



Office of the Child and Youth Advocate

You Asked, We Told, Who Listened?

Report of the Office of the Child and Youth Advocate

September 2026



You Asked, We Told, Who Listened?

Announcement of Investigation

The Child and Youth Advocate raises significant concerns about the safety of children and youth in Island schools resulting from the public release of confusing and misleading Sexual Misconduct Policies by the Public Schools Branch (PSB) and la Commission scolaire de langue française (CSLF). This Report considers the sequence of events leading to the publication of these policies, highlighting the ongoing confusion about the statutory duty to report child protection concerns to Child Protection Services or the Police.

The Child and Youth Advocate calls upon the Minister of Education and Early Years to take immediate action steps to remedy contradictory legislation and policy, as discussed in this Report. These steps must be taken without delay to ensure the safety of Island children and youth. Children and youth have the right to protection from sexual abuse and exploitation, as established in the United Nations Convention on the Rights of the Child, and it is the responsibility of government to undertake all necessary actions to promote and protect these rights.

The concerns raised in this Report, together with long-standing concerns about the safety of children and youth in Island schools, have led the Office of the Child and Youth Advocate to announce its intention to initiate an education-related systemic investigation. This investigation will probe questions regarding, but not limited to:

The extent to which each of the Department of Education and Early Years, the Public Schools Branch (PSB), la Commission scolaire de langue française (CSLF), and their respective Boards of Trustees, together with any shortcomings in the provincial education governance structure, may have contributed to the public release of the PSB and CSLF Sexual Misconduct Policies without any or sufficient regard to consultation input by the Office of the Child and Youth Advocate, with the resulting adverse implications for the safety of students in Island schools.

“A Collective Commitment To Do Better” and All-Party Endorsement of OCYA Consultation

Bill 101, *An Act to Amend the Education Act*, was [passed by the House in May 2025](#) and received royal assent on May 16, 2025. Promoted by the Third Party, Bill 101 was five years in the making. Previously, proposed amendments to the *Education Act*, in the wake of the 2019 sexual misconduct conviction of former teacher Roger Jabbour, were waived in favour of a Ministerial Directive on sexual misconduct. However, this Directive never materialized. Past failures to strengthen sexual misconduct reporting in schools through directives and policy crystallized the need for legislative amendments requiring the Education Authorities to create and implement dedicated sexual misconduct policies that Bill 101 required.

The intent of this amendment to the *Education Act* was to ensure that every Island student would be safeguarded by clear, consistent and enforceable protections against sexual misconduct, and allow students’ complaints of sexual misconduct by employees to be received by a system that can respond with transparency, care and accountability. Notably, an additional amendment was brought to the original Bill by the Minister of Education and Early Years, further requiring that draft Sexual Misconduct Policies of the Education Authorities be developed with “input from the public and the Office of the Child and Youth Advocate,” and was passed unanimously. As the Minister stated on May 14, 2025, “the Child and Youth Advocate will play a very important part in all of this...and their input will be invaluable...” (Hansard’s, p.1506). The Third Party Promoter of the Bill expressed strong support for this additional amendment as well, saying, “given that the Child and Youth Advocate is the office that has kind of got its finger on the pulse, I would say, the most on what’s happening in the province, and it makes sense to me that he would provide his input for this. His input is quite invaluable, so I am very happy with that.” (Hansard’s. p. 1506). The then education critic for the Official Opposition also acknowledged the importance of consulting with the Office of the Child and Youth Advocate by asking “Just a question on the amendment. Minister, did you speak to the Child and Youth Advocate about this?” (Hansard’s, p. 1507).

In passing Bill 101, s. 21.1 was added to the *Education Act*:

s. 21.1(1) *Without limiting the generality of section 21, an education authority shall, within one year of the coming into force of this section, establish a policy on the prevention of and response to sexual misconduct;*

s. 21.1(2) *Where a new education authority is established, that education authority shall establish a policy on the prevention of and response to sexual misconduct within one year after the date the education authority is established;*

s. 21.1(3) *Before a new policy is established under subsection (1) or (2) or a policy is reviewed under subsection (4), an education authority shall seek input from the public and the Office of the Child and Youth Advocate with respect to the new policy or review in the manner that the education authority considers appropriate;*

s. 21.1(4) *An education authority shall review its sexual misconduct policy*

(a) at least once every three years; and

(b) when directed to do so by the Minister,

and shall amend the policy if the education authority determines amendments are required.

By amending the *Education Act*, Island MLAs confirmed a non-partisan “collective commitment to do better” to safeguard Island students (Hansard’s, p.1503). It was clear that MLAs, regardless of party lines, recognized the gravity of risk to students and the need for transparent and consistent responses to allegations of sexual misconduct by school staff. They also legislated the input of the OCYA in the development of sexual misconduct policies as a valuable safeguard for children and youth. And yet, the PSB failed to give due regard to the advice set out in the OCYA’s consultation response, despite the statutory consultation requirement, while the Advocate’s input was not sought at all by la Commission scolaire de langue française (CSLF) in contravention of s. 21.1(3) of the *Education Act*.

“No One Broke the Law” Isn’t the Whole Story

A third-party review of the [Handling of Complaints and Incidents of Staff Sexual Misconduct](#) was completed by former Chief Justice David Jenkins and released by the Department of Education and Early Years in February 2026. The OCYA promptly released its [response to the Jenkins Report](#), noting that Commissioner Jenkins drew broad generalizations about student safety from the Report’s narrow Terms of Reference. One of the OCYA’s concerns with the third-party review lay in Commissioner Jenkins’ finding that, “in my opinion, no one

broke the law. The statutory duty to report applies when the risk to the child arises from a parent or guardian” (p.17).

Indeed, s.3 of the *Child, Youth and Family Services Act* defines “a child in need of protection” as a child whose safety or well-being is endangered because of harm inflicted by a parent, or by harm that was inflicted upon a child that was not prevented by a parent who ought to have known such harm was likely. Relying upon this definition, s.12 of the Act laid out the statutory duty of every person to report to Child Protection Services or to a police officer when they have knowledge or reasonable grounds to suspect that a child is in need of protection.

The Advocate’s response to the Jenkins Report emphasized that while Commissioner Jenkins was correct in his legal interpretation of “a child in need of protection” (*Child, Youth and Family Services Act* s. 3), such a literal and limiting reading of the Act would exempt harm perpetrated by non-parents (such as teachers, other school staff, daycare providers, coaches, scout leaders, camp counsellors, other relatives) and this presents a serious systemic barrier to safeguarding children and actually contradicts the [consistent public messaging](#) and [training](#) provided by Child Protection Services that every person has the mandatory duty to report concerns about the safety or well-being of a child.

“It Does Not Need to be Just From A Parent”

In response to the Jenkins Report, the OCYA [advanced an urgent recommendation to the Department of Social Development and Seniors](#) to amend the language of the *Child, Youth and Family Services Act* to clarify that harm does not have to be perpetrated or permitted by a parent in order to be reportable to Child Protection Services.

In a letter to the Advocate, dated February 26, 2026, the Minister of Social Development and Seniors [expressed support for the Advocate’s recommendation](#) and stated that her Department was “fully prepared to work with the Office of the Child and Youth Advocate and to proceed with urgency and diligence in support of introducing possible amendments to the *Child, Youth and Family Services Act*”. The Minister then followed through by sponsoring Bill No. 26, *An Act to Amend the Child, Youth and Family Services Act (No. 2)*, which specifically amended the language in s. 12 of “a child in need of protection” to read that “every person who has knowledge, or reasonable grounds to suspect, that the safety or well-being of a child is endangered” shall report the circumstances to the Director of Child Protection or a police officer. As [explained in the House by the Minister of Social Development and Seniors](#) on May 5, 2026, “we want to acknowledge the Child and Youth

Advocate, Marvin Bernstein, and his office for the positive collaboration of Bill No. 26. Our goal of this amendment is to clarify any confusion in mandatory reporting under section 12 of the *Child, Youth and Family Services Act* and to further clarify the responsibilities that we all share in promoting the safety and wellbeing of children.” (Hansard’s, p. 1056). The amendment carried unanimously and received [Royal Assent on May 29, 2026](#):

12 (1) Notwithstanding any other Act, every person who has knowledge, or reasonable grounds to suspect, that the safety or well-being of a child is endangered shall

- (a) without delay, report the circumstances to the Director, or to a police officer who shall report the information to the Director; and*
- (b) provide to the Director any additional information that is known or available to the person.*

Notwithstanding the statement in Section 5.0 of the PSB Sexual Misconduct Policy that “[t]his policy is established in accordance with the *Education Act* and the *Child, Youth and Family Services Act*” and the Advocate’s strong encouragement that the “Department of Education and Early Years and the Public Schools Branch seek coordination with the Department of Social Development and Seniors surrounding the intent and substance of the forthcoming amendments to the *Child, Youth and Family Services Act* before the Sexual Misconduct Policy is finalized to ensure that there is clear understanding in the policy of when the mandatory duty to report to Child Protection Services is triggered”, the PSB has misstated the law by choosing to limit its description of the duty to report to those circumstances when a child is in need of protection from a “parent.” Unfortunately, the CSLF has similarly misstated the law as to the reporting duty, as set out in the amended section 12 of the *Child, Youth and Family Services Act*.

Contradictory reporting obligation in the *Education Act*

Despite the amendment to s.12 of the *Child, Youth and Family Services Act* to clarify the duty of every person to report, the OCYA highlights with alarm that there has been no such corresponding amendment to s.82 of the *Education Act*, which retains the language of “a child in need of protection” and reference to s. 3 of the *Child, Youth and Family Services Act* when setting out the mandatory duty of educators to report child protection concerns to the Director of Child Protection. If not repealed or amended, this provision in the *Education Act* has the potential to lead to further confusion regarding the duty of education employees to report their child protection concerns.

82. Duty to report

(1) A teacher or other school staff member who has reasonable grounds to suspect that a student is in need of protection in accordance with section 3 of the *Child, Youth and Family Services Act* shall immediately report the matter to the Director of Child Protection in accordance with the *Child, Youth and Family Services Act*.

Advocate's Advice Given but Not Taken by the PSB

In accordance with its [Consultation Policy](#) and pursuant to the requirement for OCYA consultation in s. 21.1(3) of the *Education Act*, the OCYA provided a written [consultation feedback response on the draft Sexual Misconduct Policy](#) to the PSB following its public consultation process and incorporation of stakeholder feedback on the policy. The OCYA's consultation response was sent to the Director of the PSB, the PSB's Manager of Policy and Planning, and the Acting Deputy Minister of Education and Early Years in April 2026 and flagged numerous concerns throughout the draft policy, summarized later in this Report, that unfortunately remain in its published form.

The OCYA clearly stated that these oversights rendered the Sexual Misconduct Policy ineffective to close the gaps identified in the Matthew Craswell and Bethany Toombs cases, the very cases that prompted the 2025 amendment to the *Education Act* and were scrutinized by Commissioner Jenkins' third-party review. Plainly said, both perpetrators would not have been prevented from harming the children in question by the PSB Sexual Misconduct Policy, as currently written.

Advocate's Input Not Sought by la Commission scolaire de langue française (CSLF)

With concern, the OCYA has also observed that a Sexual Misconduct Policy entitled, [RH-403 Politique sur l'inconduite sexuelle](#) is posted on la Commission scolaire de langue française (CSLF) website without having the benefit of the perspective of the OCYA. Despite the statutory requirement of the Education Authorities to "seek input" from the OCYA in the development of their Sexual Misconduct Policies (pursuant to s.21.1(3) of the *Education Act*), the CSLF breached its legal obligation under the *Act* by failing to seek such input from the OCYA at any time during its policy development process. Consequently, the OCYA did not have an opportunity to provide its "input" to the CSLF on their Sexual Misconduct Policy. However, once the CSLF Sexual Misconduct Policy was publicly

released, the OCYA sought and received an official translation of the CSLF document from Translation Services, Acadian and Francophone Affairs Secretariat (PEI government) and concluded that it is substantially identical to the PSB's Sexual Misconduct Policy and thus retains the same troubling concerns.

A False Sense of Safety

The Education Authorities' Sexual Misconduct Policies were released with [Departmental endorsement](#) and a [prevailing media discourse](#) building public confidence that student safety would now be considerably enhanced. There appears to be a general acceptance of a 'safety binary': that having any policy in place is safer than having no policy, even if there is no critical analysis of the content of that policy.

The OCYA is concerned that Sexual Misconduct Policies were released to the public by the Education Authorities without first seeking or addressing substantive consultation feedback, leading the public to believe that the OCYA endorsed both policies, whereas the Advocate's serious objections remain steadfast and unacknowledged.

Educators and others in the education system deserve clear and accurate information

As the school year is just beginning, administrators, teachers, education assistants and others in the education system require and deserve clear and accurate information regarding their duty to report child protection concerns to Child Protection Services or the Police. As stated in the PSB Sexual Misconduct Policy, at Section 7.0, the PSB is responsible, in the implementation of the Policy, for "ensuring Administrators, employees, post-secondary trainees and volunteers are informed of the policy and advised of their responsibilities."

In all but a few cases, these individuals are dedicated professionals who operate in good faith and want to do their very best to ensure the safety of students who are under their control or with whom they interact. And yet, even after the lethal consequences identified in the [OCYA Olivia Rodd Child Death Investigation Report](#) resulting from myriad 'missed opportunities' to report child protection concerns to Child Protection Services, it is alarming to see the confusing and mistaken messages contained in s.82 of the *Education Act* and in the PSB and CLF Sexual Misconduct Policies, which as currently written, present a serious risk of harm to students. For example, as the law is represented in these Policies, education employees would not be required to report their reasonable suspicions of harm

inflicted upon a student by non-parents, such as by principals, vice-principals, teachers, substitute teachers, education assistants, school counsellors, school bus drivers and other school employees. As well, these policies may be exposing education employees to serious legal jeopardy since s. 62(b) of the *Child, Youth and Family Services Act* sets out the penalty, upon summary conviction, for failing to comply with one's reporting duty under s. 12 of the *Act* as "a fine not exceeding \$10,000 or imprisonment for a term not exceeding six months, or to both a fine and imprisonment."

The Will of the Legislature Has Been Ignored

In [debating the amendment to the *Education Act*](#) across party lines, members of the Legislature spoke of their moral and legal responsibility to do everything within their power to keep children safe at school. They spoke of their collective commitment to do better for children. Members emphasized the need to clarify the mandatory duty to report and also spoke of the invaluable input of the Child and Youth Advocate, which was championed to the extent of a unanimous vote to require, by law, consultation with the OCYA in the development and review of Sexual Misconduct Policies. In [debating the amendment to the *Child, Youth and Family Services Act*](#) across party lines, MLAs likewise spoke of the value in clarifying the mandatory duty to report concerns for a child's safety or well-being to Child Protection Services regardless of who perpetrates harm.

It is clear that the non-partisan intent of the Legislature was to protect Island children and youth through legislative amendments that would strengthen safeguards against sexual misconduct in schools.

Summary of OCYA Concerns:

The OCYA asserts that the Sexual Misconduct Policies developed by the Education Authorities, and officially approved, perpetuate confusion and misstate the law.

The policies would not be effective in preventing harm to a child or youth from another Roger Jabbour, Matthew Craswell, or Bethany Toombs-like perpetrator.

- The PSB failed to give due regard to the advice set out in the OCYA's consultation response, despite the statutory consultation requirement;
- The CSLF breached its legal obligation under the *Education Act* by not seeking input from the OCYA in developing its Sexual Misconduct Policy and does not provide a provision in its policy requiring public and OCYA consultation;
- Both Sexual Misconduct Policies incorrectly limit mandatory reporting to Child Protection Services or the Police to those circumstances where "a child is in need of protection" from a "parent" and ignore the intent of the amendment to s. 12 of the *Child, Youth and Family Services Act* which clarifies that every person has the duty to report, regardless of who inflicted or permitted the harm;
- The *Complaints Process* (Section 10.0) of the PSB's Policy states that the complaint process has four steps, but fails to include mandatory reporting anywhere in the list and sequencing of those steps;
- Both Sexual Misconduct Policies fail to identify or correct the confusion created by the contradictory language set out in section 82 of the *Education Act*;
- The definition of "grooming" adopted in the PSB's Sexual Misconduct Policy includes the qualification of behaviour that "is in some way sexual in nature," not aligning with more general definitions from the [Government of Canada](#) and the [Canadian Centre for Child Protection](#), which emphasize that grooming begins with seemingly innocuous behaviours that build trust and relationships;
- The Director of Human Resources has the responsibility to assess and "screen out" a sexual misconduct complaint and the assembled investigation team has the responsibility to determine whether a complaint is substantiated, but none of these internal steps are stated as being subject to the first duty to report child protection concerns to Child Protection Services or the Police "without delay";
- Both Sexual Misconduct Policies fail to create or reference an appeal mechanism by which students and their families can challenge the screening and investigation decisions of the Education Authorities; and
- The scope of both Sexual Misconduct Policies applies only to incidents on school premises or during school-sponsored activities even though sexual misconduct has and can occur outside of school properties or events.

Who's In Charge?

It is unclear where in the process of developing the Education Authorities' Sexual Misconduct Policies, things went wrong. There are many actors in the governance of Island education and it remains murky as to what role different participants played in the process of the development, review and approval of the two Sexual Misconduct Policies. It is also unclear as to whether any education entity retained the authority and oversight of this entire process, which produced policies that are misleading and contrary to law.

Untangling the Confusing Bifurcated Education Governance Structure

In his report [*Student Safety in Island Schools: Handling of Complaints and Incidents of Staff Sexual Misconduct*](#), Commissioner Jenkins referred to the “bifurcated system of education,” in which the *Education Act* allocates the ultimate responsibility for the leadership of the provincial education system to the Minister (s.2(1)), while the two education authorities are defined as bodies corporate responsible for the administration of school systems (s.11) including the delivery and operational activities of the education system (s.20(2)). The affairs of the education authorities, in turn, are conducted by elected or appointed boards of trustees (s.12(1)).

This apportionment of responsibility creates confusion in understanding who is responsible for what, and where, and how; and ultimately obscures lines of accountability and oversight. As observed by the OCYA before the [*Standing Committee on Education and Economic Growth*](#), neither Organizational Chart produced in the most recent Annual Reports (2024-25) of the [*Department of Education and Early Years*](#) and [*Public Schools Branch*](#) reference the other entity, although Commissioner Jenkins clarified in his report “under the current legislative arrangement the Director (of the Public Schools Branch) is to report to the board of trustees, and also has reporting obligations to the Department and the Minister” (p.115).

Commissioner Jenkins pointed to how the convoluted structure of the education system complicates communication and accountability between the education authorities and the Department of Education and Early Years, with serious impacts on student safety. Yet, Commissioner Jenkins noted that a comprehensive commentary on the dynamics and challenges of this structure lay outside of the terms of his review:

“Some challenges to effective communication and accountability are inherent in the statutory architecture of the Island education system. The Act apportions responsibility for management and delivery of the public school’s education

program among at least four entities – schools administration, education authorities, boards of trustees, and the Department and ministry. In this arrangement, there is naturally some overlap and exposure to gaps. There are undoubtedly countless reasons for this public and legislative choice of design of the education system, and this review would not presume to question those greater policy choices.” (Jenkins Report, p. 116); and

“If the bifurcated model of school administration is to be continued (whether it should be is a political matter beyond the scope of this review) then additional measures for better communication and accountability between PSB and the Department would be beneficial. These challenges present real risks.” (Jenkins Report, p.118)

The Independence of the Office of the Child and Youth Advocate

The OCYA, as an independent office of the Legislative Assembly, noted the potential [limitations of Jenkins’ third-party review](#) early on, and publicly reserved its right to conduct an independent systemic investigation pursuant to the *Child and Youth Advocate Act* if it identified “outstanding systemic, legislative or procedural risks that may place children and youth at risk in Island schools” following its review of the Jenkins Report. In an independent investigation by the OCYA, the Advocate would determine the parameters and terms of reference, and the Advocate’s statutory jurisdiction across reviewable services would allow the OCYA to compel information across government departments. Additionally, the OCYA has the statutory mandate to track and publicly report on the implementation of the Advocate’s recommendations.

The limitations of Commissioner Jenkins’ terms of reference prevented him from a fulsome examination of the bifurcated structure of the education system, including the full potential of its inherent overlaps and gaps to impact student safety. However, In light of the serious deficiencies in each of the PSB and CSLF Sexual Misconduct Policies, the OCYA sees a need to independently examine whether these problems are symptomatic of larger governance, structural and systemic conditions that place Island students at risk.

Scope of OCYA Investigation

As stated at the outset of this Report, the scope of the OCYA investigation will be directed to conducting an education-related systemic investigation. This investigation will apply a child rights lens and probe questions regarding, but not limited to:

The extent to which each of the Department of Education and Early Years, the Public Schools Branch (PSB), la Commission scolaire de langue française (CSLF), and their respective Boards of Trustees, together with any shortcomings in the provincial education governance structure, may have contributed to the public release of the PSB and CSLF Sexual Misconduct Policies without any or sufficient regard to consultation input by the Office of the Child and Youth Advocate, with the resulting adverse implications for the safety of students in Island schools.

Minister Urged to Take Immediate Action Steps Prior to Completion of OCYA Investigation

The safety and well-being of children and youth cannot wait for the completion of an investigation. Confusing messages and misstatements of the law regarding the duty to report child protection concerns cannot continue to linger. For these reasons, the OCYA, while raising several other concerns, calls upon and urges the Minister of Education and Early Years to take the following minimum immediate action steps:

1. Sponsor a Bill either repealing or amending s.82 of the *Education Act*, and if amending s. 82, then setting out the duty to report in language identical to that of the amended s.12 of the *Child, Youth and Family Services Act*; and
2. Issue a Directive to both Education Authorities, including their respective Boards of Trustees, pursuant to s. 4(1) of the *Education Act*, requiring that:
 - a. The Sexual Misconduct Policies of both Education Authorities be amended to be in conformity with s. 12 of the *Child, Youth and Family Services Act* (as amended after having received Royal Assent on May 29, 2026), which removes any reference to ‘a child in need of protection’ and clarifies that every person who has knowledge or reasonable grounds to suspect the safety or well-being of a child is endangered, has a duty to report to the Director of Child Protection or a police officer, regardless of who inflicted or permitted the harm (not just a parent or guardian); and
 - b. The Sexual Misconduct Policies of both Education Authorities be amended to clarify that the requirement of designated education staff to engage in internal investigation, substantiation and hierarchical reporting of sexual misconduct

complaints occur only after a report is first made “without delay” to the Director of Child Protection or a police officer, in those circumstances where a person has knowledge or reasonable grounds to suspect that the safety or well-being of a child is endangered.

Conclusion

In such a small province, it is alarming that in less than a decade, three Island educators have been sentenced to federal prison for significant sexual misconduct offenses against children. It is also distressing that so much confusion about the duty to report continues to linger even after the OCYA Olivia Rodd Investigation Report’s description of the lethal effects of multiple missed opportunities where individuals failed to comply with their legal duty to report child protection concerns. The OCYA cannot walk away from a systemic investigation on the facts of this case and the opportunity to build upon and fill in some of the gaps in the third-party review conducted by Commissioner Jenkins. The stakes are too high and it is anticipated that all persons participating in this investigation will extend their full cooperation.

Respectfully submitted this 10th day of September, 2026 on behalf of the PEI Office of the Child and Youth Advocate by:



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