



The following is distributed on behalf of the Office of the Child and Youth Advocate/PEI, together with the appended Position Statement

PRESS RELEASE

May 22, 2025

For Immediate Release

Statement from the PEI Child and Youth Advocate Regarding the Safety of Children in Island Schools

While the Office of the Child and Youth Advocate acknowledges the many highly professional, dedicated and caring staff working in Island schools every day, the Office is deeply distressed by the events unfolding in the province's education system, with acute concern for the children and youth who have been harmed and the families whose trust in the public education system has been shaken. The Advocate stresses that children and youth cannot wait for action to ensure the safety of children and youth in Island schools.

The Office of the Child and Youth Advocate acknowledges the value and important role of the announced third-party review of the policies, procedures and processes of the Department of Education and the Education Authorities. "I hold the career and reputation of former Chief Justice David Jenkins in the highest esteem, and respect the time and space needed to conduct the third-party review," said Child and Youth Advocate Marvin Bernstein. However, Bernstein notes that a government-initiated third-party review neither precludes nor replaces an independent review or investigation by the Office of the Child and Youth Advocate.

"Under my authority as the independent statutory Officer with oversight of reviewable services provided to children and youth, I will consider the full report of the third-party review, and reserve my decision to conduct a full, independent, systemic investigation," Bernstein stated, "In making this determination, our Office will convene a Town Hall, upon the public release of the third-party review report, and I will consider the views expressed by students, parents, guardians and concerned citizens attending the Town Hall as to whether they have questions left unanswered by the third-party review that warrant an independent investigation."

The Office of the Child and Youth Advocate invites children, youth and their families wishing to provide constructive, targeted feedback to inform the Office's advisory function and to guide recommendations for immediate actions to enhance the safety of children and youth in Island schools to do so by emailing voiceforchildren@ocyapei.ca. Additionally, the Office of the Child and Youth Advocate is open to engaging and meeting with students and their families who wish to identify their experiences and share their insights to inform the Advocate's advice and recommendations for short-term and immediate actions to safeguard students.

“I extend my deep appreciation to the children, youth and their families who have connected with our Office and bravely shared their stories of feeling unsafe or unheard at school,” Bernstein says, “I assure them that our Office is listening to their concerns, and that we are committed to holding government accountable during this period”.

Backgrounder

Under the *Child and Youth Advocate Act*, the Child and Youth Advocate has the legislated oversight responsibility to represent the rights, interests and well-being of Island children and youth receiving or eligible to receive programs and services by statutorily defined reviewable services, which includes the Department of Education and Early Years, the Public Schools Branch, and la Commission scolaire de langue française. The Child and Youth Advocate is mandated under the *Act* to receive and review any matter in relation to a reviewable service provided to a child or youth (individual responsibility) or to a group of children or youth (systemic responsibility) (s. 12(1)(b)); and may advise or make recommendations to any public body or community organization responsible for providing reviewable services to children and youth on any matter relating to the rights, interests and well-being of children and youth (s. 12 (2)(h)).

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Position Statement from the PEI Child and Youth Advocate Regarding the Safety of Children in Island Schools

1. Purpose of the Position Statement

The purpose of this Position Statement is to clarify the role of the Office of the Child and Youth Advocate and to assure Island children, youth and their families of the commitment of the Office to exercise its statutory authority of oversight of provincial government reviewable services.

The Office of the Child and Youth Advocate acknowledges the many highly professional, dedicated and caring staff working in Island schools every day. They frequently extend themselves and go the extra mile to address the educational needs of their students. However, the Office is deeply distressed by the recent events unfolding in the province's education system. The Advocate is acutely concerned for the children and youth who have been harmed, and the families whose trust in the public education system has been shaken. The Office of the Child and Youth Advocate acknowledges the children, youth and their families who have bravely shared their stories with this Office through individual advocacy and broader systemic conversations.

2. The Role of the Office of the Child and Youth Advocate

Under the *Child and Youth Advocate Act*, the Child and Youth Advocate has the legislated oversight responsibility to represent the rights, interests and well-being of Island children and youth receiving or eligible to receive programs and services by statutorily defined reviewable services, which includes the Department of Education and Early Years, the Public Schools Branch and la Commission scolaire de langue française. The Child and Youth Advocate is mandated under the *Act* to receive and review any matter in relation to a reviewable service provided to a child or youth (individual responsibility) or to a group of children or youth (systemic responsibility) (s. 12(1)(b)). Further, the Advocate may advise or make recommendations to any public body or community organization responsible for providing reviewable services to children and youth on any matter relating to the rights, interests and well-being of children and youth (s. 12 (2)(h)).

3. Concerns Regarding How the Current Process has Unfolded

Based on his escalating concerns regarding the events of recent weeks, the Advocate initiated contact with the Department of Education and Early Years following the Premier's statement in the Legislature that there would be an announcement of an 'independent investigation' the following week. It is lamentable that despite the Office of the Child and Youth Advocate being referenced during the Spring sitting of the

PEI Legislature by the Official Opposition on two consecutive days, there was no direct outreach from the Department of Education and Early Years to the Office of the Child and Youth Advocate – the statutory independent Office of the Legislative Assembly responsible for children and youth.

While constructive discussions have since taken place between the Office of the Child and Youth Advocate and the Department of Education and Early Years, a preferable course of action would have been early, proactive and direct communication with the Office of the Child and Youth Advocate by the Department of Education and Early Years and the Public Schools Branch, particularly with respect to the Advocate's statutory role of oversight of public bodies providing reviewable services to children and youth; the Advocate's mandate to receive, review and advise on individual and systemic issues affecting the rights and best interests of children and youth; and the Advocate's role in conducting independent systemic reviews and investigations.

4. Uncertainty Regarding the Duty to Report

The Office of the Child and Youth Advocate is troubled by the pervasive lack of understanding demonstrated regarding the duty to report child protection concerns. The focus should not be on providing more investigation training for staff working within the education system. There is a simple mandatory duty under both the *Child, Youth and Family Services Act* ("without delay") and the *Education Act* ("immediately") to report to the Director of Child Protection or the police based on "reasonable grounds to suspect" that a child (student) is in need of protection. The applicable statutory language does not say "reasonable grounds to believe" which would require a higher degree of certainty, or "reasonable grounds after verification of protection concerns". The current wording is acknowledged in caselaw and guidance statements as setting a very low threshold for reporting to Child Protection Services or to the police, who are the authorities responsible for verifying and investigating reports. The Office of the Child and Youth Advocate is deeply concerned with the perception that the private verification of protection concerns on the part of educators and other staff working in schools is required or precludes mandatory reporting to Child Protection Services or to the police.

5. A Third-Party Review versus an Independent Investigation

Throughout the Spring sitting of the PEI Legislature, the *third-party review* announced by the Minister of Education has been conflated with an *independent investigation*. To be clear, the Office of the Child and Youth Advocate acknowledges both the statutory right of the Department of Education and Early Years to direct an Inquiry in respect of an Education Authority under s. 38 of the *Education Act*, as well as the value and important role of the announced third-party review of the policies, procedures and processes of the Department of Education and Early Years and the Education Authorities. The Office of the Child and Youth Advocate holds the career and reputation of former Chief Justice David Jenkins in the highest esteem, and respects the due time and space needed to conduct the third-party review.

Notwithstanding the value of a third-party review, it must be noted that such a review, although conducted by a third party, remains government- directed, with the Department of Education and Early Years and

Public Schools Branch controlling the Terms of Reference, compensation to the reviewer, and ultimately, the decision as to what content is publicly released and how this is done. In addition, a third-party review, in and by itself, does not provide the public with any assurance that there will be a mechanism for objectively monitoring and publicly reporting on the implementation of the recommendations contained in the third-party report.

It is important to note that a government-initiated third-party review neither precludes nor replaces an independent investigation by the Office of the Child and Youth Advocate. An investigation by the Child and Youth Advocate, if undertaken, would differ from the third-party review in that it would be an independent process conducted through a child-rights lens aimed at making recommendations to improve the effectiveness and responsiveness of reviewable services. Such a review or investigation would be systemic in nature, reaching conceptually and temporally beyond the specific case at hand and exercising the Advocate's statutory power to compel information across government departments. Under the *Child and Youth Advocate Act*, the Office of the Child and Youth Advocate would be responsible for monitoring and publicly reporting on recommendations resulting from its own review or investigation.

6. Rights of Students and Obligations of the Department of Education and the Education Authorities Cannot be Placed on Hold During the Third-Party Review

Substantive actions and the convening of public meetings to address the safety of children and youth in Island schools on the part of the Department of Education and Early Years and the Public Schools Branch have been deferred pending the results of the third-party review. The reality is that Island students continue to attend school every day, with no immediate actions taken to ensure children, youth or their families, that schools are safer places today than they were before recent information entered the public discourse. The position of the Office of the Child and Youth Advocate is that students and their families do not have time to wait. The Office recognizes the rights of children and youth to receive an education; to be protected from all forms of violence and harm; and to express and have their views seriously considered on matters that affect them. These rights of students and corresponding obligations on the part of the Department of Education and Early Years and the Education Authorities cannot be placed on hold while the third-party review is taking place out of a sense of convenience or for the avoidance of accountability. Island children, youth and their families require clear, timely information and communication, as well as action steps to ensure safety at school, in the interim.

7. Actions of the Office of the Child and Youth Advocate During the Period of the Third-Party Review

A. Public Education

The Office of the Child and Youth Advocate is committed to enhancing its communication and outreach efforts in fulfilment of its mandate under s. 12(1)(c) of the *Child and Youth Advocate Act* to promote and provide public education and advocacy respecting the rights, interests and well-being of children and

youth. The Advocate also recognizes the opportunities provided by the unfortunate current events to increase public knowledge and understanding of the mandate, role and functions of the Office of the Child and Youth Advocate.

B. Individual Advocacy

The Office of the Child and Youth Advocate has a mandate to provide Individual Advocacy supports directly to children and youth who engage with reviewable services, including education. Individual Advocacy provides individual children and youth with supports to have their voices heard, to empower them to participate in decision making processes, and to facilitate the space for them to ask questions when specific decisions are being made about them. Individual Advocacy supports can include educating children on their rights; helping children navigate reviewable services; attending meetings with or on behalf of children to ensure fair process when decisions are being made about them; and helping children to navigate complaint and appeal mechanisms within reviewable services, such as the education system, to ensure that their rights are being upheld. For further information, or to connect a child or youth to Individual Advocacy supports related to specific decisions or reviewable service issues, please contact the Office of the Child and Youth Advocate by calling (902-368-5630) or emailing voiceforchildren@ocyapei.ca.

C. Systemic Advocacy – Invitation to Children, Youth and Families to Provide Constructive, Targeted Feedback to the Office of the Child and Youth Advocate

Unlike individual advocacy which focuses on advocacy for a specific child or youth and is youth-led, systemic advocacy is focused more broadly on addressing the underlying causes of recurring gaps in the services and programs of publicly funded reviewable services affecting the rights, interests and well-being of large segments of children and youth. Systemic advocacy seeks to influence and improve laws, policies, practices and service outcomes impacting upon children and youth. During the period of the third-party review, the Office of the Child and Youth Advocate will engage in preliminary fact-finding from sources such as the Department of Education and Early Years, the Public Schools Branch and students and their families.

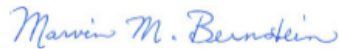
Under the authority provided in s.12(2)(h) of the *Child and Youth Advocate Act*, the Office of the Child and Youth Advocate may advise or make recommendations to any public body or community organization responsible for providing reviewable services to children and youth on any matter relating to the rights, interests and well-being of children and youth. The Office of the Child and Youth Advocate invites children, youth and their families wishing to provide constructive, targeted feedback to inform the Office's advisory function and to guide recommendations for immediate actions to enhance the safety of children and youth in Island schools to do so by emailing voiceforchildren@ocyapei.ca. Additionally, the Office of the Child and Youth Advocate is open to engaging and meeting with students and their families who wish to identify their experiences and share their insights to inform the Advocate's advice and recommendations for short-term and immediate actions to safeguard students.

8. Potential Action by the Office of the Child and Youth Advocate Upon the Completion of the Third-Party Review - A Full Independent Systemic Investigation

The Office of the Child and Youth Advocate reserves its statutory right to conduct a full, independent systemic investigation, if after considering the full third-party review report and its findings and recommendations, it identifies outstanding systemic, legislative or procedural concerns that may place children and youth at risk in Island schools. As part of this process, the Advocate commits to acting upon the feedback of children, youth and their families to inform his decision to proceed to an investigation. Upon the release of the report of the third-party review, the Advocate will convene a Town Hall meeting with students, parents, guardians and concerned citizens in order to obtain the views of the attendees as to whether the Office of the Child and Youth Advocate should undertake an independent investigation and if so, what the terms of reference and process should be.

If an independent investigation is undertaken by the Office of the Child and Youth Advocate, the Advocate has the authority to make orders requiring any person to attend to answer questions on oath or affirmation, or in any other manner, and produce any records in the person's possession or control (s.23(1)1).

Respectfully released this 22nd day of May 2025, on behalf of the PEI Office of the Child and Youth Advocate by:



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