign calling them perverts just because they want to be nice to every child they teach.

The Department condemned that group afterwards. And good for the Department. But now we have to learn from that. We have to learn how easy it is to accidentally encourage the very worst folks to come out. And we have to do learn that lesson before the next person who has to walk into a school through that kind of hate is a scared kid who's barely hanging on.

Once is a teachable moment. Twice would be negligence.

The letter I sent the Department on May 10, 2023 contains the findings and recommendations of the review I launched on April 28, 2023. I respect the prerogative of the Minister to review policies. My recommendation for process is that the Department suspend its review until they have clear terms of reference. Those terms of reference should put in writing the encouraging words that the Minister has offered in interviews — that the review is not going to make human rights a political debating point and throw vulnerable kids into the culture wars of adults.

My investigation discovered that no written complaints about Policy 713 came from teachers or students — the people who live every day in our school communities. In my respectful view, that matters. There may be some who would like to insert themselves into the school community to tell vulnerable kids that they don't like their choices, or their freedoms, or them. Politics is just letting the culture wars rage past the school doors. Leadership is drawing lines that keep our kids safe. And I believe that all MLAs must practice politics but strive to be leaders.

This report uses blunt language. There's a reason why. The thing about rights is that we have them even when they are unpopular. Some voices want to push the review to a point where it reopens the debate on children's rights. Those voices can vote, write MLAs, donate to campaigns, organize protests. You can see the emails they sent appended to the report.

That scared teenager can't do all that like adults can. That's why the Legislature hires an Advocate and makes that Advocate free to speak bluntly without fear or favour. Those who are elected are charged with deciding. The Advocate is charged with bluntly providing you with the interests and voices of the children who you may not hear otherwise.

With this report, I am discharging my duty to the best of my abilities. And I wish MLAs the best in discharging theirs.



Kelly A. Lamrock, K.C.
Advocate



Messrs. Robert Penny and Ryan Donaghy
Deputy Ministers, Education and Early Childhood Development
Province of New Brunswick

May 10, 2023

Dear Sirs:

I have completed my review of the decision to review Policy 713 and the Department's process in reaching that decision. It is my usual practice to provide the Department with my findings and recommendations and to invite comment. I am doing that in this letter.

First, I want to thank you and your team for providing straightforward answers to the questions asked. This process works well when departments respect the need to establish facts. Your Department did that and it should be noted.

Second, I want to state clearly that I presume good faith and good intentions among decisionmakers on this file. Neither the Government of New Brunswick nor the Department of Education and Early Childhood Development have shown any past evidence of anti-LGBTQI2S+ bias. Of course, there are decisions where there can be reasonable criticism, and reasonable explanations for the decision. There have also been positive decisions that have furthered inclusion and acceptance, including expansion of gender designations on identification cards to the adoption of Policy 713 itself. That should be acknowledged, and I acknowledge it.

It was a positive development that the Department, through a spokesperson, made it clear that the extreme and hateful language teachers were confronted with at their professional development activity was wrong. It was a positive development that the Department, through a spokesperson, made it clear that it respects and intends to follow the *Human Rights Act*. I take those steps as an expression of the Department and the government's intentions to work towards inclusion, respect, and acceptance of all New Brunswickers. Unless and until I am told otherwise, I am attributing those motives to everyone involved.

Having said that, the law requires me to provide my honest opinion to those in power. Having reviewed the information provided, I am going to do that.

The Department has a broken and incoherent process underway. That broken and incoherent process will lead to results that are inconsistent with the good intentions we know that the Department has. It will not be good for children.

I do not offer that assessment lightly. Of course, it is my job to not just criticize, but to explain why I have reached that conclusion and to offer constructive advice on how this process can be fixed.

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- (1) Policy 713 is a document that defines the rights of a vulnerable group of children. It was developed with care. It should be reviewed with care.**

We know that LGBTQI2S+ youth are at demonstrably higher risks of bullying, violence, and suicide. Anti- LGBTQI2S+ hate has been a factor in some of the toughest files this office has reviewed. The most important function of policies like Policy 713 is to make it clear that hate, bullying, and violence are not socially acceptable. The Policy was developed over several years and governments with different political stripes and different ministers. That matters because it sends a message about the social consensus. If it is tossed aside with less care and consideration than went into its adoption, that can send a message that I am sure is unintended.

- (2) The Department is not reviewing Policy 713 with care or seriousness.**

The Department chose to explain the review as arising from “misinterpretations and complaints”. This has appeared in public documentation and correspondence from senior officials, including in the Department’s response to the Advocate. My questions and information requests were designed to see the substance behind the talking point.

When I asked to see these “misinterpretations and complaints” which led to the review the Department provided me with a total of four emails. One email is from a desperate parent of a trans child seeking protection from online harassment by a parent and urging that this be part of Policy 713. (It is part of Policy 713. Policy 713 incorporates Policy 703 and Policy 703 clearly applies to both parents in a school community and to online bullying if they impact the learning environment.) In no way could this email be seen as a call for a review. It is a request to enforce the Policy as it stands now.

That leaves a total of three emails. I cannot think of any other case where “three emails in thirty months” has been the threshold for the reversal of government policy. Surely projects such as local government reform or health care restructuring would not be reversed upon receiving three complaints. I am not sure any government decision could survive if receiving three complaints led to reconsideration. This is even more striking considering that the Department has also confirmed that there were no benchmarks in place to measure the success or failure of Policy 713, no Minister or Deputy sought or received any report on the operation of Policy 713 in the six months prior to the notice of review, and no interpretation questions were raised with the Office of the Attorney-General for legal advice.

I recognize that senior officials could review policies simply because they want to. However, that is not the explanation the Department chose to offer. The Department is attributing the change to the public response, and that public response is not at a level that has been applied to other government policies affecting the general population.

I also note that the objections cite grounds that are not actually part of Policy 713. One repeats the now-debunked myth that children are using litter boxes and identifying as cats.

While this is something the podcaster Joe Rogan has acknowledged lying about, it is not part of the Policy. My investigation found that there is no known case of this in New Brunswick schools.

Another email suggests that the policy should be rejected to fight “the influence of the World Economic Forum”. I can find no record of the World Economic Forum participating in the development of Policy 713.

Two emails suggest that having material that mentions LGBTQI2S+ people creates a hostile environment for Christian students. Policies already ban any discrimination against Christian students. However, material that mentions one group is not discriminatory against other groups. In fact, Christian, straight and cisgendered people are widely mentioned in educational material. The language arts and social studies curricula present many historical and literary figures who identify as Christian, as well as straight and cis-gendered, and these choices are generally presented as positive or neutral. (Just the recommended Shakespeare plays alone make this obvious. Romeo and Juliet are straight cis-gendered Christians and are assisted by a Friar who is the most benevolent character in the play. King Malcolm in Macbeth is openly Christian and prays for Macbeth’s Christian soul. A Midsummer Night’s Dream concerns itself with an opposite sex marriage receiving Christian blessing and two straight couples lost in the woods. Even Oberon and Titania, the faerie king and queen, are cis-gendered and straight)

When someone complains about a policy based upon a misinterpretation, the usual practice is to explain the policy to the person who misinterprets it. We don’t usually amend laws the first time someone misunderstands them.

It is further relevant to note that not one single complaint or misinterpretation came from a teacher, support staff member, student, or elected DEC member. The people who actually live in the school community and are affected by Policy 713 have not provided any “misinterpretations or complaints” whatsoever.

This is concerning to the Advocate for this reason -- **if policies affecting the rights of children who are LGBTQI2S+ can be pulled back on a lower threshold than any other policy would be, it leaves the impression that those making the decision see these rights as lesser than other government policies.** That impression, while surely not intended, can cause real harm to children.

- (3) The Department is being unclear as to what problem they are trying to address in the review of Policy 713, and that is creating a vacuum which can be filled by the worst assumptions.**

Hate craves the appearance of social acceptance. It is entirely possible for a well-meaning person to review policies like Policy 713 out of a sincere desire to balance competing rights and legitimate interests or to update best practices. I can assure you that the Advocate would show great deference to the Minister’s prerogative to review policy whenever that review is clear and well-defined. It has been the Advocate’s practice on contentious but well-defined issues such as second language education to let those who are elected have the debate.

When launching reviews of the rights of vulnerable children, well-meaning people must take great care to affirm that the rights themselves are not up for debate. If the scope and reasons for review are unclear, people who want to attack vulnerable people and their rights will grab that opening to inject hate and misinformation into the debate. In turn, that will cause vulnerable children and their families to resist the process entirely.

It would be a disservice to everyone for this review to become a forum for fights about the rights themselves. Policy 713 did not create new rights in society. As the Policy itself notes, those rights were determined through the *Charter* and the *Human Rights Act* through a democratic and constitutional process. The right of free people to choose their romantic partners and their identity exists at law. Teaching those freedoms is simply a case of teaching the law as it clearly exists. It is a factual and non-political statement to teach the legal freedoms that exist, just as it is a factual, non-political statement to teach that New Brunswick has 49 MLAs, or that Canada has a monarch, or that New Brunswick is a bilingual province. We don't stop teaching those facts even if some wish they were not true.

What Policy 713 does do is affirm that the school community will conduct itself in a way consistent with those freedoms and expect all members of the community to respect choices of other free individuals even if their own free choices are otherwise. In this way, children learn to become citizens in a society that gives us freedom to make and explain our individual choices while allowing others to make and explain theirs.

I asked the Department if it could be specific about which sections of Policy 713 were under review in part because it gave the Department an opportunity to identify sections that are **not** under review. This would be helpful. For example, Section 5 of the Policy sets out the following goals and principles:

5.1 All members of the school environment have the right to self-identify and express themselves without fear of consequences and with an expectation of dignity, privacy, and confidentiality;

5.2 All members of the school environment have the right to learn and work together in an atmosphere that is respectful and free from harassment and discrimination;

5.3 It is important that all students have a sense of belonging and connection to their school environment. Students should feel that they are supported by school personnel;

5.4 School personnel will create a culture whereby LGBTQI2S+ students see themselves and their lives positively reflected in the school environment;

5.5 It is important to collaborate with community stakeholders to support the needs of all LGBTQI2S+ members of the school environment; and 5.6 Support groups such as Gender and Sexuality Alliances (GSA) are important and provide a safe space for students. Gender and

Sexuality Alliance and school personnel will work together to create a safe and inclusive school environment for LGBTQI2S+ students.

It is important to ask – are any of these goals and principles up for debate? If the goals and principles are up for debate, then decisionmakers should say so and be accountable for explaining that position. If those goals and principles are not up for debate, it would be very important that senior leadership at the Department clearly state that.

Because the Department has publicly stated that it intends to respect human rights, it appears that these goals are not up for debate or review. Making that clear would accomplish two things. First, it lets anyone who would prefer to attack LGBTQI2S+ rights instead of address the actual issues under review that they should not bother. That will make the debate more welcoming for everyone and make the review far more efficient and focused for government. After all, if government has no intention of rejecting human rights, why waste the time of busy ministers and deputies hearing from those who want human rights rejected?

Second, assuming that there are issues of implementation that need to be discussed, it will help to make it clear to all members of the school community that they do not have to start by defending their basic rights to exist and be free from harassment. There are legitimate issues where people of good faith can discuss details – how to balance inclusion with competition in sports, what materials are age-appropriate, how current events can be debated and discussed while respecting free speech. That rights exist is not debatable, but how they are balanced allows for reasonable discussion of details and nuances. People rarely feel free to focus on details if they perceive that they have to first justify their right to “dignity, privacy and confidentiality” or be “free from harassment or discrimination.” Making it clear that these principles are not being reviewed will give the Minister and Department the moral legitimacy to lead the more nuanced discussions.

- (4) **The Department needs to be clear on the status of Policy 713 during any review period. The actions of the Department have created a lack of clarity.**

The Department was unequivocal in its response to my question about the status of Policy 713. The Department clearly advised the Advocate that:

“The Policy has not been suspended; it will be reviewed. The Policy still exists in whole as of the date of your correspondence”

If this is true (and I assume it is), then it is inappropriate to cite the review as the basis for cancelling any event, activity or material designed to support the Policy. Because either the review suspends the Policy, or it does not. Since the Department says that the review does not change the Policy, then the review itself cannot be the basis for changing any act furthering the Policy.

Of course, the *Education Act* already allows the Department to question or even disallow any activity on the grounds that it is inconsistent with Policy 713 or any other policy. If activities are not age-appropriate or outside the scope of the Policy, then the Department has the power to intervene. It just has to cite its specific objection and grounds under existing policies.

What the Department cannot do is tell the Advocate that the review does not affect the Policy, and then ask educators to stop supporting the Policy as they were before the review. That would be incoherent and chaotic as a management practice.

The events of May 5, 2023 show exactly the risks of allowing that incoherence. It is clear that the NBTA had planned a number of professional development activities. I should specify that while the NBTA organizes these activities, they do so in collaboration with the Department. There has always been a clear understanding that the Department provides the time for these activities and the NBTA ensures that the activities are consistent with the policies and curriculum set by the Department.

The email the Department disclosed to the Advocate confirms that this collaboration existed. On April 21, 2023, the Deputy Minister wrote to the NBTA advising that it was “government’s intention to review the policy given recent misinterpretations and concerns brought forward.” The Deputy Minister went on to make a request as follows:

“To that end, we would ask that the policy not be presented and staff from the Department will be unable to present on that item.”

If the answer to the Advocate was accurate and “the Policy still exists in whole” as of the Advocate’s letter of April 28, 2023, then on what basis would the Department ask the NBTA to not present the Policy? The policy cannot be Schrödinger’s Cat, both alive and dead at the same time. If the Policy continues in effect, then the NBTA should continue to give its members tools to support the Policy.

Further, this email calls into question the accuracy of the Department’s public assertion that the NBTA alone was responsible for the professional development activities of May 5, 2023. If it was necessary to clarify that “staff from the Department will be unable to present on that item”, that clearly implies a previous shared understanding that Departmental staff would participate. The Department’s subsequent public disavowal of the session gave the public impression that the NBTA was a rogue actor. It was not. It was following a policy which the Department was still telling the Advocate was fully operative and in force.

It is positive that the Department issued a statement condemning the harassment and personal attacks teachers were confronted with when they went to do their jobs on May 5, 2023. Because I believe in the good intentions of the Department, I expect that they will draw the obvious lesson that the Department’s lack of clarity encouraged fringe actors to engage in hateful and harassing behaviour. I also note that the Advocate has heard from parents whose LGBTQI2S+ children were subject to harassment after these events were in the news. I made

the point above that a lack of clarity and definition in the review will encourage extreme behaviour. The events of May 5, 2023 show how quickly this warning can be realized.

- (5) Policy 713 still allows for the Department to ensure that materials and activities are age appropriate. However, it is important to remember that those standards should be the same as those for material which depicts straight or cis-gendered relationships.**

I want to be clear that the existence of LGBTQI2S+ students is not, in and of itself, sexually explicit. We accept all the time, without thinking, the identity of heterosexual cis-gendered students without sexualizing their existence. Non-discrimination means allowing all students the same freedom to exist and express themselves.

The fact that there human beings form couples, that these couples have unique relationships, and that these couples can welcome children into their family are all facts that even small children are aware of. How often do heterosexual people post pictures of their family? How many children's books show a child with a mother and father? Isn't it common for very young children to know that their parents met each other and chose to be a loving couple?

These facts are not sexually explicit. They can be appropriately shared whether the parents are the same or opposite gender. They can be appropriately shared when they involve LGBTQI2S+ couples or heterosexual, cis-gendered people. Questions of age-appropriateness come from the level of detail, not the identity of the people in a family.

In the three emails that the Department says led to the review, and in the accusations hurled at teachers on May 5, 2023, there appears to be an assumption that the mere existence of LGBTQI2S+ children is explicit or disrespectful to the religious sensibilities of others. This is completely false. As I have noted, educational materials acknowledge the existence of straight people so commonly we barely notice it anymore. We cannot have a double standard where some students' mere existence is seen as sexually explicit.

A number of recommended texts in the curriculum for higher grades depict sexually explicit scenes between members of the opposite sex. No one would suggest using these in primary grades. Quite the opposite, the Advocate supports the thoughtful application of standards by the Department. Those standards should be non-discriminatory.

That completes my summary of factual findings. Based upon that, and pursuant to Sections 23(1) and 23(2) of the *Child, Youth and Senior Act*, I make the following recommendations. All references to the Department and Minister are, of course, the Department of Education and Early Childhood Development:

1. The Department should cease using the fact of a review as the basis for any changes to activities or materials used to support Policy 713. This does not limit in any way the prerogative of the Department to state specific policy objections to limit activities or materials on such other grounds that may exist.

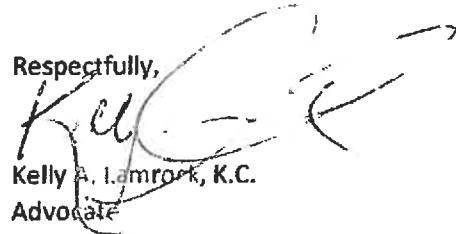
2. The Department should withdraw notice of the review until such time as there are clear terms of reference and processes in place to accompany notice of a review.
3. Any review should have terms of reference which clearly state which portions of Policy 713 are and are not subject to review.
4. The terms of reference of any review should explicitly affirm that the goals and principles in Section 5 of Policy 713 are not being reviewed.
5. Any process for the review of Policy 713 should include consultations with members of the school community, including age appropriate consultations with students and high school student councils.
6. The Department should prepare written materials and training to its staff members on what Policy 713 currently does and does not include. Guidance of the Office of the Attorney-General should be sought if there are concerns around misinterpretations of Policy 713.
7. Prior to launching any provincial review of Policy 713, the Department should engage District Education Councils to see if particular concerns (such as Sections 6.3.2 and 6.1.5 cited by the Department) can be clarified or regulated at the District level.
8. The Department should develop clear criteria for timelines and criteria for review of policies as appropriate.

None of these recommendations inhibit the prerogative of the Minister to review and revise policy. They are recommendations on how that prerogative can best be exercised. It would be inappropriate for the Advocate to declare any policy as beyond the prerogative of the Minister to review, and I certainly am not doing that here.

I welcome any comment or report from the Department on the recommendations or the reasons behind them. Any response received by Friday, May 12, 2023 at 5:00 p.m. would be included in any report I choose to make on this investigation and its results.

As always, I thank you for your help in allowing this Office to meet its statutory obligations and I wish you every success in your important public duties.

Respectfully,



Kelly A. Lamrock, K.C.
Advocate



Messrs. Robert Penny and Ryan Donaghy
Deputy Ministers, Education and Early Childhood Development
Province of New Brunswick

April 28, 2023

Dear Sirs:

The Department has recently confirmed that a review of Policy 713, *Sexual Orientation & Gender Identity*, is underway. This letter will advise that, pursuant to Section 19(1) of the *Child, Youth and Senior Advocate Act*, this office is undertaking an investigation of the decision to undertake a review and to apparently suspend at least some of the policy and corollary support materials.

In reaching the decision to exercise my statutory responsibilities in this regard, I have considered the following factors:

- (1) Policy 713 (hereinafter "the Policy") has the explicit goal of supporting a vulnerable population. LGBTQI2S+ youth are at demonstrably higher risks of bullying, violence, and suicide. Sexual orientation and gender identity are also protected grounds of discrimination under New Brunswick's *Human Rights Act* and the *Canadian Charter of Rights and Freedoms*. It is my duty to ensure that any reconsideration of policies affecting these students are driven by *bona fide* educational, pedagogical, and operational considerations flowing from our Constitutional and human rights laws as well as the documents cited in Section 9 of the Policy.
- (2) The decision to place this policy under review at this time and in this manner is a departure from established norms of policy development within the Department. In making this statement, I note that the Policy is less than 3 years old, was not slated for a review by any explicit section of the Policy or standing departmental practice and has been interrupted from its normal operation during a school year.
- (3) The Department's initial response to my questions under Section 13 of the Act were, at best, incomplete. It is unusual to have notice of a review given without any discernable procedure for review in place.

Given these factors, I have elected to investigate the decision to place the Policy under review with an eye to offering recommendations on the decision and process at the earliest possible stage so that the Department has my input. In order to complete the process under Section 19 of the Act expeditiously, the co-operation of the Department will be essential. All of the requests I am making will be for information and documents which would have to be readily at hand in making and communicating the decision to review and should be readily available, thus I believe the expedited timeline for review is easily achievable.

Pursuant to Sections 21(1) and 21(2) of the Act, I pose the following questions. All references to the Department and Minister are, of course, the Department of Education and Early Childhood Development:

1. Has Policy 713 been suspended, in whole or in part? Are any portions of Policy 713 operative as of the date of this letter?
2. Had the Department, in the last twelve months, established any benchmarks by which to measure the success or failure of Policy 713? In the last twelve months, was any report provided to the Minister or Deputy Minister of the Department, regarding the success or failure of Policy 713?
3. On what date and in what format were District Education Councils advised of the review of Policy 713? And on what date and in what format were the New Brunswick Teachers Association and the Association des Enseignants et Enseignantes Francophone du Nouveau-Brunswick advised of the review of Policy 713?
4. In the four weeks preceding the dates of notification of review to District Education Councils established in Question 3, did any employee of the Department or a District Education Council provide written advice to the Minister or either Deputy Minister regarding the success or failure of Policy 713 and/or any possible amendments thereto?
5. By emailed response to the Advocate on April 25, 2023, the Department advised the Advocate that the Department "will be doing a review of the policy given recent misinterpretations and concerns brought forward". Specifically, which "misinterpretations and concerns" did the Department receive which led to the decision to review Policy 713?
6. Given that the *Charter of Rights and Freedoms* and the *Human Rights Act* are foundational documents cited in Policy 713, Section 9, did the Department seek legal guidance from the Office of the Attorney-General regarding any of the "misinterpretations" which led to the review. If so, on what date and in what format was that guidance sought? Was that guidance received and if so, on what date and in what format?
7. What specifically is the procedure and timeline the Department will follow in the review of Policy 713? By what means will the views of educators, mental health professionals, and students be sought and heard?
8. Specifically, which sections of Policy 713 were the subject of "misinterpretations and concerns" and thus which specific sections of Policy 713 are under review? Are there sections which are acceptable "as is" and not under review?

Pursuant to Sections 21(1) and 21(2) of the Act, I am requesting the following documents that I have reason to believe would be in the possession of the Department should they exist:


1. Any benchmarks or reports as referred to in Question 2 above, in written or electronic form.
2. Any written or electronic communication with DEC's, NBTA or AEFNB as referred to in Question 3 above.
3. Any advice contained in a memorandum, briefing note, e-mail or other written document in written or electronic form which falls under the request made in Question 4 above.
4. Any correspondence containing the "misinterpretations or concerns" referred to in Question 5 above received by the Department in written or electronic form. (I note here that this is not a general request for all correspondence received by the Department on the topic – I seek only to clarify what the Department was citing as the basis for the review in its response to me of April 25, 2023).
5. Any correspondence between the Office of the Attorney-General and the Department within the ambit of Question 6 above.

I am requesting the information by 5:00 p.m. on Friday, May 5, 2023. While I realize that this is a one-week turnaround, I am working under the assumption that any of these documents would be readily available in a Department that had just launched a policy review through any reasonable process for doing so (and I presume a reasonable process). Having access to these documents will allow me to perform my due diligence without the need for the more time-consuming investigations available to me under Sections 18 and 20 of the Act.

I will, of course, advise the Department of any potential report and/or recommendations and provide an opportunity for response and comment before making any such report and/or recommendations.

As always, I thank you for your help in allowing this Office to meet its statutory obligations and I wish you every success in your considerable public duties.

Respectfully



Kelly A. Lamrock, K.C.
Advocate

May 5, 2023

Kelly A. Lamrock, K.C.
New Brunswick Child & Youth Advocate
E-mail: Kelly.A.Lamrock@gnb.ca

Mr. Lamrock:

Thank you for your correspondence of April 28, 2023 regarding the review of Policy 713. We will answer your questions in order as follows:

1. The policy has not been suspended; it will be reviewed. The policy still exists in whole as of the date of your correspondence.
2. There were no benchmarks established in regards to policy 713. There was no report provided to the Deputy Ministers.
3. District Education Councils have not formally been advised of the review, they have been told verbally. Once the process and timeline are established a formal notice will be provided.
4. There was no written advice provided to the Minister nor Deputies from staff on this matter in the four weeks preceding the decision to review the policy.
5. The following sections have been raised as concern: the application of section 6.3.2 is one of the areas that has been raised, as well as section 6.1.5.
6. No legal guidance has been sought as of the date of the correspondence, but will be as the review proceeds.
7. The review process is being established at this time.
8. The policy as a whole is under review.

Please find attached copies of electronic communication related to your request for documents.

Sincerely,



Ryan Donaghy
Deputy Minister

Sincerely,



Robert Penney
Acting Deputy Minister

Attachments: 5



[REDACTED]

Subject:

FW: 20220454 [REDACTED] Critical Race Theory aka "Anti-racism" and Gender Identity Theory

From: [REDACTED]

Sent: Tuesday, December 6, 2022 3:03 PM

To: [REDACTED] (EECD/EDPE) [REDACTED]@gnb.ca>

Subject: Critical Race Theory aka "Anti-racism" and Gender Identity Theory

ATTENTION! External email / courriel externe.

[REDACTED]

I have emailed [REDACTED] on multiple occasions regarding the curriculum in our schools regarding what is falsely being labeled anti-racism but is actually the very Marxist and racist Critical Race Theory under a different name due to the exposure of its hatred in other jurisdictions, asking if it is in any way being taught or used in any manner in our schools. As you can imagine I never got an answer. Not only am I expecting an answer from you regarding this matter but also on the issue of gender identity theory. Are our children being taught this completely unscientific nonsense that one can just pick their gender and that they aren't even necessarily a boy or girl. Our kids need to be left alone and allowed to be kids. I expect you [REDACTED] to be honest and frank with your reply.

[REDACTED]

Subject:

FW: 20220369 [REDACTED] Concern regarding the material being recommended

-----Original Message-----

From: [REDACTED]
Sent: Monday, October 31, 2022 9:55 AM
To: [REDACTED] (EECD/EDPE) [REDACTED]@gnb.ca>
Subject: Concern.

ATTENTION! External email / courriel externe.

[REDACTED] I have a major concern regarding the material being recommended to teachers and staff to read and teach to children in the classrooms.

I have met with the school [REDACTED] and I have contacted [REDACTED].
So I will forward you the same email I sent to [REDACTED].

I'm writing to you out of concern and in hopes of change.

I have already met with [REDACTED] School administrators about an issue I have, as far as the material being recommended and taught to students. I will attach my original email to you as well.

As far as education policy 322 states everything needs to be inclusive and respected, no matter of beliefs, race, religion, sex etc... Not knowing all your audiences' backgrounds, allowing such material to be taught and chosen by teachers on recommendations from district, I believe breaks that policy.

When material is being recommended by district to a teacher to choose that teaches transgenderism, that is not inclusive to all beliefs. Definitely no respect for the Christian belief or any religion's belief for that matter.

We as a Christian family do not agree with that way of life and I certainly do not need the school system to push agendas of such in a classroom where they claim the education is inclusive.

Walking into the school, there is flags everywhere, there's events promoting and supporting; is the same being done for all other groups? No. We as Christian's are a minority in today's society and to have the school system pretty much forget about the minority group when choosing material to be taught at school. (again, not inclusive) Today, I'm sure you can agree with me because it's everywhere; kids today cannot spell, read, cursive write, make change for money, you know, the basic skills needed for society... The school system is instead teaching transgender and LGBTQ2+ in the schools.

If indeed you are inclusive, education with material and recommendations regarding the LGBTQ2+ community should not be brought into the school as material to teach if all other backgrounds are not equally chosen, recommended and taught in class as well; including the Christian belief.

Very inappropriate and needless to say not inclusive!

Transgender material can be relayed to students through read aloud; would a book talking about Christian beliefs be allowed to be read in the classroom? I highly doubt it. (As [REDACTED] told me, no it would not be chosen)

Change needs to be made and as a tax payer who helps fund the school system, my child should not be demeaned or put on a back burner especially their education to please and push the agenda of the LGBTQ2+ community.

If you as a school community and district cannot please the "whole" audience without offending and disrespecting rights of certain backgrounds than those resources and materials should not be used.

On a note, I have requested [REDACTED] to not participate in the classroom while this is being read, however I'm frustrated in the fact that [REDACTED] is losing valuable learning time because district is recommending material that is indeed not inclusive to

everyone, and 100% goes against our personal religious beliefs.

I really look forward to hearing from you, in hopes of adjusting the learning material.

[REDACTED]

[REDACTED]

Subject:

FW: 20230158 [REDACTED] Gender Identity and Furrries in schools

From: [REDACTED]

Sent: Tuesday, April 4, 2023 9:51 PM

To: [REDACTED]@gnb.ca>; [REDACTED]@gnb.ca>

Subject: schools

ATTENTION! External email / courriel externe.

It has come to my attention that a grade 5 class of children at [REDACTED] school had a zoom meeting with a transgender person who told the children that they could be whatever they want to be. I'd like to know: was that person a trained educator? And why the interest to indoctrinate children into a false belief that a boy can become a girl or vice versa? Where is the education in teaching children lies and falsehoods?

I cannot believe how our society seems to have lost all common sense and allows this nonsense to take place. I am fed up with the decline of our education system, as are many other parents and grand parents that I've spoken with. Schools need to stick to reading, writing and arithmetic. The schools should have no place teaching kids about sexuality and gender choices.

Can you tell me if any schools in NB actually have, or have considered, putting litter boxes in schools for kids who identify as "furrries"? If such ridiculous ideas are being considered, please tell me why we would spend our tax dollars trying to train animals in our schools??? Cats, dogs and other animals do not belong in school and anyone with an iota of common sense knows that this is ridiculous for any human to think that they really are an animal. In case you didn't know, cats don't go to school and I dare say, would not make good employees in a real work force.

Can I count on you to help make NB great again by resisting the influence of the World Economic Forum and their far left woke friends who push for this garbage to be in our schools and health care systems. How about we actually "follow the science" and insist that humans are created male and female and nothing can change that. NB needs to stand strong and free.

Note that I am not a hater and I am not homophobic. I just want kids to grow up happy and healthy without being lied to that they need to change their gender to accomplish that. If this crap continues to be pushed on children then people with common sense will be forced to pull their kids from the public school system and search for alternate education options. I am VERY disappointed that such indoctrination would occur without the parents consent. I guess you know most would not approve.

Sincerely,
[REDACTED]