

IN THE MATTER OF AN ARBITRATION

BETWEEN:

THE OTTAWA-CARLETON DISTRICT SCHOOL BOARD

(the “Employer”)

- AND -

THE ELEMENTARY TEACHERS’ FEDERATION OF ONTARIO

(the “Union”)

(collectively, the “Parties”)

AND IN THE MATTER CONCERNING POLICY GRIEVANCES NOS. 2022-07; 2022-13; 2023-02; 2023-23; 2023-25

ARBITRATOR: Brian Sheehan

APPEARANCES

FOR THE UNION

**KELLY DOCTOR
SOPHIE ABBATT
MICHELLE LEONARD
BRIAN LESAGE
STEVEN SKOUTAJAN**

FOR THE EMPLOYER

**JENNIFER BIRRELL
SAMARA BELITZKY
BARRY SCOTT
JORDYN HARPELL
SHAWN LEHMAN**

Hearing held via ZOOM Videoconference on April 15, 2025

AWARD

1. On April 5, 2022, following concerning feedback received from staff in an anonymous and confidential survey, the Ottawa-Carleton District School Board (the “Board”) requested that the Office of the Human Rights and Equity Advisor (O-HREA), which identifies as an arm’s length office of the Board, open an investigation into an alleged poisoned learning and working environment at Pinecrest Elementary School (“Pinecrest”) related to a number of concerns, including staff conduct, student behaviour and leadership response (“O-HREA Investigation”). A final summary Report was issued to the Board on May 8, 2023.
2. Following the initiation of the O-HREA Investigation and during the period between September 2022 and October 2023, the Union filed five policy grievances (the “grievances”) connected to the O-HREA Investigation.
3. These grievances allege that the O-HREA Investigation was unduly delayed, that the Board acted inappropriately by allowing the media to attend the school and take photos of teachers without their prior consent, that the Board’s various communications to the school community and to staff violated teachers’ privacy rights and harmed their reputations, and that the Board failed to release the O-HREA report to ETFO.
4. The grievances were denied by the Employer. The Board recognized that the duration of the O-HREA Investigation was not ideal but stated that, in light of the scope, considerable time was required to ensure a thorough and comprehensive investigation and fulsome report. The Board further acknowledged that the O-HREA report was not initially released to ETFO because of privacy concerns relating to the sensitive nature of its contents, the fact that the identity of students, as well as the identity staff who shared information on a confidential basis may be apparent to certain people reading the O-HREA report, and previous unauthorized disclosure of confidential information to the media and on social media. The Board denies the remainder of the allegations set out in the grievances.
5. The grievances were consolidated and initially remitted to Michelle Flaherty as sole arbitrator. Upon her appointment as a judge to the Ontario Superior Court of Justice, the grievances were remitted to me as sole arbitrator.
6. The O-HREA report without Appendices 2 and 3 (the “Report”) was subsequently released to ETFO’s provincial representative and its legal counsel on a confidential basis for the purposes of preparation of the hearing, and subject to a confidentiality order issued by Michelle Flaherty that the Report shall not be produced, reproduced or shared except as expressly agreed upon by the Parties. Appendices 2 and 3 to the Report were not provided, as they relate to individual matters, which have been grieved separately.
7. The Parties have provided me with a copy of the Report, with the exception of Appendices 2 and 3, and have made submissions before me with respect to the grievances. Having heard the Parties’ submissions, and having reviewed the Report, I make the findings set out below.
8. The Report presents a thorough overview of the concerns raised by staff, administration and others who participated in the O-HREA Investigation. It contains a number of findings

related to specific individuals. Where the O-HREA made specific findings concerning allegations made by or against certain identified staff members, the corresponding findings have been shared with them. The Report also contains a number of thoughtful recommendations, some of which the Board has already begun implementing.

9. I find nonetheless, that the O-HREA Investigation process was lengthy. The investigation was initiated after the O-HREA received the responses to a confidential survey that was conducted in advance of some training in the school. The feedback from the survey suggested to the Board that there were concerns that needed to be investigated. As previously noted, the O-HREA Investigation commenced on or around April 5, 2022. The final report was provided to the Board on or about May 8, 2023, the Board shared some findings and recommendations with individual staff members directly before the end of the 2022-2023 school year, and some recommendations were shared with all Pinecrest staff on September 12, 2023. In its submissions, the Board outlined that the timing of receiving the final report and the nature of its contents presented inherent challenges for communicating its recommendations to all staff before the end of the 2022-2023 school year, resulting in the Board taking the immediate steps it could following the receipt of the final report and subsequently sharing some recommendations with all staff at the same time and in person at the beginning of the 2023-2023 school year. The duration of the investigation impacted the staff at Pinecrest school. The Board acknowledged in its submissions that while no single event or factor led to the staff feedback that prompted the Board to initiate the O-HREA Investigation, the Board recognizes the unfortunate impact of the process and the timeline for the delivery of the recommendations on its staff members. It further recognizes that it was a particularly challenging and isolating time for many staff members.
10. The Parties have asked me to make a few comments about certain findings of the Report as there has been considerable speculation, misinformation and media attention about the events that lead up to the investigation and the results of the report, and there is a need for everyone involved to move forward in a productive and positive manner. I am mindful of the need to respect the privacy of the students and staff who were involved in certain incidents, and I accept the Parties' submission that the identity of students and staff who shared information on a confidential basis may be apparent to certain people reading the report. In light of that, I will limit my comments to a high level summary.
11. First, I would note that the Report found that a number of the safety concerns were raised by staff in detail and explains the actions taken by administration to investigate and respond. The Report comments on certain incidents and it finds that on balance, reported incidents were appropriately addressed, despite staff perception to the contrary. However, at the same time, there were some gaps in the administration's response. Specifically, the Report noted that in three examples, the administration informed the children's teachers about the outcome of the investigation, but did not report back to the staff members who reported the incidents. The Report found that this likely contributed to the incorrect perception by some staff members that nothing was being done to address matters brought forward, when in fact action was taken. In addition, the Report found that while the administration took steps to support the students who experienced certain incidents, it was critical of some of the steps taken, and found that a more comprehensive program needed to be put in place to prevent re-occurrence.

12. Second, the Report found that the home assignment process was not used against staff for speaking out against the administration or about safety concerns. The Report also confirms that, certain staff members were placed on home assignment in June 2022 at the request of O-HREA. The incorrect perception of some staff of the reasons for the home assignment was largely influenced by supposition, assumption, and coincidental timing. The Report did find that the initial use of the PA system to call several staff members to the office to place them on home assignment led to considerable stress and worry for other staff members. After concern about this practice was shared by the Investigations Advisor, this practice was immediately discontinued by the Administrator.
13. Third, the Administration encountered significant resistance to implementing changes from some staff members, and this contributed to the creation of a divide between staff members who supported changes and staff who did not; between staff and the administration; and between the administration and the union. In response to this behaviour from some staff members, the Administration relied more heavily on written communication and feedback and the offer of one to one meetings. The Report found that over reliance on written communications meant that opportunities to address barriers to change and overcome resistance were missed. Staff felt like their concerns were not taken into account.
14. The Report made a number of key recommendations, which I have summarized in Schedule “A” with the consent of the Parties. I understand that the Board has already made efforts to implement some of the recommendations. I would encourage the Board (and, where applicable, ETFO and staff members) to consider and implement the remainder of these recommendations. I would also encourage the Parties to work together to engage in workplace restoration.
15. Given the Parties’ agreement to disclose certain key findings and recommendations from the Report, I find that further disclosure of the Report and its findings will not be productive to workplace restoration and will not serve any labour relations purpose and would breach the privacy of participating students and staff whose identities may be discernable to certain people reading the Report. I am therefore ordering that the Board and ETFO be required to keep the contents of the Report confidential, except as required by law. Appendices 2 and 3 of the Report are not subject to this confidentiality order. To be clear, I make no findings with respect to whether a similar report in any other situation or investigation should be kept confidential and this award should not be seen as having any precedential value in that regard. In addition, this confidentiality order is not intended to prevent O-HREA from sharing or making general system recommendations to the Board of Trustees for Board-wide changes, which may have originated in the Report.
16. With respect to the issue of the media’s visit to the school, the Parties have agreed that when the Board approves and is aware of a planned media visit in advance, it will advise staff in advance. For any unplanned media visits or media visits without advance notice, the Board will make best efforts and take reasonable steps to advise staff of the media visit. The Board will continue to provide staff with the ability to elect not to be photographed. Given the Parties’ agreement, I find that no order is required in this regard.

17. I am not seized of implementation of the Report's recommendations. I leave it to the Parties to work cooperatively to move forward in the best interests of the school community.
18. The grievance with respect to the release of the Report is allowed, in part, in strict accordance with and limited to the conditions outlined at paragraph 15 above. The remainder of the matters in issue have been resolved in accordance with the Award herein and the remaining grievances are hereby disposed of in accordance with this Award. Given the unique circumstances before me, this Award should not be seen as having any precedential value.

Dated at Mississauga, this 26th day of May 2025.

"Brian Sheehan"

Brian Sheehan - Arbitrator

Schedule “A”

- The Board should assess current staff perceptions of school climate by comparing feedback received from staff members in 2023 with the feedback received in 2022 to determine whether there is an improvement in the climate for staff members.
- The Board and the Union should plan, implement and evaluate workplace restoration initiatives by using the report recommendations and staff member feedback as a guide.
- The Board should prioritize open, two-way communication with staff to rebuild relationships and overcome barriers to change management process.
- The Board should standardize organizational support to staff members subject to public hate campaigns and criticism by developing protocols for an intentional and coordinated response focused on harm reduction and that ensures that employees receive the support they need to maintain their wellbeing.
- Set clear expectations for student conduct by establishing a shared understanding amongst students, families, and staff members about behaviour expectations and boundaries.
- The Board should prioritize relationship building with and between staff members that will implement activities focused on healing, team building, and building consensus. The activities should focus on building a relationship of trust between the administration and staff and amongst staff members themselves, establishing a working environment that is inclusive and where all staff members feel a sense of belonging, and that promotes collegial relationships. Staff, as well as students, need to feel cared for and valued.
- The Board should coordinate and provide additional staff training to assist staff members in developing the skills required to better serve their students.
- Increase transparency in investigation processes by the Board revising its formal procedure relating to alleged misconduct toward a student to reflect the current process for staff misconduct investigations; clarify information sharing standards during the investigation process that will maximize information sharing, within the confines of its obligations under the Municipal Freedom of Information and Protection of Privacy Act; and clarify the criteria for determining whether to place a staff member on home assignment.

- The Board and staff members should apply harm reduction, victim-centred approach to managing student behaviour and determining the most appropriate way to respond to a student's harmful behaviour.
- The Board should plan and implement targeted human rights-based tolerance and behaviour change program in collaboration with a specialized community partner, prioritizing students in grade 6 to 8 and students in English Literacy Development. The program should be aimed to build an understanding and tolerance of all human rights and emphasize each person's responsibility to respect the rights of others.