



Asbestos Remediation in Ontario Schools

Schools and School Boards Responsibilities

Parents and Students Rights

Introduction

This fact sheet summarizes the rights and responsibilities about asbestos remediation in schools contained in two Ontario laws: the [Occupational Health and Safety Act](#) and the [Education Act](#).

How do I find out about asbestos remediation occurring in my school?

Start on-line with a search for “asbestos” on your School Board’s website. Ontario School Boards are not legally required to provide this information to the public. They also tend to only provide it on an annual basis.

Here are two examples:

Toronto District School Board:

<http://www.tdsb.on.ca/About-Us/Accountability/Health-and-Safety-Workplace-Inspection-Reports>

Toronto Catholic District School Board:

<https://www.tcdsb.org/Board/PlanningandFacilities/FacilitiesServices/asbestos/Pages/default.aspx>

What legislation covers asbestos remediation in schools in Ontario?

The *Occupational Health and Safety Act* regulates the actual work of monitoring the presence, and remediation/clean-up of, asbestos in Ontario schools.

This workplace-focused law creates duties on building owners or occupiers (in this case School Boards) to protect workers in the building.

The *Education Act* also places various duties on school Principals and School Boards to keep students and teachers safe.

1. The *Occupational Health and Safety Act* and Regulation

General requirements:

The *Occupational Health and Safety Act* (OHSA) addresses worker and workplace safety. As such, it creates duties about addressing schools as workplaces of teachers or others working in the school.

This law requires that schools, as employers, allow a health and safety committee or representative selected by the teachers’ union, to inspect the workplace at least monthly. This committee or representative is authorized/required to identify hazards or sources of danger to workers and report or make recommendations to the employer and those employed in the workplace.

Likewise, this law requires school Principals, as supervisors, to advise workers of any potential or actual health and safety threat. Some school boards interpret this as a requirement for Principals to post any health and safety threat on a workplace bulletin board. (1)

The legal duties established under this law do not apply to students (or their parents) unless they fit the definition of a “worker,” e.g., if they perform work or supply a service for no compensation under a work experience program.

(Note however that individual School Boards may have their own discretionary Occupational Health and Safety policies. For example, employee protections established under the Peel and Halton District School Boards Occupational Health and Safety Policies are extended to include “workers, students, volunteers, visitors, and those performing contracted work on the Board’s behalf.”)

OHSA Requirements specific to asbestos:

A [Regulation](#) under this Act requires the owner of a building (i.e., the School Board) that contains asbestos to create an asbestos management program.

This program must include provisions to prepare and keep on the premises a regularly updated record describing the location, quantity, and condition of asbestos-containing materials in the building. It must ensure regular inspections and written notice to workers, occupiers, and employers in specific circumstances, e.g., if asbestos clean-up is planned. (2)

The asbestos management program must further provide for training of any workers about asbestos exposure hazards, use, care and disposal of protective equipment and clothing, personal hygiene, and all other detailed aspects of ensuring safe clean-up as specified in the Regulation.

2. The Education Act

The *Education Act* requires School Boards to ensure school buildings are in proper repair and sanitary, including monitoring of any “chemical” agents, (arguably, including asbestos), keeping records about their use and disposal, and making those records available to affected employees.

This law also mandates school Principals to maintain a safe school environment, stating that they must “give assiduous attention to the health and comfort of pupils... and to the condition... of the school buildings.”

A [Regulation](#) under this Act further requires school Principals to inspect school premises at least weekly and report to the school board on any required repairs. They must also provide regular information and/or reports about “the condition of school premises” to the Minister of Education, supervisory officers, and school boards.

Who has access to the information contained in the school’s asbestos management program?

Teachers or other school staff have access to the school’s asbestos management program. Parents or students do not although they can ask for it. However, the building owner must give any building occupant written notice of any information in the record that is related to the area occupied.

What can parents do if they are concerned about how asbestos is being managed in their child’s school?

If you are concerned about how asbestos management is occurring, including whether schools or School Boards are following their legal obligations, you can direct concerns or complaints to the school principal or superintendent.

Complaint procedures vary between School Boards. A typical approach is to first raise concerns with your child’s teacher or the school principal. If concerns remain, you can direct concerns to school superintendents (typically responsible for a network of schools) or to your elected School Trustees.

For more information, please contact Fe de Leon, Senior Researcher and Paralegal, CELA
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Information current to February, 2021

Notes:

1. See, e.g., Toronto District School Board, “Health and Safety Workplace Inspections”, online: <http://www.tdsb.on.ca/About-Us/Accountability/Health-and-Safety-Workplace-Inspection-Reports>.
2. Disturbing asbestos includes “any activity that may result in the release of fibres into the air.” See: Ontario, Ministry of Labour, 2007, Ongoing Asbestos Management, online: https://www.labour.gov.on.ca/english/hs/pubs/asbestos/asbst_8.php.