

MINISTRY OF EDUCATION AND CHILD CARE
INFORMATION BRIEFING NOTE

DATE: September 22, 2022
CLIFF: 283040

PREPARED FOR: Honourable Jennifer Whiteside, Minister – **FOR INFORMATION**

SUBJECT: Implementation Status of the Financial Management Policies

PURPOSE: To provide an update on the first year of implementation of the Financial Planning and Reporting Policy and the K-12 Accumulated Operating Surplus Policy.

BACKGROUND:

- The Financial Planning and Reporting Policy (FPAR) and Accumulated Operating Surplus Policy (Surplus) were published in May 2021 and officially came into effect July 1, 2021.
- The purpose of both policies is to provide directions, guidelines, and resources that create greater transparency and accountability in school districts' financial management practices (i.e., demonstrate how funding is used to improve student educational outcomes).
- Ministry staff co-developed the policies and multi-year implementation strategy with the Financial Management Committee (FMC), comprised of six secretary-treasurers and one First Nation Education Steering Committee (FNESC) representative.
- The development of the surplus policy was guided by a MOA with the BC School Trustees' Association (BCSTA), who were consulted along with the BC School Superintendents' Association (BCSSA) and the BC School Business Officials (BCASBO) in the development process. Métis Nation BC (MNBC) were also engaged in the development process.
- During consultations it was agreed that a phased implementation approach would be adapted, due to operating cycle of school districts and submission dates for budgets and financial statements (see Attachment 1 for the timeline).
- A question-and-answer document was developed and published on the Ministry's website to provide support to school districts as they develop and implement the FPAR policy, and a comprehensive Companion Guide supports the Surplus Policy.
- To build public policy development capacity for school districts, Ministry staff provided training sessions at the BCASBO Fall 2021 and Spring 2022 conferences, 2021 BCSTA Trustee Academy event, frequent updates to BCASBO and BCSTA executive, and numerous one-to-one sessions at the staff level.

DISCUSSION:

Implementation Status

- For the 2021/22 school year school districts should have in place:
 - a local school district policy on financial planning and reporting;
 - a local school district policy on accumulated operating surplus; and,
 - budget 2022/23 should reflect planned use of surplus.

- To enable greater transparency and accountability school districts were also required to identify, in their local policies, how local community and education-partner groups, including local First Nations and Métis Nation BC, will be engaged to provide input into financial planning and reporting and the management of surplus.
- School districts were surveyed in May 2022 and asked to self-report on compliance with both ministry policies, challenges to update or create local policies, and what support would be helpful for the ministry to provide moving forward.
- Ministry staff have evaluated the ministry's first year of implementation support to school districts and how many school districts meet the 2021/22 deliverables.
- The analysis indicates that about 50 percent of school districts have, or are working towards, local FPAR and Surplus policies that are compliant with ministry policies; ministry staff are following up with the remainder to offer capacity building assistance as needed (see next steps below).

What Has Changed

- The Ministry review of school district policies indicates most school districts have good "corporate" policies that support the financial and operational aspects required to manage school districts.
- The review also indicates that many school district financial management policies lack the elements and characteristics that define good "public" policy (policies that are aimed at enabling public good through transparent policies that are easily understandable by public readers).
- However, due to the engagement and capacity building support efforts mentioned above, school districts are demonstrating (in their modified or new financial management policies) an increasing awareness of the need to use transparent public policy language.
- Consequently, more school district policies are starting to include details on how their financial management processes align with their strategic priorities and ministry financial planning and reporting requirements (including the use of multi-year financial plans and accumulated operating surplus categories that align with the ministry's Surplus policy).

Next Steps

- Staff will use feedback from the school district survey and evaluation of school district policies to develop additional resources to support school districts for the 2022/23 school year, including:
 - development of a financial plan outline that will guide school districts on how to develop multi-year financial plans;
 - encourage and monitor the use of a surplus reporting template that was developed by the ministry to ensure greater transparency and accountability in the accumulation and use of accumulated operating surplus funds; and,
 - hold webinars, sessions at BCASBO Zone meetings, Fall and Spring BCASBO Conference and BCSTA Trustee Academy.

- Ministry staff are planning to continue to monitor and evaluate school district compliance with ministry policies by sampling school district policies and a survey of local communities (including First Nations and MNBC) on how effective school districts are in engaging them on financial planning/reporting including the use of operating surplus funds.
- Surplus reporting in the school district Financial Statements and Financial Statement Discussion & Analysis Reports due September 30 will be reviewed and compared to pre-policy implementation reporting numbers and detail to assess the progress made in this reporting.
- The ministry also intends to ask the sector to provide an evaluation of the implementation process and if there is anything that the ministry could improve on.

CONCLUSION:

- School districts continue to implement the two financial management policies as per the ministry timeline.
- Ministry staff will continue to provide capacity building activities to school districts during the fall of 2022 into 2023 to assist school districts as they develop and implement robust FPAR and Surplus policies that fully comply with ministry directives.
- The Ministry will work with the BCSTA to ensure that new (and existing) trustees are fully aware of the ministry financial management policies and the intent and requirements under these policies.

Attachment

1. 283040 IBN-MJW Attachment 1_Financial Management Policy Implementation Timeline

Program ADM/Branch:	Chris Brown, Resource Management Division
Program Contact (for content):	Jonathan Foweraker
Drafter:	Caroline Ponsford
Date:	September 22, 2022

Attachment 1_Financial Management Policy Implementation Timeline

Implementation Timelines for Ministry of Education and Child Care Financial Management Policies

Financial Planning and Reporting Policy (FPAR)	Month and School Year (shaded)	Accumulated Operating Surplus Policy (AOS)
Local policy in place 2022/23 budget submitted to Ministry	June 2022	Local policy in place 2022/23 budget should reflect planned use of surplus as per AOS policy
Year 1 evaluation - Ministry implementation	July 2022	
	August	
2021/22 FSD&A submitted to Ministry	September	
	October	Notes in 2021/22 financial statement reporting to Ministry should reflect AOS policy
Capacity building for Financial Plans with Ministry and BCASBO	November	
	December	
School districts begin public consultation on budget and multi-year financial plan for 2023/24 school year	January	School districts engage public in use of surplus for the 2023/24 multi-year Financial plan
	February	
	March	
	April	
	May	
2023/24 budget submitted to Ministry informed/supported by multi-year financial plan Year 2 evaluation - school district policies	June 2023	Surplus use in 2023/24 budget fully compliant with AOS policy
	July 2023	
2023/24 multi-year financial plan submitted to Ministry (note: aligns with Strategic Plan timing)	August	
	September	
2022/23 FSD&A submitted to Ministry and fully compliant with FPAR policy	November	Notes in 2022/23 financial statement reporting to Ministry fully compliant with AOS policy
	December	
School districts begin public consultation on budget and multi-year financial plan for 2024/25 school year	January	School districts engage public in use of surplus for the 2024/25 multi-year financial plan

Updated June 13, 2022

MINISTRY OF EDUCATION AND CHILD CARE
INFORMATION BRIEFING NOTE

DATE: September 14, 2022
CLIFF: 290756

PREPARED FOR: Honourable Jennifer Whiteside, Minister – **FOR INFORMATION**

SUBJECT: McCreary Centre Society (McCreary) – Report on the prevalence and correlates of racial discrimination and safety among BC Youth

PURPOSE: Provide a report summary

BACKGROUND:

- In spring 2022, the Ministry of Education and Child Care commissioned McCreary to establish a report (attachment 1) based on relevant data from the 2013 and 2018 BC Adolescent Health Survey as well as the 2019-2021 Annual Student Learning Survey (including the student, parent, and administrator versions).
- This report was commissioned to develop a better understanding of the lived and living experiences of racialized students, as well as feelings of IBPOC students feeling safe in B.C. schools.
- The report's findings indicate that 11% and 14% of students experienced racism at schools in 2013 and 2018 respectively. This data will be used as a baseline measure of the prevalence of racism in B.C. schools.
- Data collection will be repeated in 2023 and 2028. The first data set (2013/2018) will be compared with the second data set (2023/2028) as a quantitative indicator of success for the K-12 Anti-Racism Action Plan.
- Additional qualitative indicators from anti-racism projects being undertaken by the ministry will also be considered to determine the success of the K-12 Anti-Racism Action Plan.
- The report directly supports the "Race-Based Data Collection" element of the draft K-12 Anti-Racism Action Plan. This element addresses the Ministry's commitment to "Procure subject matter expertise to establish a baseline and create a framework to measure student experiences and link to outcomes, and to identify data gaps to address in the future."

DISCUSSION:

- The factors highlighted in the report relating to the relationship between positive health and well-being outcomes for IBPOC students, and school/community connectedness (i.e., caring, helpful and responsive staff, fair treatment) confirm the importance of continuing progress of the K-12 Anti-Racism Action Plan initiatives.
- Examples include:

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McCreary Report Findings	Links to K-12 Anti-Racism Action Plan Initiatives
B.C. youth who had experienced racial discrimination in the past year reported poorer physical and mental health than their peers.	Minister's Youth Dialogue Series - The report affirms and quantifies student comments from the Minister's Youth Dialogue Series.
Youth who had experienced racial discrimination in the past year were less likely than their peers to (1) feel cared about by teachers and other school staff, (2) feel that school staff expected them to do well or treated them fairly, (3) to feel happy or safe at school, and (4) to feel like a part of their school community.	Anti-Racism Training - The training will help to build school environments in which staff are knowledgeable and better equipped to address incidents of racism aligning and thereby creating a stronger sense of school connectedness, an important protective factor identified in the report.
The presence of caring school staff and feeling like they were treated fairly at school were associated with more positive outcomes among youth who had experienced racial discrimination.	Collaborative Change – The information in the report provides helpful information to support the decisions and directions set out by the Anti-Racism Education Partner Collaborative and Anti-Racism Educator Network.
Nearly a quarter of youth who experienced racial discrimination in the past year had self-harmed during this time and were more likely than their peers to have seriously considered/attempted suicide in the past year. Regardless of how long they had lived in Canada, youth born abroad were generally more likely to have experienced racial discrimination than those born in Canada.	School supports - The initiatives of Incident Response Guidelines, Resource Guide and Curriculum Resources will help ensure that school staff are better informed and equipped to identify and respond to an incident of racism with compassion and understanding as well as celebrate and honour all unique identities of the student body and their collective history, promoting positive health and well-being for students.

CONCLUSION:

- The report provides useful information to better understand IBPOC students' experiences of lived and living racism in B.C. schools and their connections to academic and health outcomes, school connectedness, sense of safety, and feelings about the future.
- The data and information in this report will also support measurement and long-term assessment of the anti-racism work that is taking place in B.C. schools and school districts.

Attachment:

1. McCreary Centre Society (2022), *Prevalence and correlates of racial discrimination and safety among BC youth*

Program ADM/Branch: Jennifer McCreary/Learning Division
Program Contact (for content): Erin Oscienny
Drafter: Kara Freeborn
Date: September 14, 2022

Prevalence and correlates of racial discrimination and safety among BC youth

McCreary Centre Society

March 2022

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Project advisory committee

We would like to thank the following people for their attendance at the project advisory committee meeting, and their contributions to this report:

Steven Dang, Manager, Population Health, Vancouver Coastal Health
Dr. Carla Hilario, Assistant Professor, School of Nursing, University of Alberta
Kalea F., McCreary Centre Society Provincial Youth Advisory Council
Kara Freeborn, Strategic Priorities, Learning Division, BC Ministry of Education
Darya Kulyashova, McCreary Centre Society Youth Advisory Council

Quotes from youth who reported on the 2018 BC Adolescent Health Survey that they had experienced racial discrimination are included throughout this report.

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KEY FINDINGS

In 2018, 14% of youth who completed the BC AHS had experienced racial discrimination in the past year. This was an increase from 11% in 2013.

Regardless of how long they had lived in Canada, youth born abroad were generally more likely to have experienced racial discrimination than those born here (22% vs. 12%). Rates of experiencing racial discrimination rose to 25% among those who had arrived in Canada as refugees.

Students who participated in cultural or traditional activities, ate traditional foods from their culture, and spoke a language other than English at home were generally more likely to experience racial discrimination. Also, the more connected youth were to their culture, the more likely they were to experience racism. For example, 25% of those who participated in cultural or traditional activities on a weekly basis in the past year experienced racial discrimination during this time period, compared to 20% of those who took part in these types of activities less than once a week and 11% who did not take part.

BC youth who had experienced racial discrimination in the past year reported poorer health and well-being than their peers who had not experienced this type of discrimination, including being less likely to rate their overall health as good or excellent (73% vs. 82%), to feel hopeful for their future (57% vs. 68%), to feel good about themselves (47% vs. 60%), and to rate their quality of life positively.

Racial discrimination was also associated with poorer mental health. For example, youth who had experienced racism were more likely to experience extreme stress (19% vs. 11% of those who had not experienced racial discrimination) and extreme despair (14% vs. 7%) in the past month, and to have self-harmed (24% vs. 16%), seriously considered suicide (28% vs. 15%) and attempted suicide (9% vs. 4%) in the past year. Experiencing racial discrimination also appeared to negatively affect feelings of safety and belonging in school and community.

Youth were less likely to have experienced racial discrimination when their school climate felt safe and accepting. A safe and supportive school environment was also associated with more positive outcomes among those who had experienced racism. For example, among youth who experienced this type of discrimination, youth who felt like part of their school were more likely to feel safe at school (77% vs. 34% of those who did not feel they were part of their school) and to feel good about themselves (61% vs. 27%); and were less likely to carry a weapon at school in the past month (5% vs. 14%).

The presence of caring school staff and feeling like they were treated fairly at school were also associated with more positive outcomes among youth who had experienced racial discrimination. For example, among youth who experienced racism, those who approached their school counsellor for help and found them helpful were less likely to have experienced extreme despair in the past month (14% vs. 23% who did not find a counsellor helpful).

Other supports that increased the likelihood youth who had experienced racial discrimination would report more positive health and well-being included the presence of caring adults in the community and supportive family members.

INTRODUCTION

As part of the province's plan to address discrimination and racism in education, the BC Ministry of Education has developed a K-12 Anti-Racism Action Plan which aims to tackle racial discrimination and create a safe and inclusive environment for students.

In order to understand students' experiences of racial discrimination and the sense of safety experienced by young people of different backgrounds, the BC Ministry of Education commissioned McCreary Centre Society to create a full-length report using relevant data from the 2013 and 2018 BC Adolescent Health Survey (BC AHS), as well as the 2019-2021 Annual Student Learning Survey (including the student, parent, and administrator versions).

Data from the BC AHS is used to look at the experiences of discrimination and violence as well as feelings of safety among students from different family backgrounds. The BC AHS data is also used to consider geographical, age, gender, and other differences in racial discrimination; the intersectionality of racial discrimination with other types of discrimination; any changes in students' experiences of discrimination and feelings of community, school, and household safety between 2013 and 2018; and the link between experiencing racial discrimination and health and well-being outcomes. The report also highlights protective factors that may help to reduce the likelihood that students experience racial discrimination as well as factors that may support those who have already experienced racism.

Racial identity and experiences of racial discrimination are not directly measured in the Student Learning Survey data included in this report. However, they provide important information about the school climate and sense of belonging and safety experienced by BC students, parents, and administrators.

The report concludes with a discussion of the limitations of the current measures, and considers potential additional measures for use on the 2023 BC AHS, and which could be useful to the Ministry in other surveillance projects. The Appendices provide regional BC AHS data (Appendix A) and additional data from the Student Learning Surveys (Appendix B).

About the BC AHS analyses

Percentage estimates in this report were generated through frequency and crosstabulation analyses. All reported comparisons in this report are statistically significant at least at $p < .05$. This means there is less than a 5% likelihood these results occurred by chance.

Any percentage that is marked with an asterisk (*) should be interpreted with caution, as the standard error was higher than others but is still within the releasable range.

The report provides associations, and does not imply causation or the direction of the relationship.

The BC AHS data is considered representative of over 95% of BC youth in Grades 7–12 who were attending mainstream schools in the province. However, results may not be representative of all youth in BC as, for example, they do not include youth who were home schooled, were attending independent schools, were not in school on the day the survey was administered, or who experienced barriers to completing a pencil and paper survey. Additionally, while the BC AHS asks about a range of health

topics, it may have missed some information that may be relevant to fully understanding the experiences of youth who experienced racial discrimination.

The option for youth to identify as a gender other than male or female (non-binary) was available on the 2018 BC AHS. Provincially, 2% of youth identified as non-binary. These youth were considered in all 2018 analyses. However, results could not always be reported due to the small sample size. Additionally, male and female were the only identity options available on the 2013 BC AHS. For this reason, comparisons to five years earlier were run by sex rather than gender.

The family background categories on the BC AHS are broad and incorporate many different cultures. For example, East Asian includes students who identify with backgrounds as diverse as Japanese, Chinese, and North Korean. The survey does not ask about skin colour or other aspects of identity which may be linked to racial discrimination. Additionally, experiences of racial discrimination may not be perceived as such, particularly by younger adolescents. The percentage who reported this experience on the BC AHS may therefore be an under-representation.

For more details about the methodology, sample, and limitations of the BC AHS, please contact mccreary@mcs.bc.ca.

About the Student Learning Survey data analyses

Relevant survey items about school climate from the student, parent, and administrator versions of the Student Learning Survey were analyzed for both the 2019/20 and 2020/21 school years. Percentage estimates were generated within Excel and reported out separately for Grades 4, 7, 10, and 12, where available.

Results for the 2019/20 survey were highlighted in the text as these were collected within the closest timeframe to the 2018 BC AHS. An appendix to the report includes results for both the 2019/20 and 2020/21 school years.

Glossary of terms used in this report

Adult in neighbourhood/community who really cared about them – youth who felt this statement was ‘pretty much true’ or ‘very much true.’

Bullied – youth who had been severely teased, socially excluded, and/or physically assaulted by another youth in the past year, while at school or on the way to or from school.

Cyberbullied – youth who were bullied or picked on through the Internet or other technology in the past year.

Extreme despair – youth who felt so sad, discouraged, or hopeless that they could not function properly in the past month.

Extreme stress – youth who felt so stressed that they could not function properly in the past month.

Felt good about themselves; felt their life was going well, they had a good life, they had what they wanted in life, their life was going just right, and wished they had a different life; felt like a part of

their school, felt happy to be at school, felt safe at school, felt school staff treated them fairly, school staff expected them to do well, teachers cared about them, and other school staff cared about them – youth who ‘agreed’ or ‘strongly agreed’ with these statements.

Felt hopeful for the future; felt like a part of the community; felt their family understood them, respected them, paid attention to them, and that they had fun with their family — youth who felt this way ‘quite a bit’ or ‘very much.’

Felt safe in their neighbourhood, on transit, or at home — youth who ‘often’ or ‘always’ felt this way.

Latin American – youth who identified their family background as Latin, South, or Central American.

Meaningful activities – youth who felt their activities were ‘quite a bit’ or ‘very’ meaningful.

Non-binary – youth who did not identify as female or male or who were not yet sure of their gender identity.

Physically assaulted – physically attacked or assaulted by another youth in the past year, while at school or on the way to or from school.

Protective factors – these are factors that promote the likelihood of positive outcomes, reduce the likelihood of negative ones, and can buffer the effects of adverse experiences.

Racial discrimination/racism – discriminated against or treated unfairly because of their race, ethnicity, or skin colour in the past year.

Sexual minority – identified as lesbian, gay, bisexual, mostly straight, or questioning.

Severely teased – teased to the point of feeling bad or extremely uncomfortable by another youth in the past year, while at school or on the way to or from school.

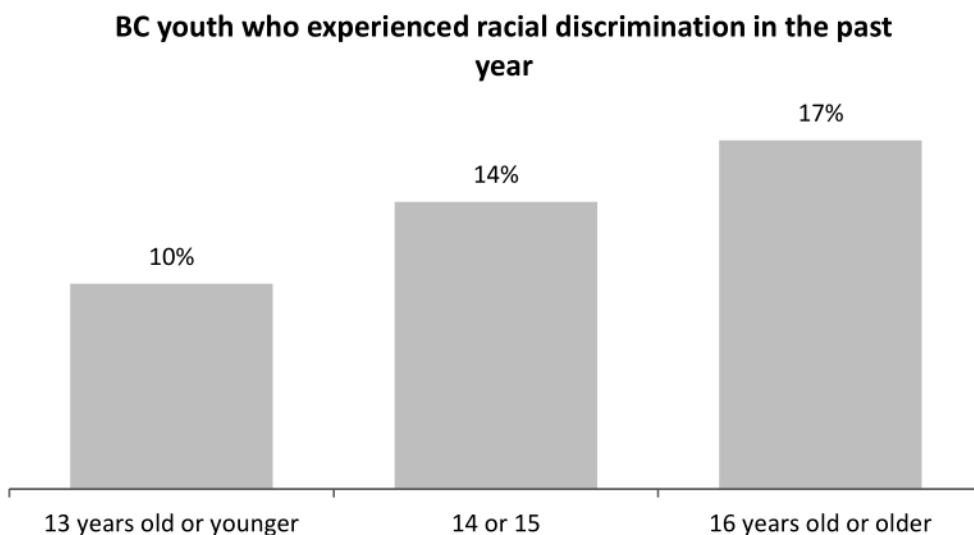
Socially excluded – kept out of things or ignored on purpose by another youth in the past year, while at school or on the way to or from school.

Youth who spoke a language other than English at home – refers to those who spoke another language at home at least sometimes, unless otherwise noted.

PREVALENCE OF RACIAL DISCRIMINATION AMONG BC YOUTH

"Teaching people about sensitivity to racism and homophobia would reduce (hopefully) the amount of ignorant comments I hear." Female, aged 17

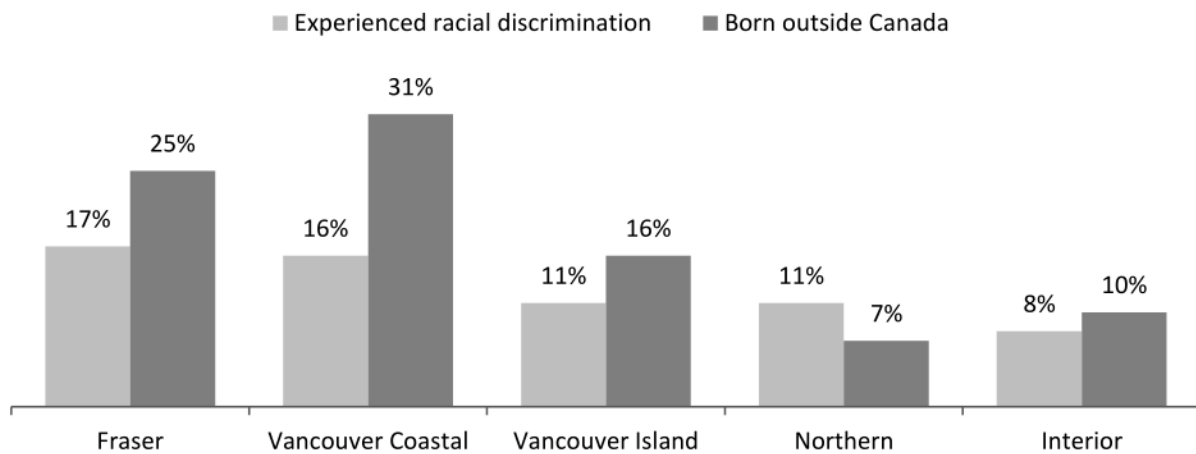
In total, 14% of BC youth had experienced racial discrimination in the past year, which was an increase from 11% in 2013. Older youth were more likely than younger ones to have experienced racial discrimination, and females were slightly more likely than males to have had this experience (14% vs. 13%).



Regardless of how long they had lived in Canada, youth born abroad were generally more likely to have experienced racial discrimination than those born here (22% vs. 12%). Rates of experiencing racial discrimination rose to 25% among those who had arrived in Canada as refugees.

Overall, urban-based youth were more likely than rural-based ones to experience racial discrimination (14% vs. 10%). Regionally, youth in the Fraser and Vancouver Coastal areas were the most likely to report racial discrimination; these were also the regions more likely to have youth who had been born abroad.

Regional differences in BC youth's experiences of racial discrimination in the past year

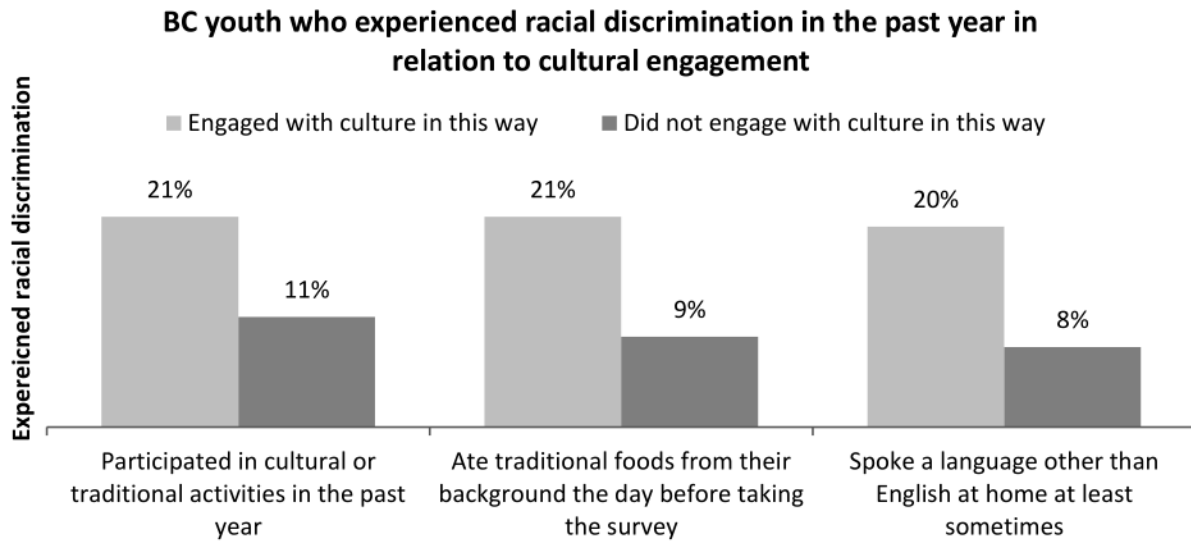


Note: The difference between youth in the Fraser and Vancouver Coastal regions who had experienced racial discrimination was not statistically significant.

In some parts of the province, experiences of racism were proportional to the percentage of students of that background in the population. For example, the percentage of East Asian students in Vancouver Coastal who experienced racial discrimination was proportional to the percentage of East Asian students in that region. However, this was not the case in some other parts of the province. For example, 5% of youth in the Interior identified as East Asian but 18% of Interior youth who experienced racial discrimination were of East Asian heritage.

In all regions of the province, there was no difference in rates of experiencing racism between youth who identified with one background compared to two (e.g., East Asian and Indigenous). However, those who identified as having three or more different family backgrounds were more likely to report that they had experienced racism (e.g., 27% vs. 15% of those who identified exclusively with one background).

Students from all parts of the province and of all genders and ages who participated in cultural or traditional activities, ate traditional foods from their culture, and spoke a language other than English at home were generally more likely to experience racial discrimination.



In addition, the more engaged youth were in their culture, the more likely they were to experience racial discrimination. For example, 11% of youth who did not take part in cultural or traditional activities in the past year experienced racial discrimination during this time period, compared to 20% of those who took part in these types of activities less than once a week and 25% of those who participated on a weekly basis.

There did not appear to be a link between the type or length of school commute and experiencing racial discrimination. However, youth who took public transit were more likely to have experienced racial discrimination (16% vs. 9% of those who did not use transit).

Racism and other experiences of discrimination

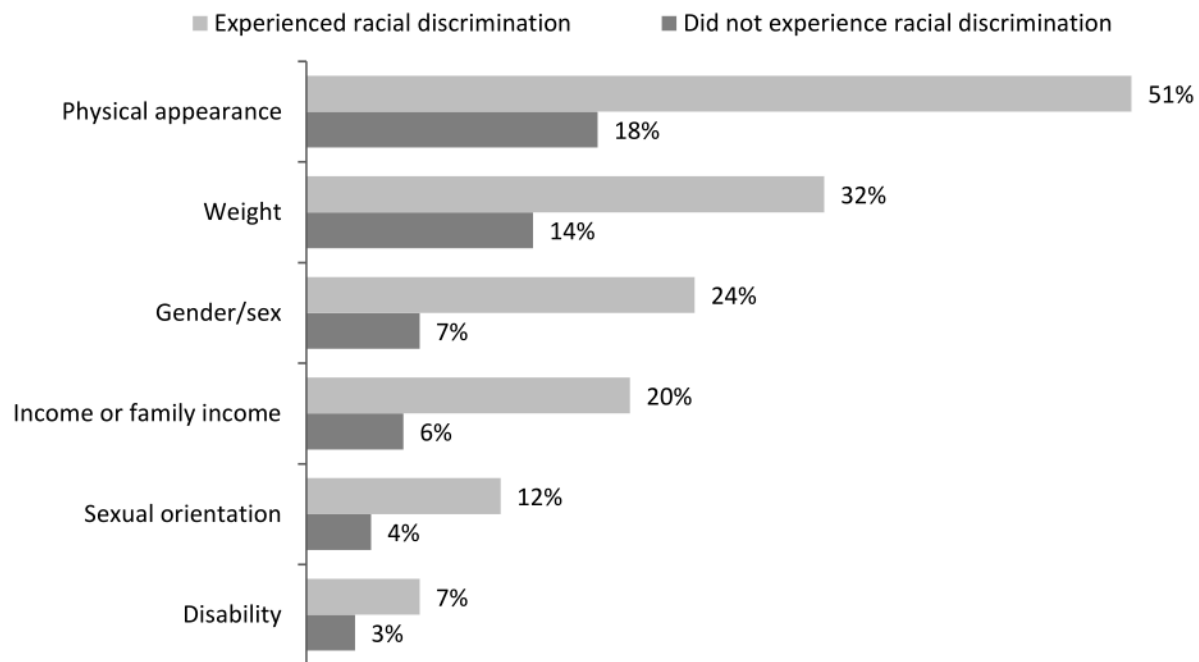
"I get teased at school for my religion and how I look just because I'm Muslim and I wear a hijab and no one else does. It makes me feel really alone." Female, aged 13

"My girlfriend's mom is very racist, and I don't know how to deal with it." Male, aged 16

"Getting bullied for being colour blind and Muslim." Female, aged 17

Overall, 39% of BC youth had experienced at least one type of discrimination in the past year (such as racism, homophobia, and sexism). Most youth who experienced racism had also experienced other types of discrimination, including 25% who experienced one additional type and 43% who experienced two or more additional types.

BC youth who had been discriminated against in the past year because of their ...



The 2019/20 Student Learning Survey did not ask students directly about racial discrimination. However, they were asked about respecting others, and over 8 in 10 students felt they respected people who were different from them (e.g., think, act, or look different) 'many times' or 'all of the time' at school.

Grade 7	87%
Grade 10	85%
Grade 12	88%
All grades combined	87%

Nearly all parents who completed the survey felt their child respected people who were different from them (97%; including 98% of elementary school parents and 96% of secondary school parents).

EXPERIENCES OF DISCRIMINATION AND SAFETY AMONG YOUTH FROM DIFFERENT BACKGROUNDS

NOTE: This section will not be released publicly.

This section of the report considers youth from nine different backgrounds and includes results about their experiences of racial discrimination and other types of victimization; as well as their sense of community, school, household safety, and belonging.

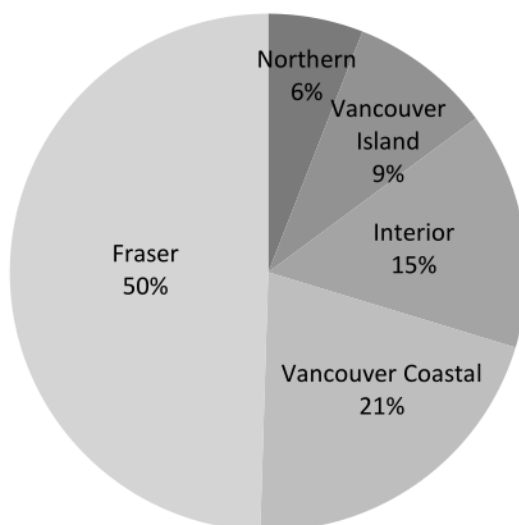
Most youth (77%) identified as being of a single background, 15% identified as being of multiple backgrounds, and 8% did not know their background.

African youth

In 2018, 3% of youth who completed the BC AHS reported they were of African background (e.g., Nigerian, Ethiopian, Kenyan). Among African youth, 48% identified exclusively as African, while 36% identified one additional family background, and 12% identified two additional backgrounds.

Half of African youth lived in the Fraser region, with these youth most commonly living in Fraser South (27%) and Fraser North (19%).

Where African youth lived



Note: Percentages do not total 100% due to rounding.

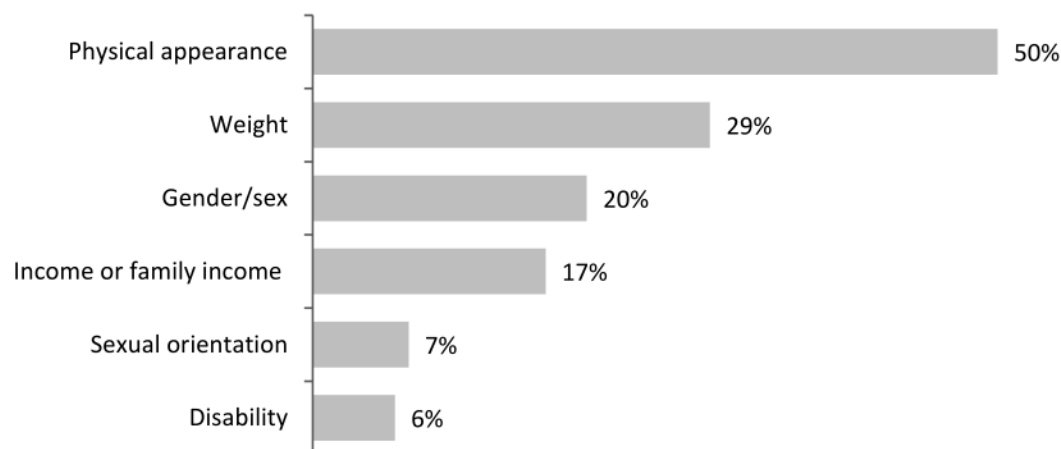
Racial discrimination

In 2018, 38% of African youth reported they had been discriminated against because of their race, ethnicity, or skin colour in the past year. This was an increase from 26% in 2013. There were few age differences in experiences of racism but females were more likely than males to report experiencing racial discrimination (42% vs. 34%).

There were no differences in rates of experiencing racism based on whether African youth were born in Canada or abroad. However, youth who spoke a language other than English at home were more likely than those who spoke only English at home to experience racial discrimination (42% vs. 33%).

Racial discrimination was not the only type of discrimination experienced by African youth, and the most common type of discrimination was based on physical appearance. There were no gender differences in experiencing the different types of discrimination asked about on the BC AHS, except African females were more likely than males to experience gender/sex discrimination as well as racial discrimination (26% vs. 8% of males; among those who experienced racism).

**African youth who experienced racial discrimination in the past year
who had also been discriminated against because of their ...**

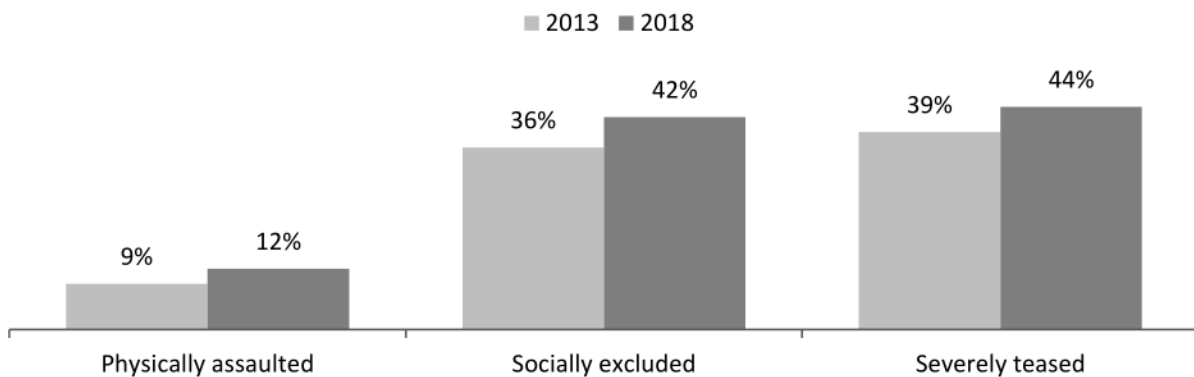


Note: The differences between males and females in experiencing racial discrimination as well as other types of discrimination were not statistically significant, except for gender/sex discrimination.

Other types of victimization

In 2018, 60% of African youth reported they had been bullied by another youth in the past year, which was an increase from 53% in 2013. They were specifically more likely to have been socially excluded and physically assaulted.

African youth who were bullied at or on their way to or from school in the past year



Note: The difference in being severely teased between 2013 and 2018 was not statistically significant.

School safety and belonging

Similar to 2013, 61% of African youth felt their teachers cared about them, 50% felt that other school staff cared about them, and 58% felt a part of their school. However, there were decreases in the percentages who felt safe at school (66% vs. 74% in 2013) and who felt that school staff treated them fairly (63% vs. 68%).

Home safety

Most African youth (93%) felt safe inside their home, which was similar to five years earlier.

Community safety and belonging

Compared to five years earlier, African youth were more likely to feel they had an adult in their community who cared about them (67% vs. 60% in 2013). Around 4 in 10 youth (42%) felt like they were part of their community (similar to 2013).

Most African youth (90%) felt safe in their neighbourhood in the daytime, which was unchanged from 2013. However, African youth were less likely to feel safe in their neighbourhood at night (59% vs. 64% in 2013), with females less likely than males to feel this way (47% vs. 71%). Comparable to 2013, 59% of youth who used local public transit felt safe doing so.

Online safety

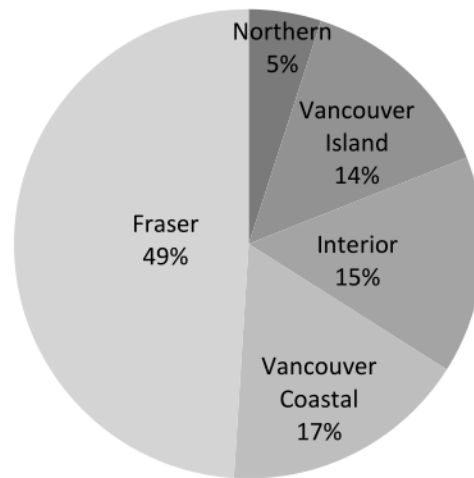
Similar to 2013, 15% of youth had been cyberbullied, with no gender differences. However, there was an increase in youth who reported they had ever met someone online who had made them feel unsafe (19% vs. 15% in 2013). In 2018, female youth were more likely than males to have met someone unsafe online (26% vs. 12%).

Australian and Pacific Islander youth

Australian and Pacific Islander was the least common background among BC youth, with 2% identifying this way (a slight decrease from 2013). Among Australian and Pacific Islander youth, the majority (71%), also identified with other family backgrounds.

Around half of Australian and Pacific Islander youth lived in the Fraser region with the highest percentages in Fraser South (26%) and Fraser North (16%).

Where Australian/Pacific Islander youth lived



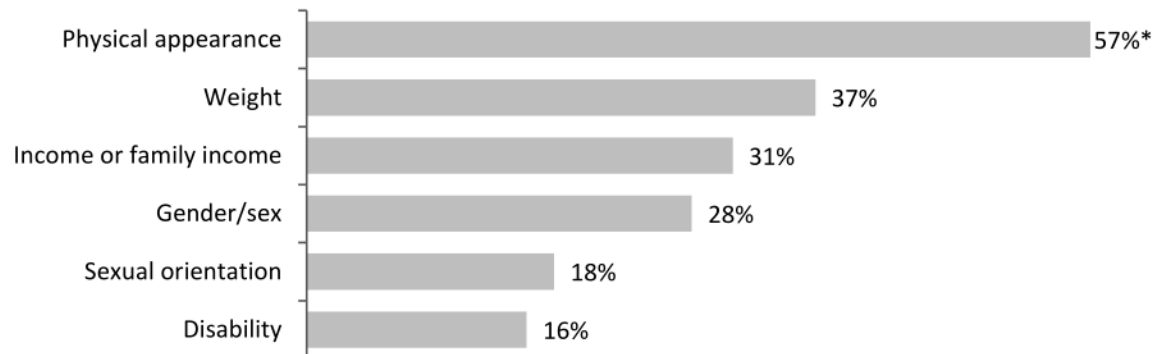
Racial discrimination

In the past year, 17% of Australian and Pacific Islander youth had experienced racial discrimination, which was an increase from 11% in 2013. There were no differences in experiences of racial discrimination based on age, gender, sexual orientation, or whether youth were born in Canada. However, youth who spoke a language other than English at home were more likely than those who never did so to experience racial discrimination (27% vs. 9%).

While around 1 in 6 Australian and Pacific Islander youth had specifically experienced racism, nearly half (46%) had experienced some type of discrimination in the past year, including because of their physical appearance.

Around a third of youth (31%) who experienced racial discrimination reported this as the sole type they had experienced in the past year. Among youth who experienced racial discrimination, females were more likely than males to have also been discriminated against because of their gender or sex, weight, and a disability they had.

**Australian/Pacific Islander youth who experienced racial
discrimination in the past year who had also been discriminated
against because of their ...**



Note: Females were more likely than males to have experienced racism and been discriminated against because of their gender, weight, and a disability they had (percentage estimates not releasable). The differences between males and females who experienced discrimination based on their physical appearance, income or family income, and sexual orientation were not statistically significant.

*Percentage estimate should be interpreted with caution as the standard error was higher than others, but still within the releasable range.

Other types of victimization

Similar to five years earlier, 58% of Australian and Pacific Islander youth had been bullied in the past year including 44% who had been severely teased, 43% who had been socially excluded, and 11% who had been physically assaulted.

School safety and belonging

Australian and Pacific Islander youth were less likely to feel safe at school compared to five years earlier (68% vs. 75% in 2013). Comparable to 2013, 57% felt like they were part of their school, 63% felt their teachers cared about them, 69% felt that school staff treated them fairly, and 50% felt that other school staff cared about them. Males were more likely than in 2013 to feel other school staff cared about them (54% vs. 44%), whereas the percentage for females remained consistent (45% in 2018).

Home safety

Comparable to 2013, most Australian and Pacific Islander youth (91%) felt safe inside their home. However, females were less likely than males to feel safe there (89% vs. 95%).

Community safety and belonging

Similar to five years earlier, 67% of Australian and Pacific Islander youth reported they had an adult in their community who cared about them and 43% felt like they were a part of their community. Males were more likely than five years earlier to report they had an adult in their community who cared about them (69% vs. 57%), whereas the percentage for females was consistent (65% in 2018).

Comparable to 2013, the majority of youth felt safe in their neighbourhood in the daytime (90%) and at night (67%), as well as on local public transit (59%; among those who used transit).

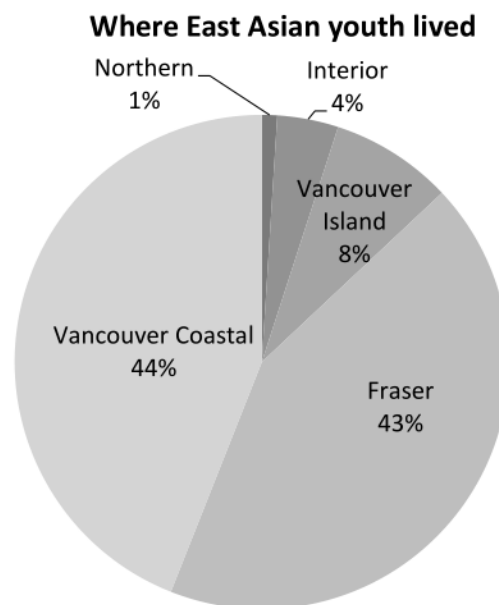
Online safety

Similar to results in 2013, 17% of youth had been cyberbullied in the past year and 18% had ever met someone online who had made them feel unsafe. Females were more likely than males to have been cyberbullied (21% vs. 13%) and to have met someone unsafe online (25% vs. 9%).

East Asian youth

On the 2018 BC AHS, 18% of youth identified their background as East Asian (e.g., Chinese, Japanese, Korean), which was the second most common background after European. Most East Asian youth (79%) reported being exclusively of this background.

The majority (87%) of East Asian students lived in the Vancouver Coastal or Fraser regions, most commonly in Vancouver (26%) and Fraser North (25%). East Asian was the most common family background in the Vancouver Coastal region, with 39% of East Asian youth making up this region. Within Vancouver Coastal, rates of East Asian students ranged from 16% of North Shore/Coast Garibaldi students to 53% of Richmond students.



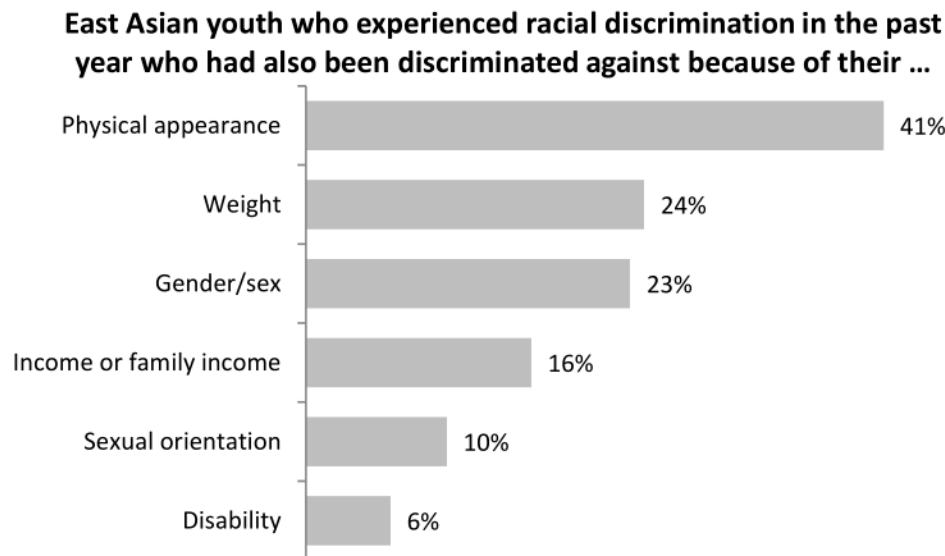
Racial discrimination

Around a fifth (21%) of East Asian youth had experienced racial discrimination in the past year, an increase from 18% in 2013. Consistent with five years earlier, females were more likely than males to experience racial discrimination (24% vs. 18%).

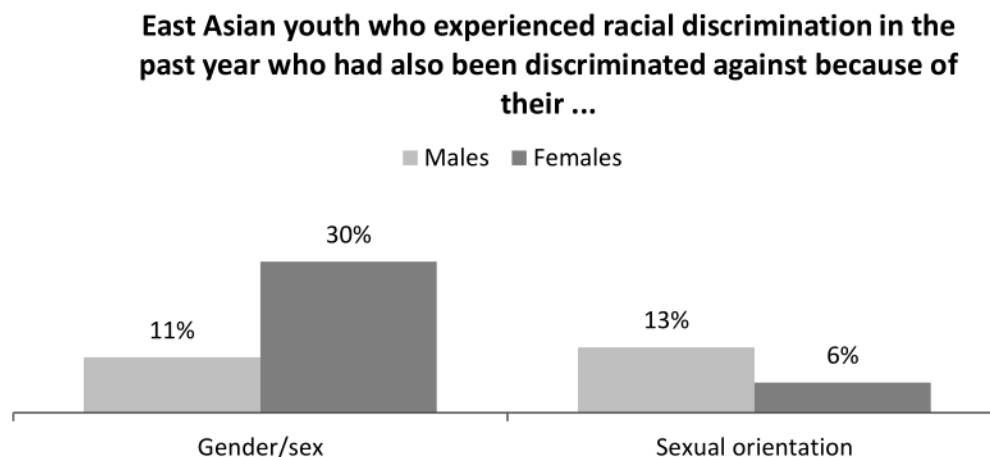
Among East Asian youth, those who experienced racial discrimination were more likely to be:

- *Older* (e.g., 25% of 18-year-old East Asian youth had been discriminated against in this way vs. 14% of 12-year-olds).
- *A sexual minority* (24% vs. 20% of straight youth).
- *Attending school in a rural area* (31% vs. 20% in urban areas).
- *Born outside of Canada* (23% vs. 19% of those born in Canada).
- *Speaking a language other than English at home most of the time* (22% vs. 17% of youth who only spoke English at home).

Overall, about a third (35%) of East Asian youth reported experiencing at least one type of discrimination in the past year. Those who experienced racial discrimination were more likely to experience this in combination with other types of discrimination than to experience racism exclusively (42% of those who reported racism indicated this was the only type of discrimination they experienced). Youth who experienced another type of discrimination most commonly reported being discriminated against because of their physical appearance.



Among youth who experienced racism, males were more than twice as likely as females to also have been discriminated against because of their sexual orientation, whereas females were more than twice as likely as males to have been discriminated against because of their gender or sex.



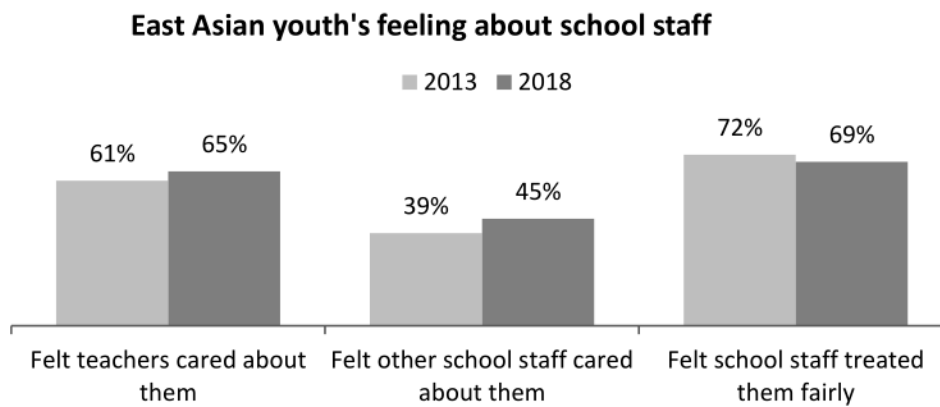
Note: The differences between males and females who experienced racial discrimination as well as discrimination based on their physical appearance, weight, a disability, and their income or family income were not statistically significant.

Other types of victimization

Similar to 2013, 36% of East Asian youth had been severely teased and 6% had been physically assaulted. Also, 32% had been socially excluded (vs. 30% in 2013). The increase in social exclusion meant that there was an overall increase in the percentage of East Asian students who experienced any of the three types of bullying in the past year (from 46% in 2013 to 48%).

School safety and belonging

East Asian students were less likely to feel staff treated them fairly compared to five years earlier. However, the percentage who felt like a part of their school (61% in 2018) and felt safe at school (75%) stayed consistent, and there was an increase in those who felt their teachers and other school staff cared about them.



Note: The differences between 2013 and 2018 for youth who felt safe at school and who felt like a part of their school were not statistically significant.

Home safety

Most East Asian students reported feeling safe in their home. However, slightly fewer reported feeling this way than in 2013 (93% vs. 95%). Non-binary youth were the least likely to feel safe inside their home (e.g., 73% vs. 94% of males).

Community safety and belonging

About four in ten (39%) East Asian youth felt connected to their community, which was comparable to five years earlier but lower than the provincial rate (42%). There was an increase in East Asian youth who felt there was an adult in their neighbourhood or community who cared about them (55% vs. 49% in 2013).

Comparable to five years earlier, 88% of East Asian students felt safe in their neighbourhood during the day and 58% felt safe there at night. Nearly two thirds (62%) of those who used public transit felt safe doing so.

Online safety

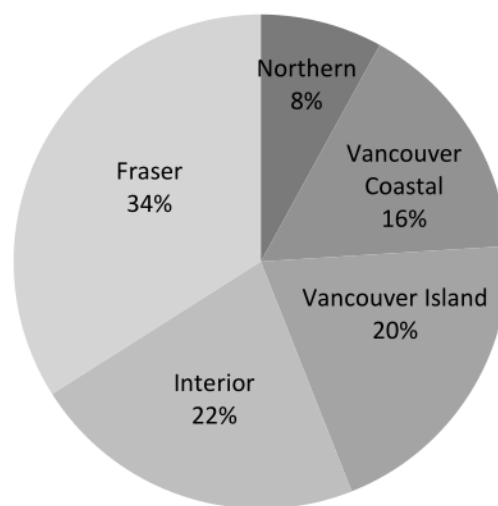
Similar to results in 2013, 10% of East Asian youth had been cyberbullied in the past year and 16% had ever met someone online who made them feel unsafe. There were no gender differences in being cyberbullied, but female and non-binary youth were more likely to have met someone unsafe online (e.g., 20% of females vs. 11% of males).

European youth

The percentage of students who identified as European (e.g., British, Irish, German) was lower than in 2013 (46% vs. 53%). However, European remained the most common background in the Interior (65%), Vancouver Island (61%), North (55%), and Fraser (37%) regions; and was the second most common background after East Asian in Vancouver Coastal (35%). Among European youth, 74% reported they were exclusively European.

The majority of European youth lived in the Fraser and Interior regions, with the highest percentage in Fraser South (14%) and Fraser North (13%).

Where European youth lived

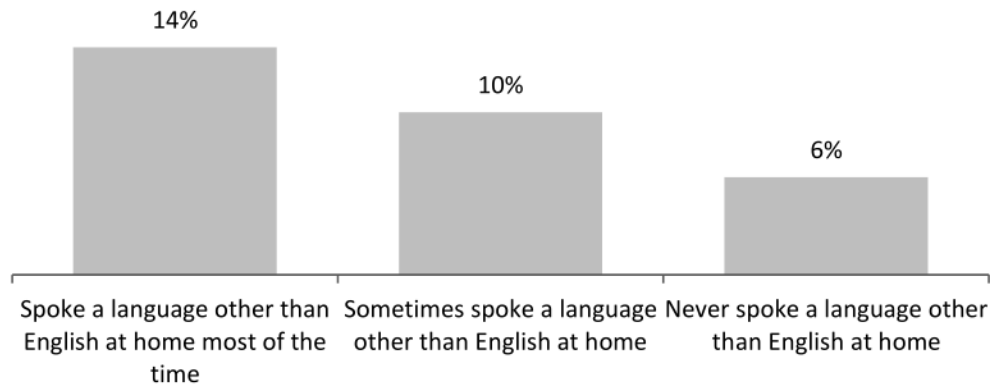


Racial discrimination

In 2018, 8% of European youth had experienced racial discrimination (vs. 6% in 2013). There were no regional differences. However, some European youth were more likely to have this experience, including those who were:

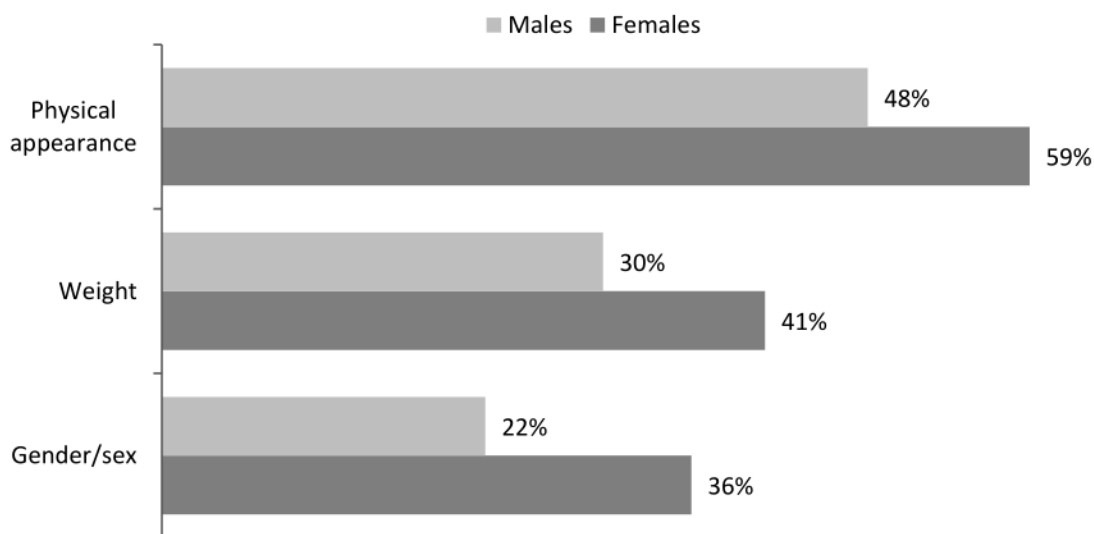
- *Older* (e.g., 9% of youth aged 16 vs. 5% of youth aged 12 or younger).
- *Male or non-binary* (e.g., 13% of non-binary youth vs. 7% of female youth).
- *Born outside Canada* (13% vs. 7% of youth born in Canada)
- *Speaking a language other than English at home most of the time.*

European youth who had experienced racial discrimination in the past year



Overall, 39% of European youth reported they had experienced any type of discrimination in the past year. Among those who had experienced racial discrimination, around three quarters had also experienced other types of discrimination, including 23% who experienced one other type and 51% who experienced two or more additional types, such as discrimination due to their physical appearance or weight. Female and non-binary youth were more likely than males to experience additional types of discrimination.

European youth who experienced racial discrimination in the past year who had also been discriminated against because of their ...

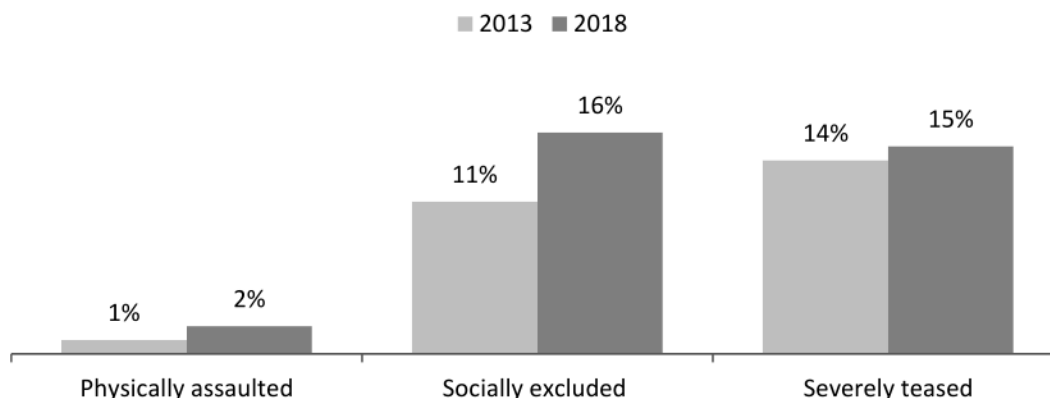


Note: Among youth who had experienced racism, 24% of European youth also experienced discrimination based on their income or family income 18% due to their sexual orientation, and 12% due to a disability. The differences between males and females in experiencing these additional types of discrimination were not statistically significant.

Other types of victimization

European youth were more likely to have been bullied than five years earlier (58% vs. 53%), and to have been bullied on multiple occasions.

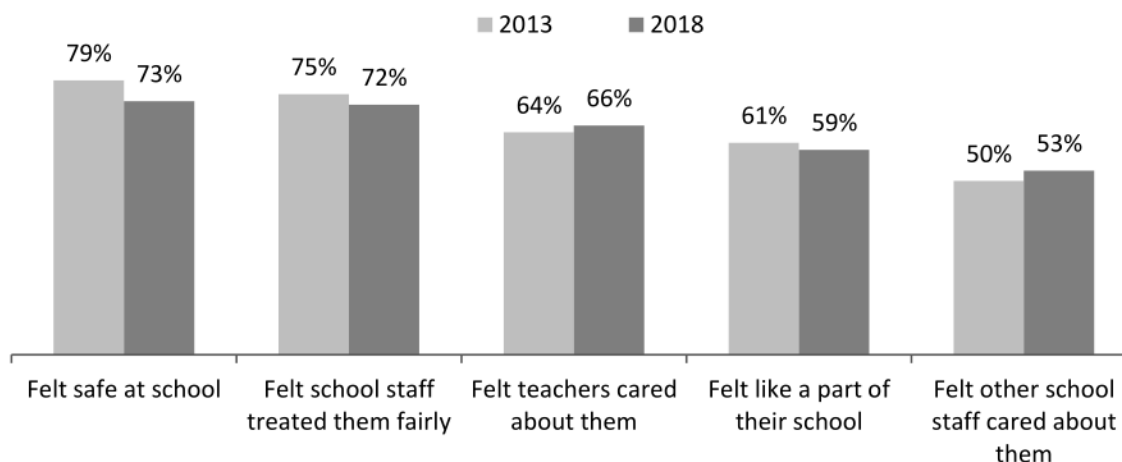
European youth who had been bullied three or more times at school or on the way to/from school in the past year



School safety and belonging

Compared to five years earlier, European youth were more likely to feel their teachers cared about them and other school staff cared about them; but were less likely to feel a part of their school, that staff treated them fairly, and that they felt safe at school.

European youth's feelings about school



Home safety

There was a slight decrease in the percentage of European youth who felt safe inside their home (94% vs. 95% in 2013), which was driven by a decrease in the percentage of females who felt unsafe, as male rates remained unchanged. In 2018, non-binary youth were the least likely to feel safe at home (79% vs. 93% of females vs. 96% of males).

Community safety and belonging

In 2018, 42% of European youth felt like part of their community, which was an increase from 38% in 2013. The percentage who felt they had an adult in their community who cared about them also increased (71% vs. 67%). Similar to 2013, most European youth (94%) felt safe in their neighbourhood during the daytime, while 69% felt safe at night and 62% of those who used transit felt safe doing so.

Online safety

There was a slight decrease in European youth who had been cyberbullied (15% vs. 16% in 2013). This decrease was only seen among female youth (19% vs. 22%), as the percentage among males remained stable across survey years (11% in 2018).

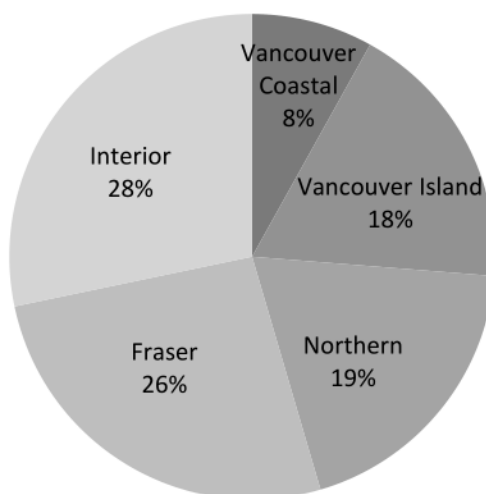
There was an increase in youth who reported they had ever met someone online who had made them feel unsafe (from 14% in 2013 to 19%). Males were the least likely to have had this experience (e.g., 12% vs. 31% of non-binary youth).

Indigenous youth

As in 2013, 10% of BC youth identified as Indigenous. Among youth who identified as Indigenous, 61% were First Nations, 32% Métis, 2% Inuit, and 6% specified another Indigenous background. Around half of Indigenous youth (51%) reported they were exclusively Indigenous, 42% reported one additional background, and 6% reported two additional backgrounds.

The majority of Indigenous youth lived in the Interior and Fraser regions, with the highest percentages living in the Thompson-Cariboo Shuswap (11%) and Okanagan (11%) areas. Indigenous was the second most common family background in the Northern (29%), Interior (18%), and Vancouver Island (12%) regions.

Where Indigenous youth lived



Note: Percentages do not total 100% due to rounding.

Youth who identified as Indigenous on the 2019/20 Student Learning Survey.

Grade 7	15%
Grade 10	11%
Grade 12	9%
All grades combined	12%

Racial discrimination

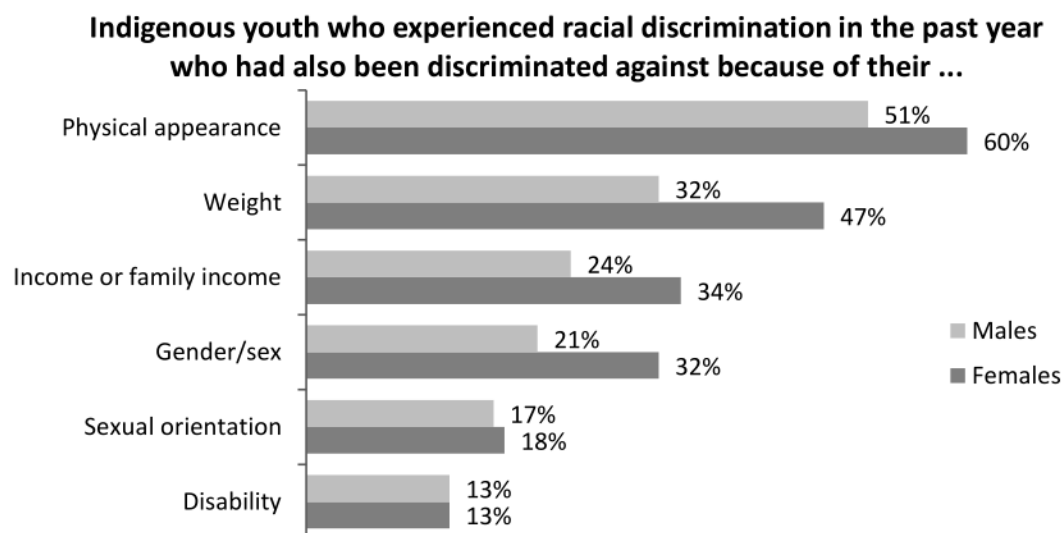
In 2018, 15% of Indigenous youth identified that they had experienced racial discrimination, which was similar to the rate in 2013. There were no urban-rural differences. However, some youth were more likely to experience racial discrimination, including those who:

- *Had a family history of residential school* (25% vs. 9% of Indigenous youth without a family history of residential school), particularly if their parents had attended (38% vs. 14% who did not have a parent with residential school experience).
- *Had ever lived on a First Nations reserve* (28% vs. 10% of those who had never lived on reserve).
- *Were older* (e.g., 18% of youth aged 17 vs. 9% of youth aged 12 or younger).
- *Were female* (17% vs. 13% of males).
- *Spoke an Indigenous language* (39% who were fluent or could hold a conversation vs. 28% who spoke a few words vs. 9% who did not speak an Indigenous language).
- *Identified as a sexual minority* (20% vs. 14% of straight youth).

A third of Indigenous youth who identified as Two-Spirit reported experiencing racism, which was more than double the rate among Indigenous youth who did not identify this way (33% vs. 14%).

In total, 45% of Indigenous youth had experienced at least one type of discrimination in the past year. Indigenous youth were more likely to have experienced racial discrimination in combination with at least two other types of discrimination than to have exclusively experienced racial discrimination (53% vs. 25%; among those who experienced racial discrimination).

Indigenous females were more likely than males to experience additional discrimination on top of their experience of racism, and non-binary youth were the most likely to have also been discriminated against because of their sexual orientation, gender or sex, and weight.



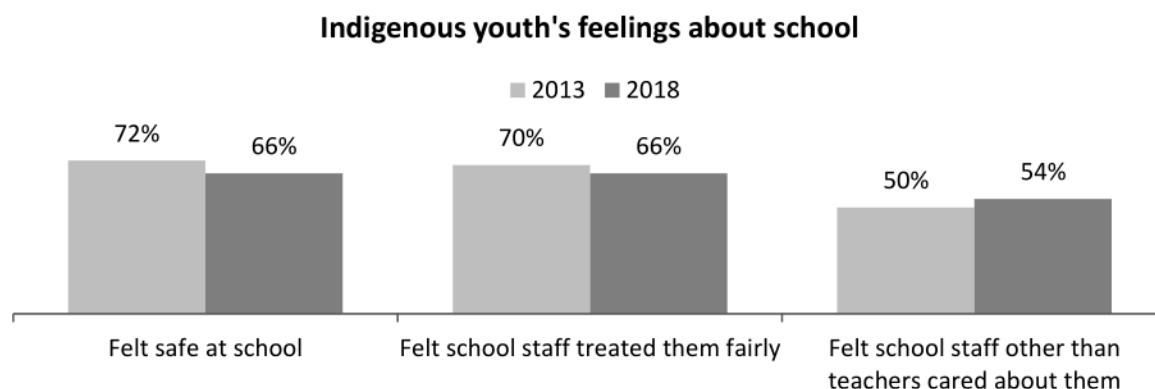
Note: The difference between males and females who had also been discriminated against because of their physical appearance and sexual orientation was not statistically significant.

Other types of victimization

Similar to 2013, 55% of Indigenous youth reported they had been bullied in the past year. There was an increase in Indigenous youth who had been socially excluded (41% vs. 37% in 2013). Similar to 2013, 39% of youth had been severely teased and 12% had been physically assaulted.

School safety and belonging

Provincially, there was a decrease in youth feeling like a part of their school and an increase in feeling like their teacher cared about them. For Indigenous youth, rates remained unchanged. Around half (51%) of Indigenous youth felt like part of their school and 61% felt their teachers really cared about them. Indigenous youth were more likely than in 2013 to feel other school staff cared about them, but were less likely to feel safe at school and that school staff treated them fairly.



Note: The differences between 2013 and 2018 for youth who felt their teachers cared about them and who felt like a part of their school were not statistically significant.

Home safety

Most Indigenous youth (91%) felt safe inside their home. Non-binary youth were the least likely to feel safe there (70%). Females were less likely to feel safe inside their home compared to five years earlier (88% vs. 91%), whereas the percentage among males was unchanged (94%).

Community safety and belonging

In 2013, 63% of Indigenous youth felt they had an adult in their community who really cared about them. This rose to 68% in 2018.

Similar to five years earlier, 37% of Indigenous youth felt like part of their community; 87% felt safe in their neighbourhood during the daytime, while 62% felt safe at night; and 53% of those who used local public transit felt safe doing so.

Online safety

Comparable to five years earlier, 21% of Indigenous youth reported they had been cyberbullied. When considered separately, cyberbullying rates were unchanged for females (28% in 2018) but increased for males (14% vs. 12% in 2013).

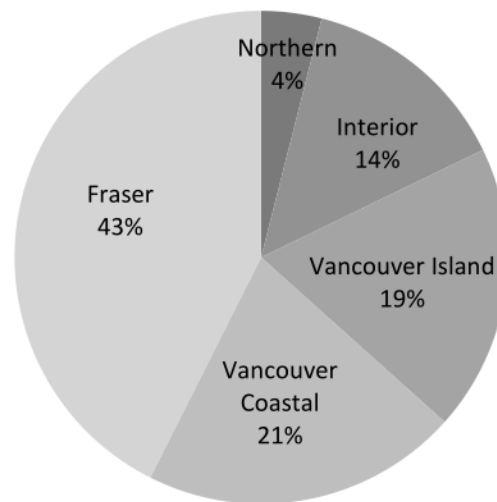
Overall, 23% of youth reported they had ever met someone online who made them feel unsafe, which was an increase from 18% in 2013. This increase was seen for both males and females, but males remained the least likely to have had this experience (e.g., 14% vs. 32% of non-binary youth).

Latin American youth

One in 20 youth (5%) identified as Latin American (Latin American, South American, or Central American). This was an increase from 4% in 2013. Around half of Latin American youth (48%) reported they were exclusively of this background.

Latin American youth most commonly lived in the Fraser region, with the highest percentage in Fraser North (18%) and Fraser South (17%).

Where Latin American youth lived



Note: Percentages do not total 100% due to rounding.

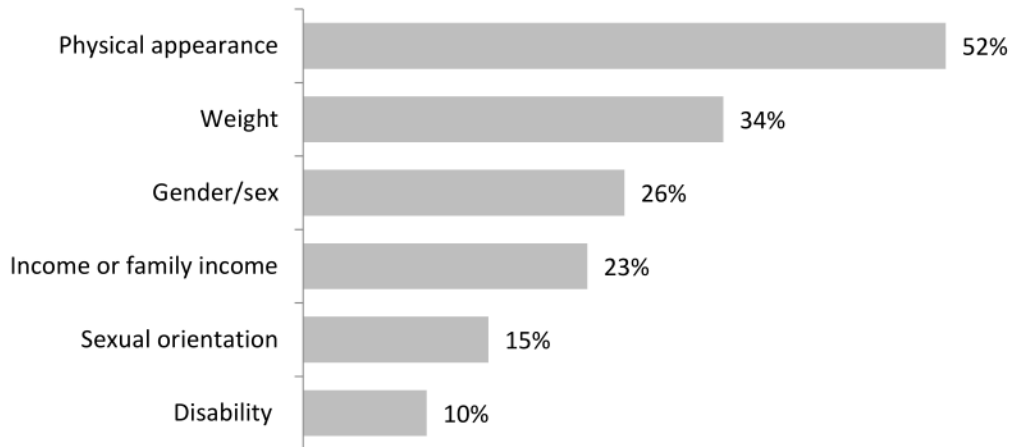
Racial discrimination

Similar to 2013, 20% of Latin American youth had experienced racial discrimination. There were no differences in racial discrimination based on gender or sexual orientation but some youth who were more likely to experience racial discrimination included:

- *Older youth* (e.g., 23% of youth aged 14 or older vs. 11% of youth aged 13 or younger).
- *Youth born abroad* (24% vs. 17% of those born in Canada).
- *Youth who spoke a language other than English at home* (23% vs. 13% who never did so).
- *Youth attending a school in an urban area* (21% vs. 15% of those in rural areas).

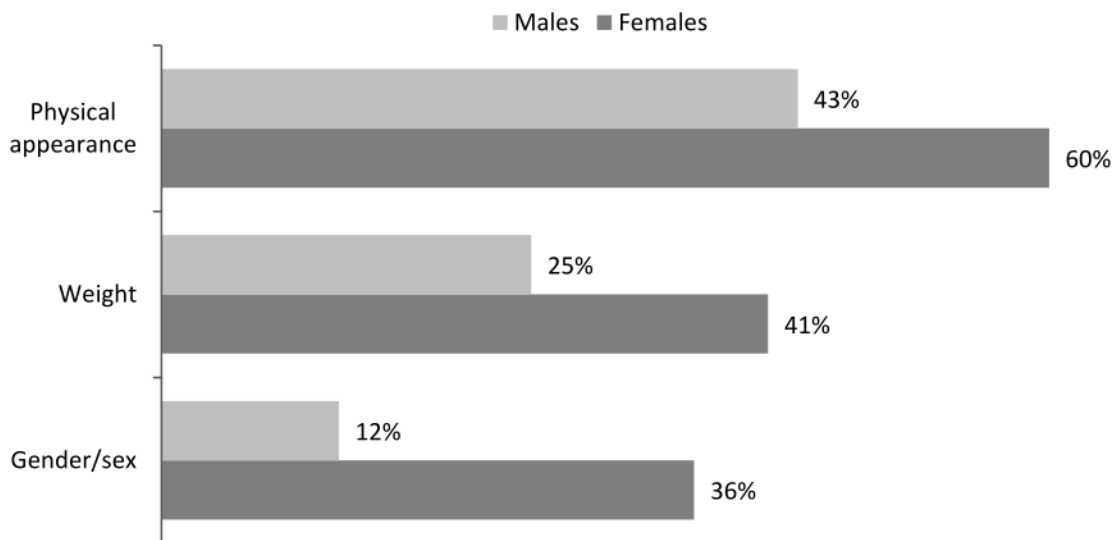
In total, 42% of Latin American youth reported they had experienced at least one type of discrimination in the past year. Among those who experienced racial discrimination, 70% reported experiencing additional types of discrimination, including 56% of females and 34% of males who experienced at least two other types.

Latin American youth who experienced racial discrimination in the past year who had also been discriminated against because of their ...



Among youth who experienced racism, females were more likely than males to have also been discriminated against because of their physical appearance, weight, and gender or sex.

Latin American youth who experienced racial discrimination in the past year who had also been discriminated against because of their ...



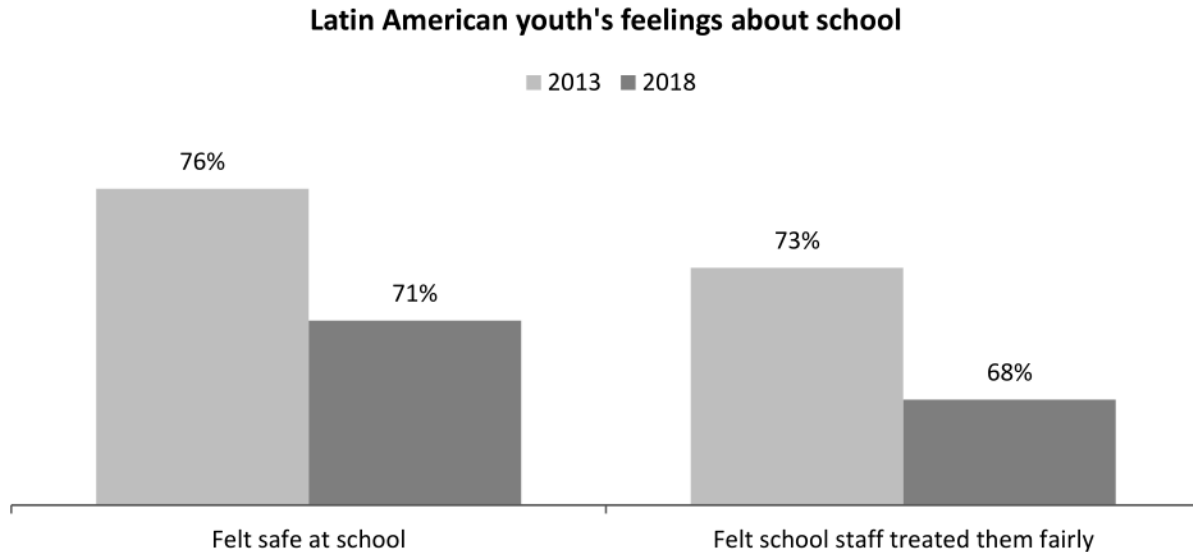
Note: The differences between males and females who experienced racial discrimination as well as discrimination based on income, sexual orientation, and a disability were not statistically significant.

Other types of victimization

Over half (55%) of Latin American youth reported they had been bullied in the past year, which was similar to five years earlier. However, there was an increase in those who reported being socially excluded (41% vs. 37% in 2013), while the percentages of youth who had been severely teased (39%) and physically assaulted (10%) remained stable.

School safety and belonging

Compared to five years earlier, Latin American youth were less likely to feel that school staff treated them fairly and to feel safe at school. Similar to 2013, 62% felt their teachers cared about them, 55% felt like they were part of their school, and 49% felt other school staff cared about them.



Note: The differences between 2013 and 2018 for youth who felt their teachers cared about them, felt school staff other than teachers cared about them, and felt like a part of their school were not statistically significant.

Home safety

Most Latin American youth (92%) felt safe inside their home. However, there was a decrease in feeling safe among females (from 95% in 2013), and they remained less likely than males to feel safe in their home (91% vs. 94%).

Community safety and belonging

Reflecting results in 2013, 61% of Latin American youth felt they had an adult in their neighbourhood who cared about them and 39% felt like they were part of their community. Also comparable to 2013, most youth (90%) felt safe in their neighbourhood in the daytime, while 67% felt safe there at night; and 61% of those who used local transit felt safe doing so.

Online safety

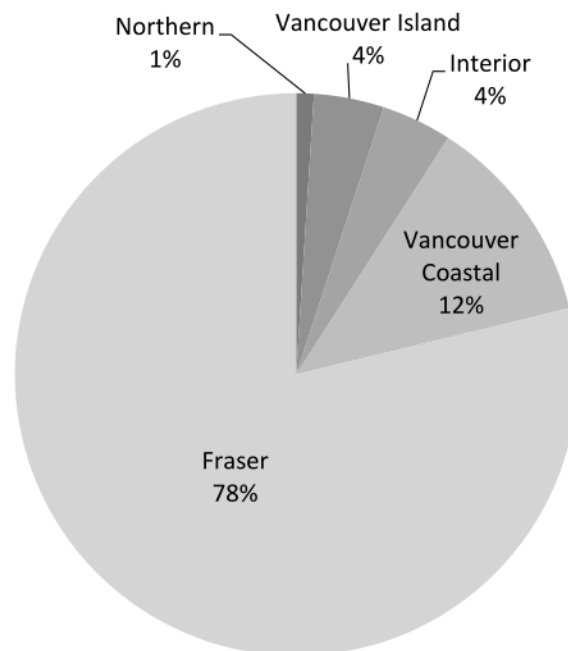
There was a decrease in the percentage of Latin American youth who had been cyberbullied (13% vs. 17% in 2013). However, this was driven by a decrease among males (from 12% in 2013 to .8%), as the percentage for females was comparable to five years earlier (17% in 2018). Males were less likely than female and non-binary youth to have been cyberbullied.

As in 2013, 18% of youth had ever met someone through the Internet who had made them feel unsafe. Males remained the least likely to have had this experience (e.g., 12% vs. 23% of females).

South Asian youth

In 2018, 11% of BC youth identified as South Asian (e.g., Indian, Pakistani, Sri Lankan), which was a slight increase from 10% in 2013. South Asian was the third most common background among BC youth, after European and East Asian. Nearly 9 in 10 (88%) South Asian youth identified exclusively as such. The majority of South Asian youth were in the Fraser region, with 60% living in Fraser South.

Where South Asian youth lived



Note: Percentages do not total 100% due to rounding

Racial discrimination

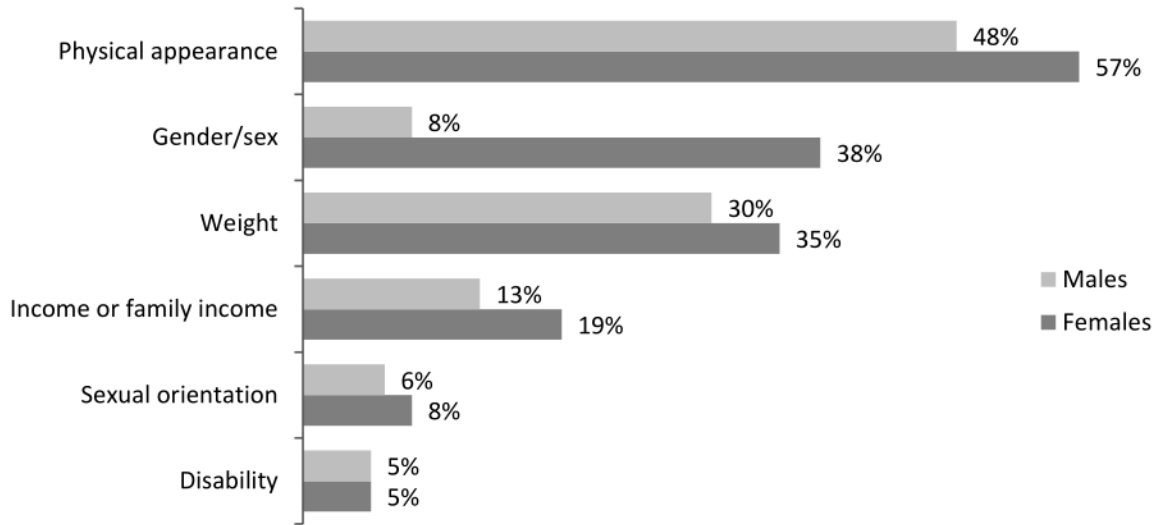
One in four (25%) South Asian youth had experienced racial discrimination, which was an increase from 21% in 2013. However, while rates remained similar for males, females were more likely to experience racism (24% vs. 19% in 2013).

South Asian youth at greater risk of experiencing racial discrimination included those who were older (e.g., 31% of 18-year-olds vs. 13% of youth aged 12 or younger), identified as a sexual minority (37% vs. 23% of straight youth), or attended school in a rural community (35% vs. 24% in urban areas). There were no differences in experiencing racial discrimination based on whether youth were born in Canada or spoke a language other than English at home.

In the past year, 42% of South Asian youth had experienced discrimination of some kind. Among those who experienced racial discrimination, 70% also experienced other types of discrimination.

Females who had experienced racism were more likely than males to also have experienced discrimination based on the amount of money they or their family had, their physical appearance, and because of their gender or sex.

South Asian youth who experienced racial discrimination in the past year who had also been discriminated against because of their ...



Note: The differences between males and females who had also been discriminated against because of their sexual orientation and weight were not statistically significant.

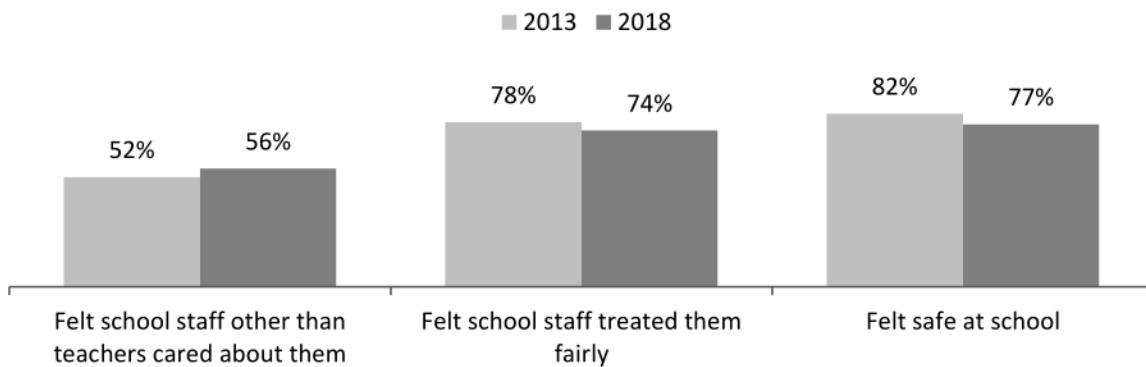
Other types of victimization

There was an increase in South Asian students who had been socially excluded (34% vs. 31% in 2013). There was no change in the percentages who had been severely teased (31%) and physically assaulted (6%), or in the overall percentage who had been bullied in the past year (46%).

School safety and belonging

Reflecting patterns in 2013, 68% of South Asian youth felt like a part of their school, and 70% felt that their teachers cared about them. There was an increase in those who felt that other school staff members cared about them, but decreases in those who felt safe at school and that school staff treated them fairly.

South Asian youth's feelings about school staff



Note: The differences between 2013 and 2018 for youth who felt their teachers cared about them and who felt like a part of their school were not statistically significant.

Home safety

The majority (96%) of South Asian youth reported feeling safe in their home. This was unchanged from 2013, despite a slight decrease among males feeling safe at home (96% vs. 97% in 2013).

Community safety

Half (50%) of South Asian youth felt like a part of their community, and just over half (56%) felt there was an adult who really cared about them there. Both of these rates were comparable to 2013.

There was an increase in the percentage of South Asian youth who felt safe on public transit (57% vs. 51% in 2013; among youth who used transit), and in their neighbourhood during the day (93% vs. 91%), but no change in those who felt safe in their neighbourhood at night (64%).

Online safety

Reflecting results in 2013, 10% of students had been cyberbullied in the past year and females were more likely than males to have had this experience (13% vs. 8%).

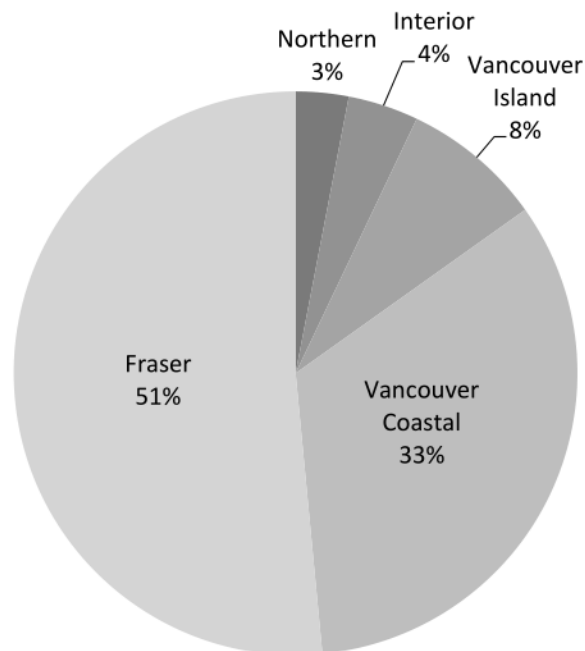
In 2018, 11% of South Asian youth had ever met someone online who made them feel unsafe (14% of females vs. 8% of males). Rates were unchanged for females but males were twice as likely to have met someone online that made them feel unsafe (4% in 2013).

Southeast Asian youth

There was a slight increase in the percentage of youth who identified as Southeast Asian (e.g., Cambodian, Filipino, Indonesian, Vietnamese) from 7% in 2013 to 8%. Three quarters (75%) of Southeast Asian youth identified with this background exclusively.

Southeast Asian students most commonly lived in the Fraser region, followed by the Vancouver Coastal region. The most common areas they lived in were Fraser South (29%), Vancouver (21%), and Fraser North (19%).

Where Southeast Asian youth lived



Note: Percentages do not total 100% due to rounding.

Racial discrimination

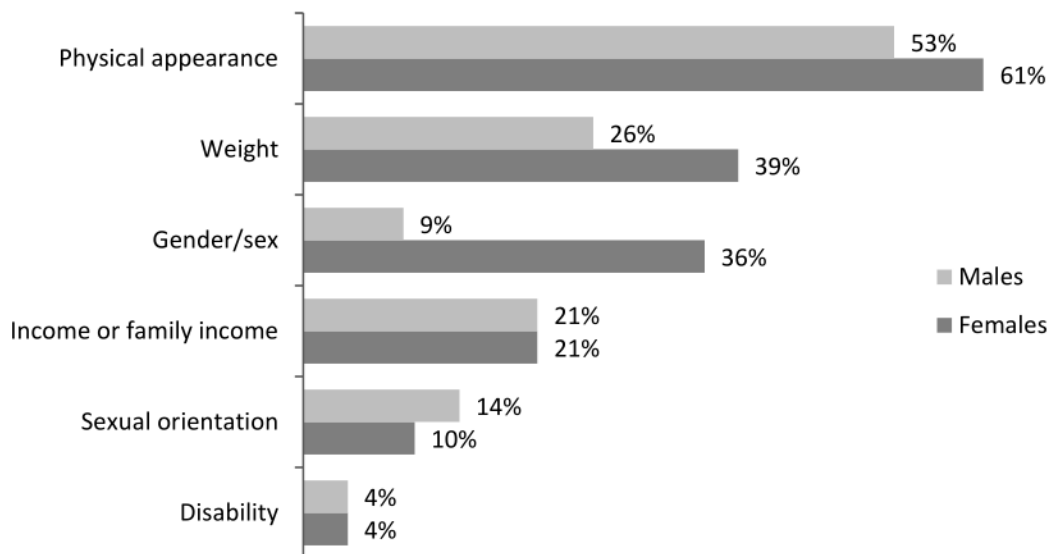
There was an increase in Southeast Asian youth who experienced racial discrimination (23% vs. 16% in 2013).

Southeast Asian youth who experienced racial discrimination in the past year were more likely to be:

- *Older* (e.g., 29% of 18-year-olds experienced racial discrimination vs. 15% of those 12 or younger).
- *Female or non-binary youth* (e.g., 26% of females vs. 20% of males). This was in contrast to five years prior, when there was no difference between females and males in experiences of racial discrimination.
- *Born outside of Canada* (26% vs. 21% born in Canada).
- *Spoke a language other than English at home* (e.g., 25% of those who spoke another language most of the time experienced racial discrimination vs. 19% who never did so).

In the past year, 43% of Southeast Asian youth had experienced one or more types of discrimination. Southeast Asian youth were more likely to have experienced multiple types of discrimination than to have experienced racial discrimination exclusively (e.g., 49% of youth who had experienced racism reported two or more additional types of discrimination vs. 27% who exclusively experienced racism). Discrimination based on their physical appearance and weight were the two most common additional types of discrimination experienced by Southeast Asian youth, and these experiences were more common among female and non-binary youth than males.

Southeast Asian youth who experienced racial discrimination in the past year who had also been discriminated against because of their ...



Note: The difference between males and females who had also experienced discrimination because of their sexual orientation was not statistically significant.

Other types of victimization

Southeast Asian students were more likely to have been socially excluded compared to five years earlier (40% vs. 37% in 2013). However, rates of being severely teased (43%) and physically assaulted (9%) remained similar to five years earlier as did overall rates of experiencing bullying (56%).

School safety and belonging

About two thirds (65%) of Southeast Asian youth felt their teachers cared about them (vs. 59% in 2013), and nearly half (48%) felt that other school staff cared about them (vs. 41% in 2013). Similar to 2013, the majority of Southeast Asian students felt like part of their school (61%), safe at school (70%), and that staff treated them fairly (73%).

Home safety

Most Southeast Asian youth felt safe inside their home, with males most likely to feel safe (95% vs. 92% of females vs. 75%* of non-binary youth). While there was no change over time for males, fewer females felt safe there (95% in 2013).

Community safety and belonging

Despite an overall increase in BC youth feeling like a part of their community, there was no such increase among Southeast Asian youth (36% felt a part of their community). However, Southeast Asian youth were more likely to feel that there was an adult in their neighbourhood or community who really cared about them than in 2013 (55% vs. 50% in 2013).

Most youth felt safe in their neighbourhood during the day (86%), and were more likely to feel safe there at night (50% vs. 47% in 2013) and while using transit (55% vs. 51% in 2013; among youth who used transit), compared to five years earlier.

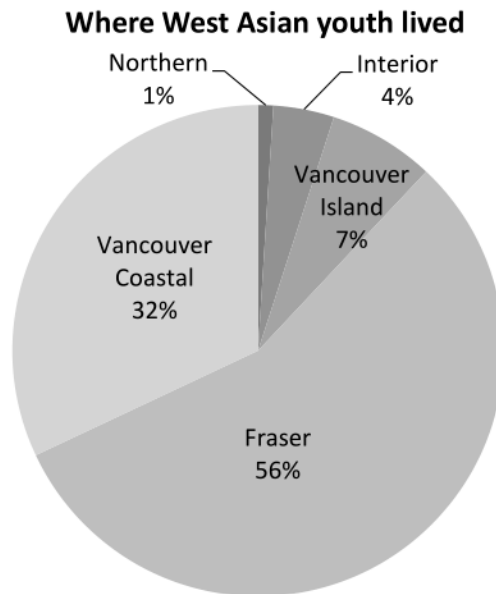
Online safety

As in 2013, 14% of Southeast Asian youth had been cyberbullied in the past year, and 18% had ever met someone online who made them feel unsafe. Non-binary youth were the most likely to have been cyberbullied (e.g., 31%* vs. 15% of females), and female and non-binary youth were more likely than males to have met someone unsafe online (e.g., 22% of females vs. 13% of males).

West Asian youth

There was a slight increase in the percentage of youth who identified as West Asian (e.g., Afghan, Iranian, Kazakhstani), from 2% in 2013 to 3%. The majority of West Asian youth exclusively identified as such, while 30% had at least one other family background.

Over half of West Asian youth were in the Fraser region, including 32% in Fraser North, 21% in Fraser South, and 3% in Fraser East. Also, 17% lived in the North Shore/Coast Garibaldi region of Vancouver Coastal.

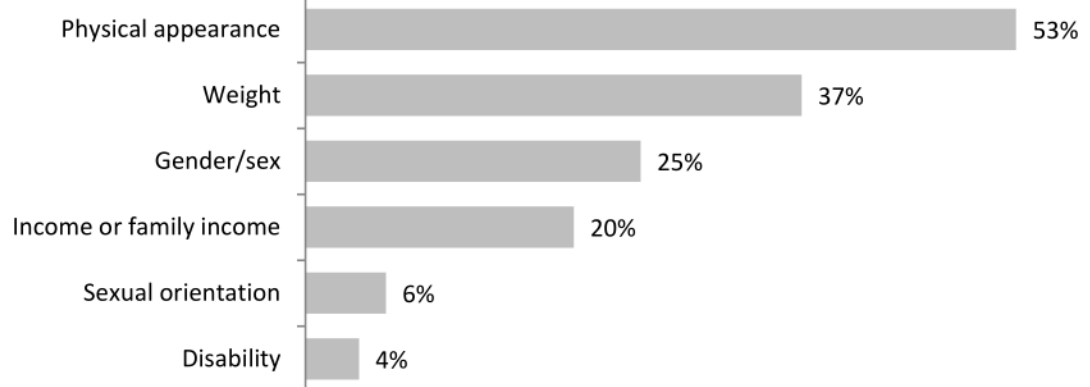


Racial discrimination

There was an increase in West Asian youth who experienced racial discrimination in the past year (31% vs. 22% in 2013). Rates of discrimination did not differ by gender identity, sexual orientation, or geographical location. However, older youth were more likely to experience racism (e.g., 39% of 17-to-18-year-olds vs. 27% of those 14 and younger), as were West Asian youth born outside of Canada (35% vs. 28% of youth born in Canada), and those who spoke a language other than English at home (e.g., 34% of youth who did so most of the time vs. 15% who never spoke another language at home).

In total, 48% of West Asian youth had experienced at least one form of discrimination in the year prior to taking the survey. Among West Asian youth who experienced racism, they were more likely to report this type of discrimination in combination with at least two other types (44%), than to have experienced racial discrimination exclusively (31%). Females were more likely than males to have also experienced sex or gender discrimination (37% vs. 12%; among those who experienced racism).

**West Asian youth who experienced racial discrimination in the past year
who had also been discriminated against because of their ...**



Note: The differences between males and females in experiencing racial discrimination as well as other types of discrimination were not statistically significant, except for gender/sex discrimination.

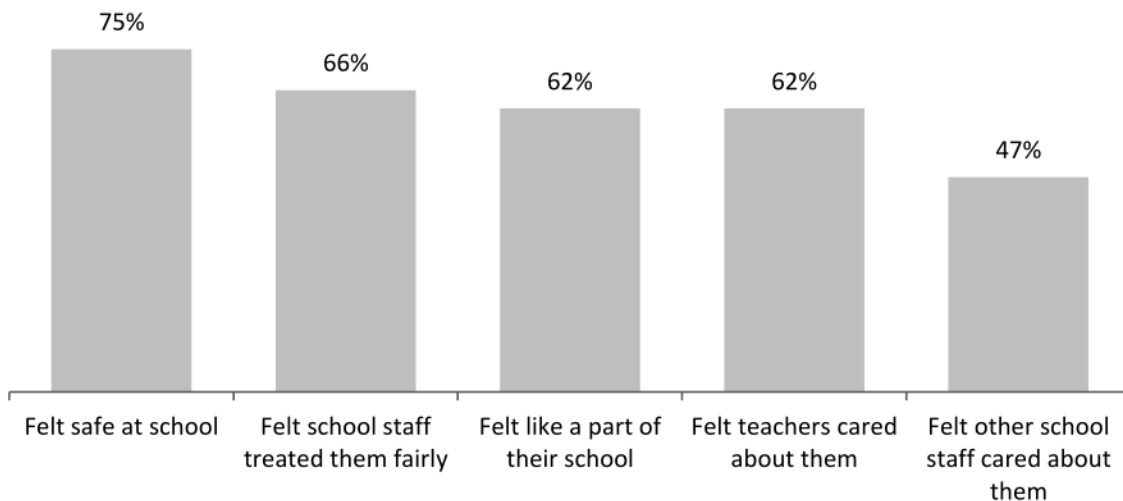
Other types of victimization

There was an increase in West Asian students who had been physically assaulted (10% vs. 7% in 2013). Rates of being socially excluded (43%) and teased (41%) were unchanged, as was the overall rate of experiencing bullying (57%).

School safety and belonging

Reflecting patterns from 2013, the majority of West Asian youth felt safe at school and connected to school.

West Asian youth's feelings about school



Note: There were no statistically significant differences between 2013 and 2018.

Home safety

As in 2013, most West Asian youth (93%) felt safe in their home. Females were less likely than males to feel safe (91% vs 96%), and fewer females felt safe than five years earlier (96% in 2013).

Community safety and belonging

Comparable to 2013, 47% of West Asian youth felt like a part of their community, 56% could identify a neighbourhood adult who really cared about them, 93% felt safe in their neighbourhood during the day, 65% felt safe at night, and 62% of those who used public transit felt safe doing so.

Online safety

Also unchanged from 2013, 15% of students had been bullied or picked on online in the past year. There was an increase in those who had ever met someone online who made them feel unsafe (19% vs. 12% in 2013), with females continuing to be more likely than males to have had this experience (24% vs. 13%).

RACIAL DISCRIMINATION AND HEALTH AND WELL-BEING

Having considered the prevalence of racial discrimination experienced by youth across BC, and looked at the specific experiences of discrimination, other types of victimization, and sense of safety among youth from different backgrounds, this section explores the link between experiencing racial discrimination and health and well-being.

Overall health and well-being

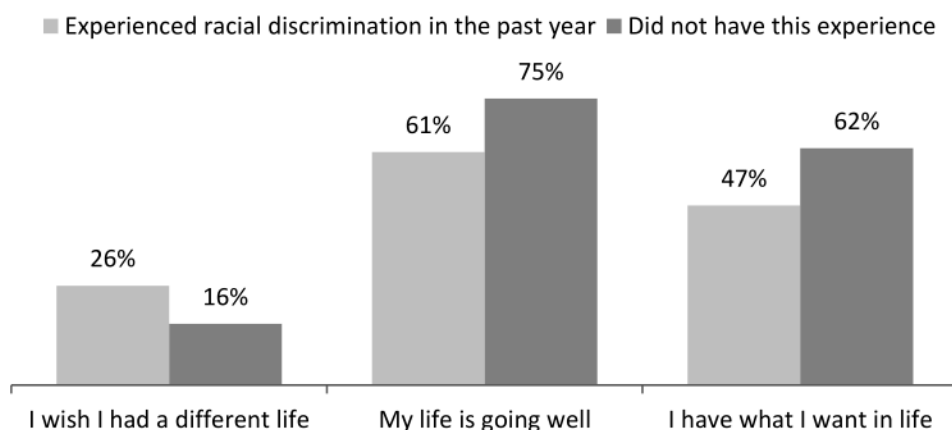
"My health is good, but I understand and acknowledge the problems some of my peers go through." Male, aged 17

"I have often been discriminated against due to my race(s) & beliefs. It seems that I have dealt with a lot more bullying than anyone I know, like I'm always the target. It's really bad for my self-esteem but I persevere on the hope that it will all be better someday & I'll feel fulfilled & loved & happy with myself. I am not going to live as a victim." Male, aged 16

BC youth who had experienced racial discrimination in the past year reported poorer health than their peers who had not experienced this type of discrimination, including being less likely to rate their overall health as good or excellent (73% vs. 82%), and to have slept for at least eight hours the previous night (37% vs. 50%).

Youth who experienced racial discrimination were less likely to feel hopeful for their future (57% vs. 68% of youth who had not experienced racial discrimination), to feel good about themselves (47% vs. 60%), and to rate their quality of life positively.

Life satisfaction in relation to racial discrimination (youth who agreed/strongly agreed)



Experiencing racism did not prevent youth from persevering to achieve their goals, as they did so at similar rates to those who had not experienced this type of discrimination, including 43% who always pushed themselves to achieve their goals when things went wrong.

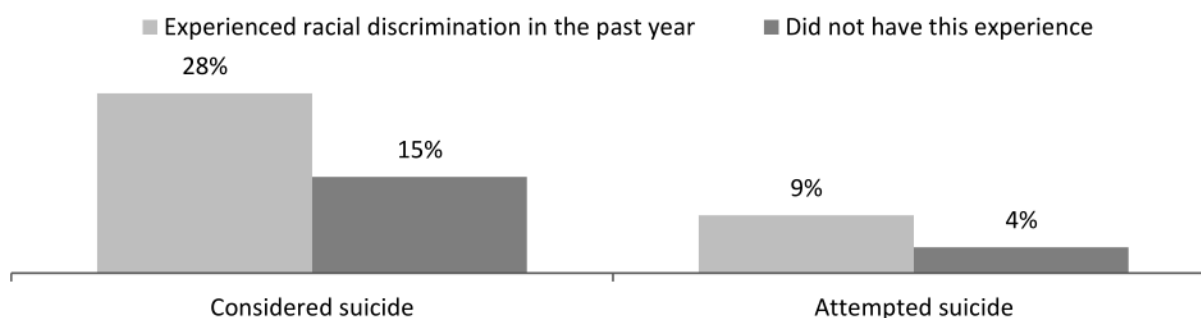
Mental health

"I personally feel like I cannot share much about sexuality/mental health with family, because of my cultural background." Non-binary youth, aged 16

Youth who had experienced racism were less likely to rate their mental health as good or excellent (63% vs. 74% of youth who had not experienced racial discrimination). They were also less likely to feel happy in the past month (52% vs. 67%), and more likely to experience extreme stress (19% vs. 11%) and extreme despair (14% vs. 7%) during this time.

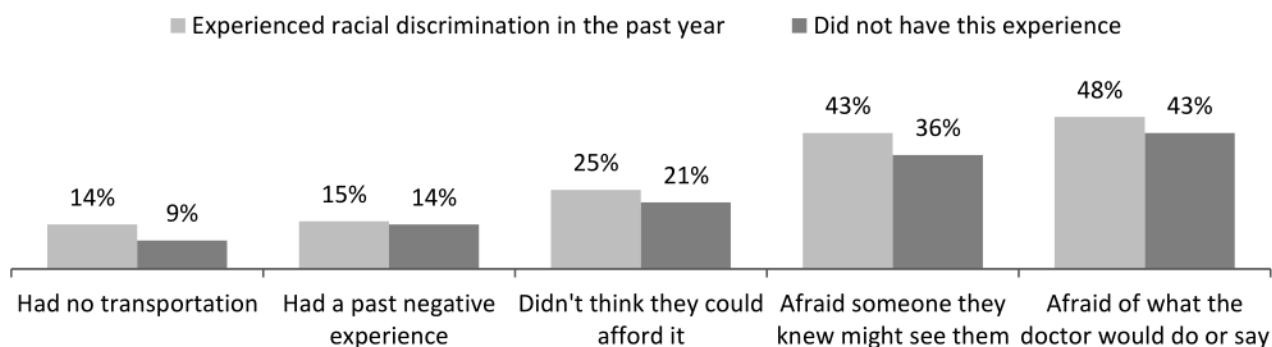
Nearly a quarter (24%) of youth who experienced racial discrimination in the past year had self-harmed during this time (vs. 16% of those who had not experienced racial discrimination). They were also more likely than their peers to have seriously considered and attempted suicide in the past year.

Suicidal thoughts and attempts in the past year in relation to racial discrimination



Youth who experienced racial discrimination in the past year and felt they needed mental health services were more likely to have missed out on the services they needed (29% missed out on needed services vs. 17% of those who did not experience racism). They were also specifically more likely to miss out because they had no transportation, could not afford it, were afraid someone they knew might see them, and were afraid of what the doctor might say or do.

Reasons youth missed out on needed mental health services in relation to racial discrimination (among those who felt they needed services in the past year)



Note: The difference between youth who experienced racial discrimination and those who did not was not statistically significant for having a prior negative experience.

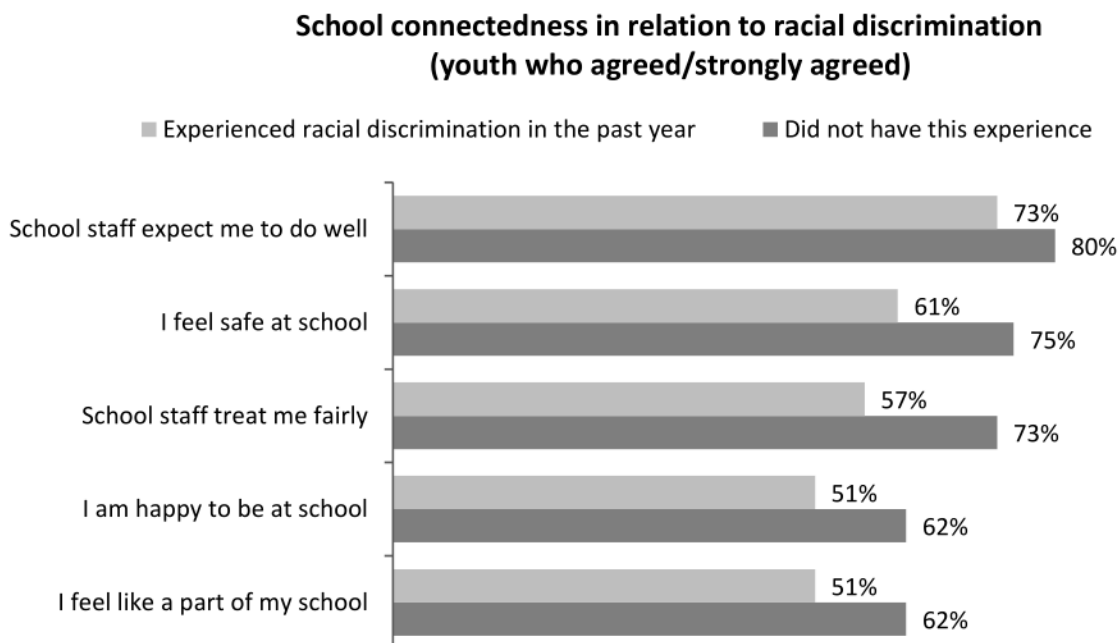
Substance use

Youth who experienced racial discrimination were more likely to have tried tobacco (23% vs. 18% who had not experienced racial discrimination), alcohol (51% vs. 43%), and cannabis (30% vs. 25%). However, among youth who had tried these substances, those who had experienced racial discrimination were generally no more likely to have used them regularly or recently.

School safety and belonging

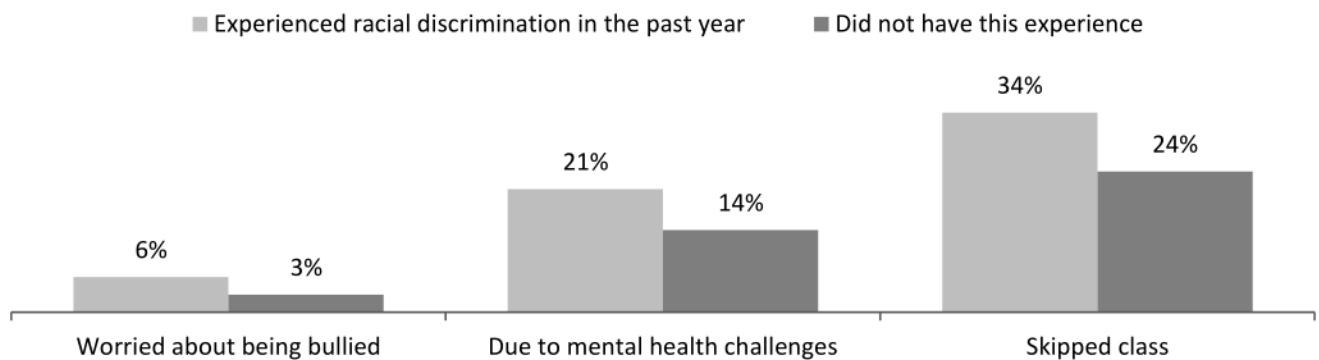
"Have more languages such as Panjabi available to learn in school." Male, aged 14

Youth who had experienced racial discrimination in the past year were less likely than their peers to feel cared about by teachers (55% vs. 68% who did not experience racial discrimination) and other school staff (42% vs. 54%). They were also less likely to feel that school staff expected them to do well or treated them fairly; to feel happy or safe at school; or to feel like a part of their school.



Students who experienced racial discrimination were more likely to have missed school in the past month (78% vs. 72% who had not experienced racial discrimination). Specifically, they were more likely to have skipped class, to have missed class due to their mental health, and because they were worried about being bullied. They were also more likely to have missed school on multiple occasions.

Reasons for missing class in the past month in relation to racial discrimination

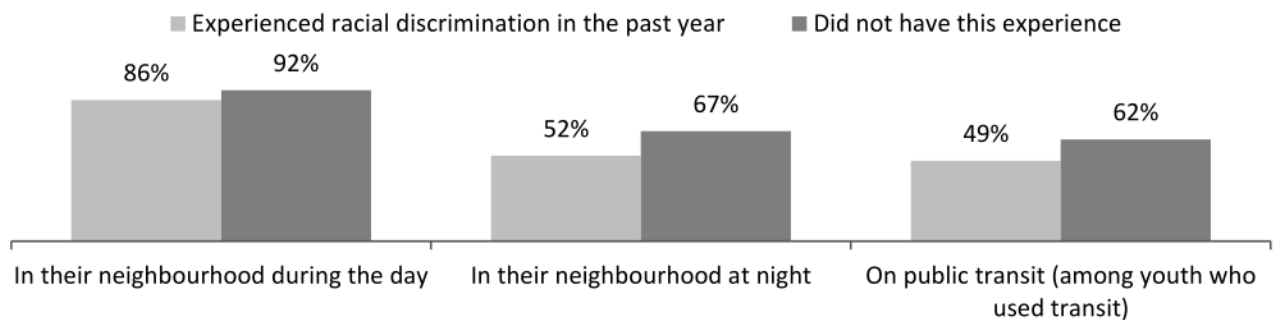


Despite these barriers, experiencing racial discrimination did not appear to impact students' plans to pursue post-secondary education or training.

Community safety and belonging

Youth who experienced racial discrimination were less likely than their peers to report feeling safe in their neighbourhood and while riding public transit.

Youth who often or always felt safe in relation to racial discrimination

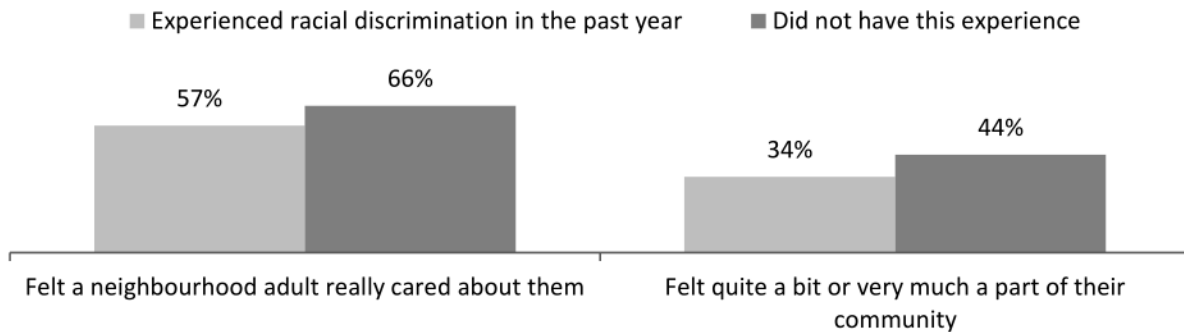


The 2019/20 Student Learning Survey found that about 8 in 10 students felt safe during their commute to and from school.

Grade 7	78%
Grade 10	79%
Grade 12	83%
All grades combined	80%

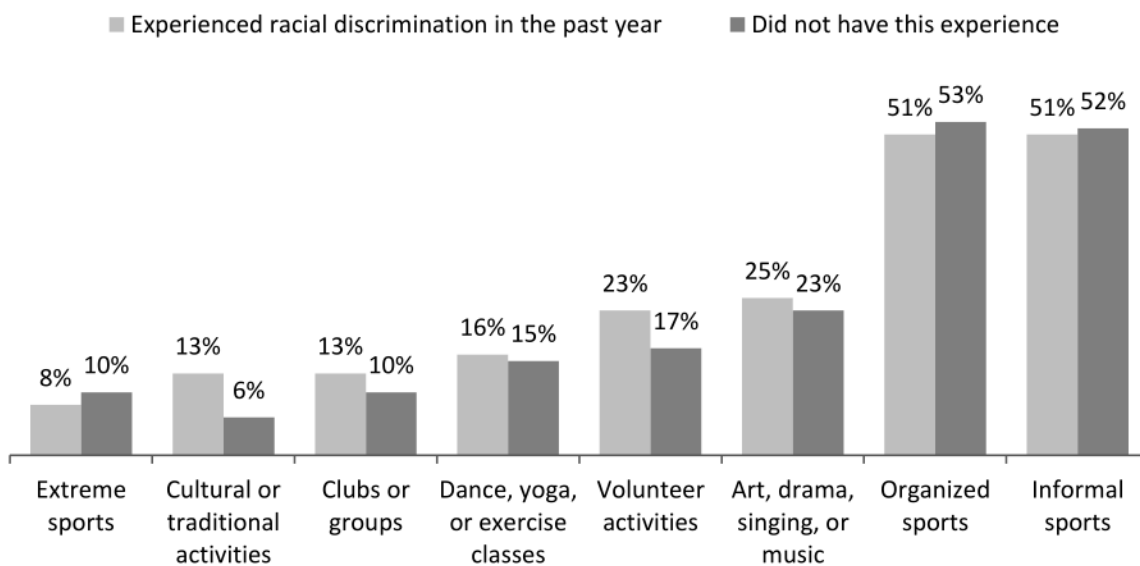
Compared to youth who had not experienced racial discrimination, those who had were less likely to feel there was an adult in their neighbourhood or community who really cared about them, and to feel like a part of their community.

Community experiences in relation to racial discrimination



In the past year, youth who had experienced racial discrimination participated in extracurricular activities at similar rates to their peers, with 84% taking part at least weekly. However, youth who had experienced racial discrimination were more likely to participate regularly in cultural or traditional activities, art-based activities, clubs or groups and volunteer activities, and were less likely to participate in extreme sports. Also, females who experienced racial discrimination were less likely to participate in organized sports (46% vs. 52% of females who had not experienced racial discrimination).

Involvement in activities at least weekly in the past year in relation to racial discrimination



Note: For dance/yoga/exercise classes, organized sports, and informal sports, the differences between youth who experienced racial discrimination and those who did not were not statistically significant.

Youth who experienced racial discrimination were more likely to indicate that being worried about bullying was a barrier to participating in extracurricular activities (12% vs. 6% of those who did not experience racism). Those who experienced racism were less likely to feel that the activities they were involved in were meaningful to them (63% vs. 66%), and to feel that their ideas were valued within these activities (39% vs. 45%).

SAFE SCHOOL ENVIRONMENT AND REDUCING THE LIKELIHOOD OF EXPERIENCING RACIAL DISCRIMINATION

"I would like the curriculum to implement more ways to learn about discrimination in communities (i.e.: racism, homophobia, sexism)." Female, aged 16

"A lot of what I know about important topics I learned online or elsewhere. I think school should teach more about discrimination, sexism, racism and homophobia." Female, aged 14

Youth were less likely to have experienced racial discrimination when the school climate felt safe and accepting. For example, youth were about half as likely to have experienced racial discrimination when they felt safe at school (12% vs. 23% who did not feel safe at school), felt that school staff were fair (11% vs. 24%), felt their teachers were caring (12% vs. 24%), and felt a part of their school (12% vs. 20%).

Having a sense of safety and belonging at school was associated with a reduced likelihood that youth would experience racial discrimination regardless of age, gender, geographic area, and what language they spoke at home. For example, students who spoke a language other than English at home were half as likely to have experienced racial discrimination if they felt safe at school (16% vs. 32%) and had caring teachers (16% vs. 33%).

The Student Learning Survey asked students about school safety and belonging. In 2019/20, the majority of students generally felt connected to school, including feeling safe, welcome, and that they belong; and that adults at school cared about them and treated them fairly.

	Felt safe at school most or all of the time	Felt welcome at school most or all of the time	At least one adult at their school cared about them
Grade 4	78%	76%	73%
Grade 7	73%	67%	74%
Grade 10	75%	64%	74%
Grade 12	80%	65%	84%
All grades combined	76%	68%	75%

Also in 2019/20, most parents (89%) felt welcome at their child's school (92% of elementary school parents and 83% of secondary school parents), and 83% of school administrators felt that over half of students had at least three adults in the school community who cared about their success.

The 2019/20 Student Learning Survey asked students if they were 'learning to understand and support human rights and human diversity (for example, differences in culture, gender, physical or mental ability)' at school. More than 6 in 10 students agreed that they were.

Grade 7	67%
Grade 10	61%
Grade 12	63%
All grades combined	64%

Nearly 8 in 10 parents who completed the survey agreed that their child was learning about human rights and diversity (78%; including 78% of elementary school parents and 79% of secondary school parents).

When asked to what extent students at their school participated in events that celebrated diversity, school administrators most commonly indicated this occurred a few times a year (53%) or on a seasonal basis (27%).

The survey asked students if they were bullied, teased, or picked on at school. Most youth in Grades 7, 10, and 12 indicated they had this experience, with nearly a fifth reporting this occurred many times or all of the time.

	At least a few times	Many times or all of the time
Grade 7	94%	19%
Grade 10	93%	16%
Grade 12	94%	13%
All grades combined	94%	17%

More than two thirds (68%) of Grade 4 students *ever* felt bullied, teased, or picked on at school, with 11% reporting this occurred most of the time.

About one in six (59%) parents (62% of elementary school parents and 53% of secondary school parents) indicated their child's school had an anti-bullying strategy or program in place.

SUPPORTING YOUTH WHO EXPERIENCED RACIAL DISCRIMINATION

This section considers some protective factors that were associated with more positive health and well-being among young people who had experienced racial discrimination.

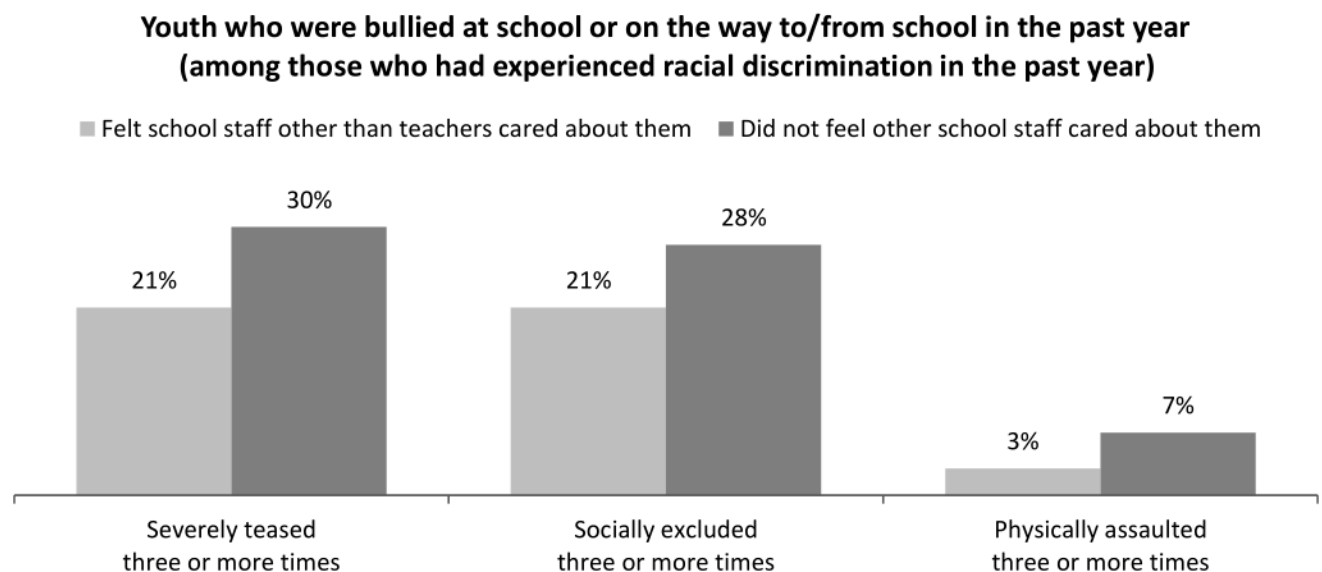
School connectedness and belonging

The previous section showed that a positive school environment was associated with a lower likelihood of youth experiencing racial discrimination. A safe and supportive school environment was also associated with more positive outcomes among those who had experienced racism. For example, among youth who experienced this type of discrimination, youth who felt like part of their school were more likely to feel safe at school (77% vs. 34% of those who did not feel they were part of their school) and to feel good about themselves (61% vs. 27%); and were less likely to carry a weapon at school in the past month (5% vs. 14%).

Caring staff

Having teachers that cared about them was linked to a lower likelihood of youth who experienced racism missing school in the past month (75% vs. 82% of those who did not feel their teachers cared), and a higher likelihood they planned to continue their education after high school (90% vs. 77%).

Having caring school staff also appeared to reduce the likelihood that youth who had experienced racial discrimination had been bullied in the past year. For example, among youth who experienced racial discrimination, 20% of those who felt their teachers cared about them had been severely teased on at least three occasions in the past year compared to 32% who did not feel their teachers cared.

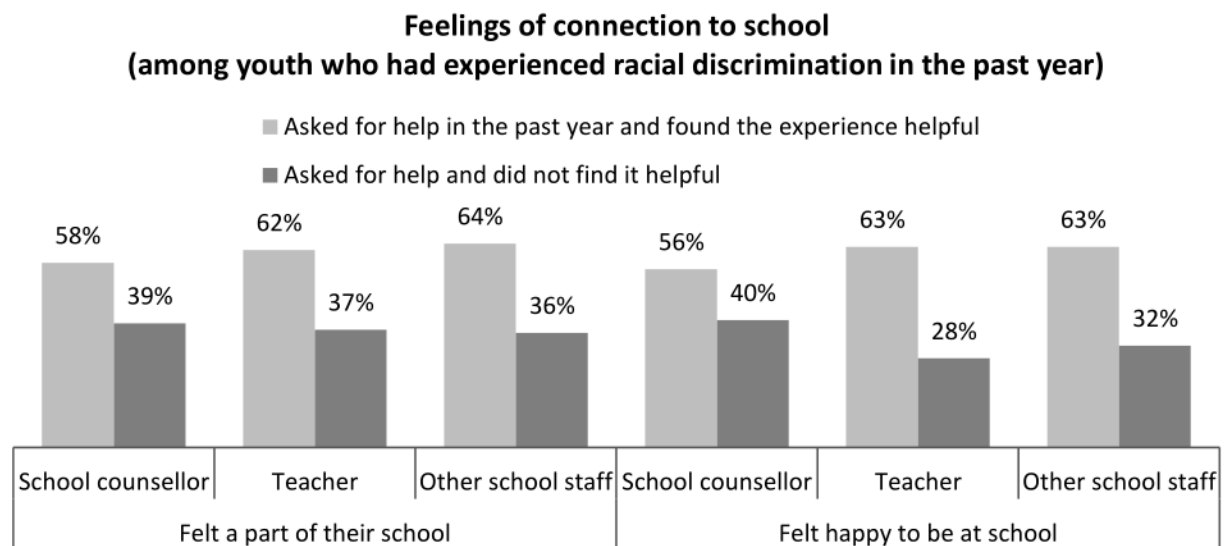


Fair treatment

Among youth who had experienced racial discrimination, those who felt that school staff treated them fairly were more likely to feel happy at school (65% vs. 25% who did not feel school staff treated them fairly) and feel good about themselves (54% vs. 36%); and were less likely to carry a weapon at school in the past month (5% vs. 14%).

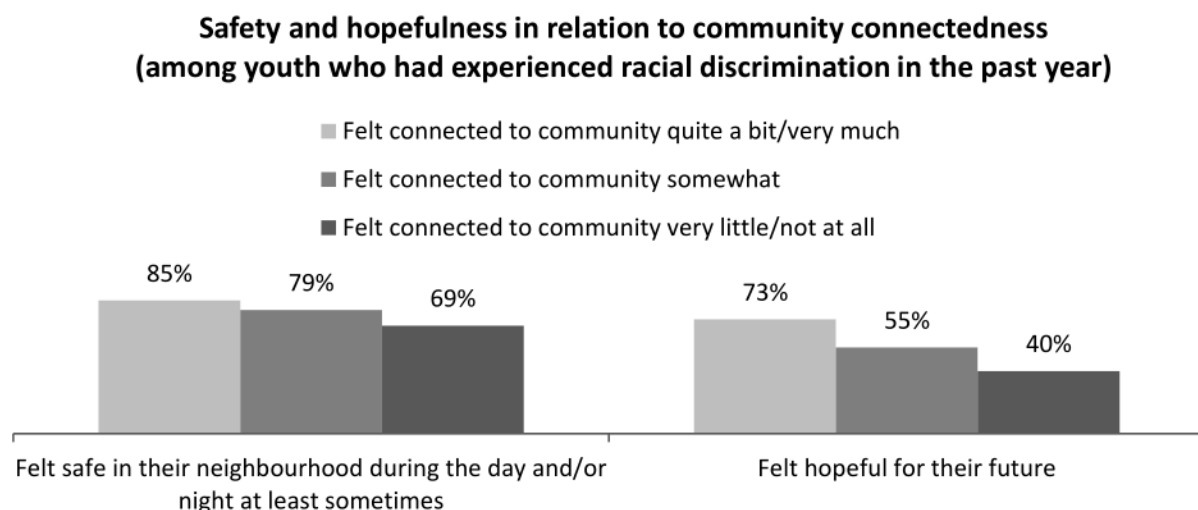
Helpful when approached

Youth who found the adults they approached to be helpful were more likely to feel like part of their school and happy to be at school. They were also better able to manage the stress in their life and were less likely to experience extreme stress or despair in the past month. For example, among youth who experienced racism, those who found their school counsellor helpful when approached were less likely to have experienced extreme despair in the past month (14% vs. 23% who did not find a counsellor helpful).



Community connectedness and belonging

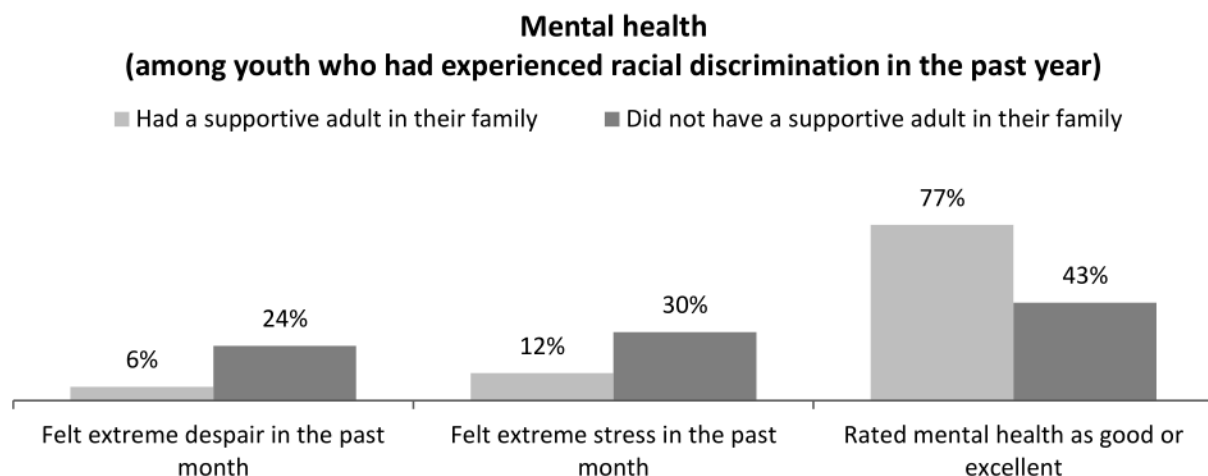
Youth who had experienced racial discrimination reported more positive outcomes when they felt connected to their community. For example, they were more likely to feel safe in their neighbourhood during the day and at night, and to feel hopeful for their future.



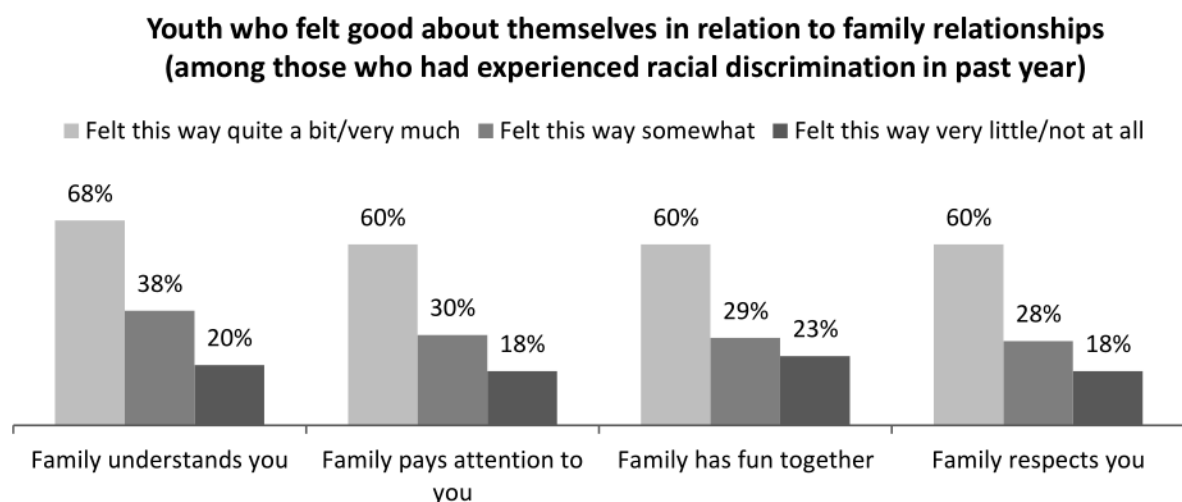
Youth who experienced racial discrimination who had a caring adult in their community were also more likely to find the extracurricular activities they participated in meaningful (69% vs. 56% who did not have such an adult), and to feel like their ideas were valued within those activities (45% vs. 31%).

Supportive family

Youth who had experienced racial discrimination who had an adult in their family that they could talk to about their problems were less likely to have missed out on accessing mental health supports when they needed them (16% missed out in the past year vs. 47% who did not have such an adult in their family). They were also less likely to report experiencing extreme stress or despair in the past month, and were more likely to currently rate their mental health as good or excellent.



Youth who had experienced racial discrimination were more likely to report positive outcomes when they felt safe at home; had fun with their family; and when they felt their family understood, respected, and paid attention to them. For example, 89% of those who experienced racial discrimination who felt their family understood them reported they had a good life (vs. 38% of those who did not feel their family understood them).



ANALYSIS OF CURRENTLY AVAILABLE SURVEY ITEMS

NOTE: This section will not be released publicly.

Data from the Student Learning Survey and BC AHS were used to conduct the analyses in this report. There are limitations with both data sources in their ability to capture the experience of racialized students within the BC school system. The Student Learning Survey does not currently ask about experiences of racism, and does not collect data about race or ethnicity, except to identify if students are Indigenous. The BC AHS asks about racial discrimination and about family background but there are a number of limitations with the items. The family background question uses broad regional categories (e.g., East Asian, West Asian) and does not separate race and ethnicity. For example, it is not possible to distinguish whether someone who identifies as European would also identify as Caucasian. It is also not possible to identify whether youth would identify with a dominant or minority culture within Europe, or whether they would identify being of mixed European heritage.

Other challenges with the family background item include:

- A small percentage of BC AHS respondents do not know their background.
- A small percentage choose to write in 'Canadian' as a response.
- Youth of some family backgrounds (including those of Israeli, Jewish, or Caribbean descent) have noted they do not feel the response options apply to them.
- The items are not sensitive enough to capture whether youth of mixed heritage identify more strongly with one culture than another.
- It is unclear how many generations a youth's family has lived in Canada.
- Specific countries of interest (such as Syria, Ukraine, Hong Kong) are not captured.

The BC AHS asks youth about their experience of being *discriminated against or treated unfairly because of their race, ethnicity, or skin colour in the past year*. The context of where, how often, or from whom the discrimination occurred is not measured. The survey also does not assess racism more broadly or specific experiences such as racially motivated assaults, witnessing racism, or holding negative stereotypes and beliefs.

Stakeholder consultations conducted in 2021 and 2022 have identified racism as an area that should be measured on the 2023 BC AHS. Specific suggestions have included asking about experiences of racism within the health care system, or when interacting with the police and experiences of microaggressions and marginalization. However, other stakeholders have noted that the BC AHS data is used at the community and provincial level to monitor changes over time and to inform policies and services. These stakeholders have cautioned against making changes to the current survey items.

Potential measures to consider

Measures from around the world were reviewed to ascertain their usefulness for inclusion on the 2023 BC AHS. Measures were particularly sought which had been validated with Grade 7-12 students, and ideally had been used in BC or Canada. Some of the more promising measures are discussed below.

Family background, race, and ethnicity

Most surveys ask a forced-choice demographic question about family background, race, ethnicity or a combination of the three. Surveys that ask an open-ended question such as “Where were you born?” and “What is your ethnic background?” (e.g., *2017 Multicultural Youth Australia Census*) do not limit respondents to a small set of response options. However, they are difficult to re-code into useable categories for statistical analyses, particularly as respondents may focus on family background, religion, city, region, current residence, or race.

Aspinall (2012) suggests only using an open-ended question in combination with a forced choice option, such as used on the UK Home Office’s *People, Families, and Communities Survey (2001)*, which asked a question on ethnicity with forced choice options, followed by a broader question which read: “‘if you were not limited to the descriptions [in the forced choice question] but could use your own words, how would you describe your ethnic group and cultural background?’”

Surveys that use forced-choice measures range from those with a few response options to some that have over 500 potential ethnic and cultural response options (e.g., Canadian census). In 2020, the Canadian Institute for Health Information (CIHI) recommended that any survey question on ethnic identity should not provide a large number of response options as this may lead to lower response rates and an increased likelihood of 'do not know' responses.

Many surveys have chosen to integrate race and ethnicity. For example, Tri-Hospital and Toronto Public Health developed a survey question for use with older adolescents and adults (aged 16 and above) in Ontario where respondents could select one response option that best described their racial or ethnic group. Options included race and region of origin such as *Black-African, Black-Caribbean, Black-North American*. There was also a separate response option for mixed heritage where individuals could specify multiple racial or ethnic identities (Agic et al., 2013). However, feedback from respondents showed that they found the question difficult to interpret because it combined race, ethnicity, and geographic location (Kiran et al., 2019).

In 2020, CIHI proposed updated standards for race-based and Indigenous identity reporting in Canada. Their proposed response options include examples of who might fit into each racial identity:

We know that people of different races do not have significantly different genetics. But our race still has important consequences, including how we are treated by different individuals. Which race category best describes you? Check all that apply

- *Black e.g., African, Afro-Caribbean, African Canadian descent*
- *East/Southeast Asian (with option to separate categories to East Asian and Southeast Asian) e.g., Chinese, Korean, Japanese, Taiwanese descent or Filipino, Vietnamese, Cambodian, Thai, Indonesian, other Southeast Asian descent*
- *Indigenous (e.g., First Nations, Métis, Inuk/Inuit)*
- *Latino (e.g., Latin American, Hispanic descent)*
- *Middle Eastern - Arab, Persian, West Asian descent (e.g., Afghan, Egyptian, Iranian, Lebanese, Turkish, Kurdish)*

- *South Asian - South Asian descent (e.g., East Indian, Pakistani, Bangladeshi, Sri Lankan, Indo-Caribbean)*
- *White - European descent*
- *Another race category*
- *Do not know*
- *Prefer not to answer*

Similar to the current BC AHS item, respondents who identify as Indigenous are asked a follow-up question to further identify as First Nations, Métis, Inuk/Inuit, or other.

The Ontario Student Drug Use and Health Survey (OSDUHS) has been administered to students in Grades 7-12 in public school in Ontario since 1977 (Boak et al., 2020). In 2019, the survey asked:

Which of the following best describes your background? (You may choose more than one category.) Are you...?

- *White (for example, British, French, Italian, Portuguese, German, Ukrainian, Russian)*
- *Chinese*
- *South Asian (for example, East Indian, Pakistani, Bangladeshi, Sri Lankan)*
- *Black (Africa, Caribbean, North American)*
- *Indigenous (First Nations, Inuit, Métis)*
- *Filipino*
- *Latin American, Central American, South American (for example, Mexican, Brazilian, Chilean, Guatemalan, Venezuelan, Colombian, Argentinian, Salvadoran, Costa Rican)*
- *Southeast Asian (for example, Vietnamese, Cambodian, Indonesian, Malaysian, Laotian)*
- *West Asian or Arab (for example, Egyptian, Saudi Arabian, Syrian, Iranian, Iraqi, Afghan, Lebanese, Palestinian)*
- *Korean*
- *Japanese*
- *Not sure*

However, no data has been reported about the usefulness of either of these measures and they have not been used in western Canada. One potential measure which was adapted from a Manitoba school-based survey and used with students in Grades 7-12 in Saskatchewan is *The Saskatchewan Alliance for Youth and Community Well-being Youth Health Survey*:

How do you usually describe yourself?

- *Arab/West Asian (e.g., All Middle East including United Arab Emirates, Saudi Arabia, Turkey)*
- *East Asian (e.g., China, Japan, Korea, Taiwan)*
- *South Asian (e.g., India, Bangladesh, Pakistan, Sri Lanka, Afghanistan, Bhutan, Nepal)*
- *South-East Asian (e.g., Philippines, Malaysia, Singapore, Thailand, Cambodia, Indonesia)*
- *Black (North American)*
- *Black (African)*
- *Black (Caribbean)*
- *First Nations*
- *Inuit*
- *Métis*
- *Latin American (including Mexico and all of Central and South America)*

- *White (North American)*
- *White (European)*
- *White (Other)*
- *Multiple Ethnicity*
- *Other*

In 2019, the survey item was updated and expanded to include 25 response options. However, results have only been reported for four of the groups: White (71.9% of youth who participated in the survey), Indigenous (11.2%), Asian (7.7%), and other (9.2%), suggesting there may have been insufficient sample from the additional response options to be useful.

In 2014, the school-based *COMPASS* survey for Grade 9-12 students conducted by the University of Waterloo asked students to describe their racial identity (Bredin & Leatherdale, 2014). This question in combination with a family background question could be piloted for the 2023 BC AHS, including with Grade 7 and 8 students for inclusion alongside the current question about family background.

How would you describe yourself? MARK ALL THAT APPLY.

- *White*
- *Black*
- *Asian*
- *Aboriginal (First Nations, Métis, Inuit)*
- *Latin American/Hispanic*
- *Other*

Acculturation and racial, ethnic, or cultural pride

McCreary Centre Society has struggled to find an accurate measure of cultural connectedness or cultural pride that could be included on the BC AHS, and that could be easily understood by younger students and those of different cultural backgrounds. For example, the *Bicultural Youth Acculturation Questionnaire* which was designed for use on population health surveys has not been tested with younger youth and at 16 items is too long and complex for inclusion (Kukaswadia et al., 2016). Other scales are specific to certain ethnic or cultural groups. For example, the *Multidimensional Inventory of Black Identity* asks respondents to rate how much they agree with statements such as 'I feel good about Black people', 'I am happy that I am Black', and 'I am proud to be Black' (Sellers et al., 1998).

One study assessed racial pride using one item asking youth how proud they were of their racial background on a four-point scale from 1 (not at all) to 4 (very) (Byrd & Chavous, 2009). Based on this item, potential wording of the question for the 2023 BC AHS could be:

How proud do you feel to be part of the family background(s) you identified in Question [2 – on 2018 BC AHS]?

- *Not at all*
- *A little*
- *Quite*
- *Very*
- *Not applicable (e.g., I don't know my background)*

Religious background

Canadian surveys asking about religious background were found to contain between 26 and 144 response options. A more concise version used on the UK's Children Society's survey with children aged 8-16 which could be piloted for use on the 2023 BC AHS is:

What would you say your religion is?

- ☐ *None*
- ☐ *Sikh*
- ☐ *Muslim*
- ☐ *Jewish*
- ☐ *Hindu*
- ☐ *Christian*
- ☐ *Buddhist*
- ☐ *Not sure*
- ☐ *Other* _____

Racism and racial discrimination

Most surveys asking about racism have included a greater number of questions than would be possible on a broad health survey like the BC AHS, or have been found not to be effective for all racial groups. For example, The Angus Reid Institute online survey of Canadian youth aged 12 to 17 asked a range of questions about witnessing and experiencing racism, and about cultural and ethnic differences in peer groups. The survey also included a series of follow up questions about the impacts of these experiences, and how various adults reacted. Similarly, the *Race Relations in Canada Survey* (2021) asked a number of in-depth questions of adults about their racism experiences and perceptions of how people are treated in different settings including stores, restaurants, health care, workplace, court, and when dealing with the police. Two questions from that survey that would be worth piloting for the BC AHS are:

How often have you personally experienced discrimination or been treated unfairly because of your race or ethnicity:

- ☐ *Regularly*
- ☐ *From time to time*
- ☐ *Very rarely*
- ☐ *Never*
- ☐ *Cannot say*

In what settings have you experienced discrimination or been unfairly treated because of your race or ethnicity? MARK ALL THAT APPLY.

- ☐ *In the workplace*
- ☐ *On the street*
- ☐ *In stores or restaurants*
- ☐ *At school*
- ☐ *On public transit*
- ☐ *When using public services*
- ☐ *At airport/borders*
- ☐ *In dealing with police/courts*
- ☐ *In social gatherings*

- *With family/friends/neighbours*
- *In the media*
- *On social media/online*
- *At a hospital*
- *Other specify* _____
- *Cannot say*

The Harford County Public School (HCPS) Board of Education in Maryland, United States developed the *Racism, Implicit Bias, and Discrimination Student Survey* with input from students, and it was administered to students in Grades 5-12 in 2020 (Ousmanou, 2021). One question from this survey which might be useful for the Student Learning Survey is:

How much do you agree with the statement my school is welcoming and inclusive to students of all skin colours, cultures, religions, and other personal traits?

- *Strongly disagree*
- *Disagree*
- *Neither agree nor disagree*
- *Agree*
- *Strongly agree*

Finally, Finland's *School Health Promotion Study* (2021) asks a similar question to the BC AHS about discrimination experience over the past 12 months. However, it has more disaggregated response options, some of which would be worth adapting for a BC context and piloting with youth:

In the past 12 months. Have you been discriminated against or treated unfairly because of...

- *Weight, height, body features or facial features* ○ Yes ○ No
- *Skin colour* ○ Yes ○ No
- *A disability, long-term illness or visible symptom* ○ Yes ○ No
- *Gender, gender expression, non-binary gender, genderlessness* ○ Yes ○ No
- *Sexual orientation* ○ Yes ○ No
- *Language* ○ Yes ○ No
- *Foreign background, or being Roma or Sami* ○ Yes ○ No
- *Religion, lack of religion, or view of life* ○ Yes ○ No
- *Family or home (e.g., parents, siblings, economic situation, place of residence)* ○ Yes ○ No

References for potential survey items

Agic, B., McKeown, D., McKenzie, K., Pinto, A., & Sinha, S. (2013). *We ask because we care: The Tri-Hospital + TPH Health Equity Data Collection Research Project Report*. Toronto, Canada: Toronto Public Health. Available at <http://torontohealthequity.ca/wp-content/uploads/2017/05/We-Ask-Because-We-Care-Report.pdf>

- Angus Reid Institute. (2021). *Survey of Canadian teens on diversity and racism*. Angus Reid Institute. Available at https://angusreid.org/wp-content/uploads/2021/10/2021.10.19_canada_school_kids_racism_diversity.pdf
- Aspinall, P. J. (2012). Answer formats in British Census and survey ethnicity questions: Does open response better capture 'superdiversity'? *Sociology*, 46(2), 354-364. <https://doi.org/10.1177/0038038511419195>
- Boak, A., Elton-Marshall, T., Mann, R. E., Henderson, J. L., & Hamilton, H. A. (2020). *The mental health and well-being of Ontario students, 1991-2019: Detailed findings from the Ontario Student Drug Use and Health Survey (OSDUHS)*. Centre for Addiction and Mental Health. Available at <https://www.camh.ca/-/media/files/pdf---osduhs/osduhs-mh-report2019-pdf.pdf>
- Bredin, C., & Leatherdale, S.T. (2014). *Development of the COMPASS student questionnaire: COMPASS technical report series. 2(2)*. Waterloo, Ontario: University of Waterloo. Available at https://uwaterloo.ca/compass-system/sites/ca.compass-system/files/uploads/files/compass_report_-_questionnaire_development_-_volume_2_issue_2.pdf
- Byrd, C. M., & Chavous, T. M. (2009). Racial identity and academic achievement in the neighborhood context: A multilevel analysis. *Journal of Youth and Adolescence*, 38(4), 544-559. <https://doi.org/10.1007/s10964-008-9381-9>
- Canadian Institute for Health Information. (2020). *Guidance on the use of standards for race-based and Indigenous identity data Collection and health reporting in Canada*. **Ottawa, ON: CIHI**. Available at <https://www.cihi.ca/sites/default/files/document/guidance-and-standards-for-race-based-and-indigenous-identity-data-en.pdf>
- Centre for Addiction and Mental Health. (2019). *2019 Ontario student survey (grades 9-12)*. Available at <https://www.camh.ca/-/media/files/pdf---osduhs/form-b-ss-grades-9-12-2019-osduhs-pdf.pdf?la=en&hash=7376FDA2387F5E3B5EE95FE5E7B7124502FAD404>
- Currie, C., Inchley, J., Molcho, M., Lenzi, M., Veselska, Z., & Wild, F. (eds.) (2014). Health behaviour in school-aged children (HBSC) study protocol: Background, methodology and mandatory items for the 2013/14 Survey. *Health Behaviour in School-aged Children (HSBC) Network*. Available at https://drive.google.com/file/d/1FZ8c2Xa_FcZ5Yx5gPXkPtlbV545NKhnx/view
- Finnish Institute for Health and Welfare (2021). *School health promotion study*. Finnish Institute for health and welfare. Available at https://thl.fi/documents/10531/3554284/ktk21_lukio_en.pdf/a7575efe-5b3a-7768-8524-9f66e3dc222d?t=1613743698941
- Harris, K. M., Halpern, C. T., Whitsel, E. A., Hussey, J. M., Killeya-Jones, L. A., Tabor, J., & Dean, S. C. (2019). Cohort profile: The national longitudinal study of adolescent to adult health (Add health). *International Journal of Epidemiology*, 48(5), 1415-1415k. <https://doi.org/10.1093/ije/dyz115>

- Kiran, T., Sandhu, P., Aratangy, T., Devotta, K., Lofters, A., & Pinto, A. D. (2019). Patient perspectives on routinely being asked about their race and ethnicity: Qualitative study in primary care. *Canadian Family Physician*, 65(8), e363-e369.
- Kukaswadia, A., Janssen, I., Pickett, W., Bajwa, J., Georgiades, K., Lalonde, R.N., Quon, E. C., Safdar, S., & Pike, I. (2016). Development and validation of the bicultural youth acculturation questionnaire. *PLoS ONE*, 11(8), e0161048. <https://doi.org/10.1371/journal.pone.0161048>
- Multicultural Youth Australia Knowledge Hub (2019). What is your ethnic background?: MY Australia Census 2021. *eScholarship Research Centre*. Available at <https://web.esrc.unimelb.edu.au/BSCO/biogs/E000306b.htm>
- Neuman, K. (2021). Race Relations in Canada 2021: A survey of Canadian public opinion and experience. Available at https://www.crrf-fcrr.ca/images/Enviroics_Study_2021/Race_Relations_in_Canada_2021_Survey_-_FINAL_REPORT_ENG.pdf
- Office for National Statistics. (2021). *Census 2021: Individual questionnaire England*. Office for National Statistics. Available at <https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/census2021paperquestionnaires>
- Ousmanou, Y. (2021). *Survey on racism, implicit bias, and other forms of discrimination: Key findings and recommendations*. Harford County Public Schools – Maryland. Available at https://www.hcps.org/superintendent/docs/Research_Report_HCPS_Student_Survey_Racism_Implicit_Bias_Discrimination_March_25_2021.pdf
- Saskatchewan Alliance for Youth and Community Well-being. (n.d.). *Saskatchewan alliance for youth and community well-being: Youth health survey*. Available at <http://saycw.com/isl/uploads/2016/09/SAYCW-Paper-Survey-Tool-20-February-2015.pdf>
- Saskatchewan Alliance for Youth and Community Well-being. (2020). *Thriving youth, thriving communities report: 2019 survey findings*. Available at <http://saycw.com/isl/uploads/2020/11/SAYCW-TYTC-Report-2019-Survey-Findings-Final.pdf>
- Statistics Canada (2020). *Ethnic or cultural origins: Technical report on changes for the 2021 census*. Statistics Canada. Available at <https://www12.statcan.gc.ca/census-recensement/2021/ref/98-20-0002/982000022020001-eng.cfm>
- Statistics Canada (2021). *Examples of religions and religious groups/denominations*. Statistics Canada. Available at <https://www12.statcan.gc.ca/census-recensement/2021/ref/questionnaire/religion-eng.cfm>

Wyn, J., Khan, R., & Dadvand, B. (2018). *Multicultural youth Australia census status report 2017/2018*.
The Multicultural Youth Australia Project Team.
<https://www.cmy.net.au/resource/multicultural-youth-australia-census-status-report-2017-18/>

APPENDIX A: REGIONAL DIFFERENCES IN RACIAL DISCRIMINATION

Youth who experienced discrimination based on their race in the past year by Health Authority	
Northern (A)	11% ^{B,D,E}
Interior (B)	8% ^{A,C,D,E}
Vancouver Island (C)	11% ^{B,D,E}
Vancouver Coastal (D)	16% ^{A,B,C}
Fraser (E)	17% ^{A,B,C}

Note: Superscripts indicate Health Authority regions for which the percentage estimate was statistically different. For example, Vancouver Coastal (D) youth were more likely than Northern (A), Interior (B), and Vancouver Island (C) youth to report having experienced racial discrimination in the past year. However, there was no statistically significant difference between Vancouver Coastal (D) and Fraser (E).

Youth who experienced discrimination based on their race in the past year by Health Service Delivery Area (HSDA)	
Northern	
Northwest (F)	18% ^{G,H}
Northeast (G)	9% ^F
Northern Interior (H)	8% ^F
Interior	
Thompson Cariboo Shuswap (I)	9% ^K
Okanagan (J)	8% ^K
Kootenay Boundary (K)	5% ^{I,J}
East Kootenay (L)	7%
Vancouver Island	
North Vancouver Island (M)	7% ^{N,O}
Central Vancouver Island (N)	11% ^M
South Vancouver Island (O)	13% ^M
Vancouver Coastal	
North Shore/Coast Garibaldi (P)	13% ^{Q,R}
Vancouver (Q)	16% ^P
Richmond (R)	17% ^P
Fraser	
Fraser North (S)	17% ^U
Fraser South (T)	18% ^U
Fraser East (U)	12% ^{S,T}

Note: Superscripts indicate HSDAs for which the percentage estimate was statistically different. Differences between HSDAs are noted only for HSDAs within the same Health Authority. An absence of superscripts indicates there were no statistically significant differences. For example, in the North, youth in the Northwest (F) were more likely than those in the Northeast (G) and Northern Interior (H) to report having experienced racial discrimination in the past year, but Northeast (G) and Northern Interior (H) were not significantly different from each other.

School connectedness (youth who agreed/strongly agreed to each statement) by Health Authority							
	I feel like a part of my school	I am happy to be at school	School staff treat me fairly	School staff expect me to do well	I feel safe at my school	My teachers care about me	Other school staff care about me
Northern (A)	55% ^{D,E}	53% ^{C,D,E}	69%	80%	68% ^{C,D,E}	64% ^{C,E}	54% ^D
Interior (B)	57% ^{D,E}	55% ^{C,D,E}	70%	80% ^D	70% ^{C,D,E}	66%	55% ^{D,E}
Vancouver Island (C)	58% ^{D,E}	58% ^{A,B,D,E}	71%	79%	73% ^{A,B,D}	68% ^{A,D}	54% ^{D,E}
Vancouver Coastal (D)	62% ^{A,B,C}	63% ^{A,B,C}	71%	78% ^B	76% ^{A,B,C,E}	64% ^{C,E}	49% ^{A,B,C,E}
Fraser (E)	61% ^{A,B,C}	62% ^{A,B,C}	71%	79%	73% ^{A,B,D}	67% ^{A,D}	51% ^{B,C,D}

Note: Superscripts indicate Health Authority regions for which the percentage estimate was statistically different within each column. An absence of superscripts indicates there were no statistically significant differences. For example, Interior (B) youth were more likely than Vancouver Coastal (D) youth to feel school staff expected them to do well, but there were no other statistically significant differences between regions.

School connectedness (youth who agreed/strongly agreed to each statement) by Health Service Delivery Area (HSDA)							
	I feel like a part of my school	I am happy to be at school	School staff treat me fairly	School staff expect me to do well	I feel safe at my school	My teachers care about me	Other school staff care about me
Northern							
Northwest (F)	53%	47% ^H	65% ^H	79%	68%	60%	55%
Northeast (G)	55%	51%	69%	78%	63% ^H	64%	54%
Northern Interior (H)	57%	56% ^F	72% ^F	81%	70% ^G	65%	53%
Interior							
Thompson Cariboo Shuswap (I)	57%	54%	71%	80%	68% ^K	66%	56%
Okanagan (J)	56% ^K	56%	69%	80%	71%	65%	54%
Kootenay Boundary (K)	62% ^J	54%	69%	80%	74% ^{I,L}	67%	55%
East Kootenay (L)	58%	53%	70%	78%	68% ^K	64%	58%
Vancouver Island							
North Vancouver Island (M)	57%	58%	71%	79%	73%	66%	56%
Central Vancouver Island (N)	57%	55% ^O	71%	79%	68% ^O	66%	52%
South Vancouver Island (O)	60%	61% ^N	72%	79%	77% ^N	70%	54%
Vancouver Coastal							
North Shore/Coast Garibaldi (P)	63%	61% ^Q	68% ^Q	78%	78%	63% ^R	51% ^Q
Vancouver (Q)	61%	64% ^P	72% ^P	76% ^R	75%	63% ^R	47% ^P
Richmond (R)	64%	63%	71%	80% ^Q	78%	68% ^{P,Q}	50%
Fraser							
Fraser North (S)	61% ^U	62%	69% ^T	76% ^T	74% ^U	66%	49% ^T
Fraser South (T)	63% ^U	64% ^U	73% ^{S,U}	81% ^S	74% ^U	68%	53% ^S
Fraser East (U)	55% ^{S,T}	57% ^T	69% ^T	79%	68% ^{S,T}	64%	52%

Note: Superscripts indicate HSDAs for which the percentage estimate was statistically different. Differences between HSDAs are noted only for HSDAs within the same Health Authority, and within the same column. An absence of superscripts indicates there were no statistically significant differences. For example, in the North, there were no significant differences between the three HSDAs (Northwest, Northeast, and Northern Interior) in youth feeling like a part of their school. In the Interior, youth in the Okanagan (J) region were less likely than those in Kootenay Boundary (K) region to feel a part of their school.

APPENDIX B: STUDENT LEARNING SURVEY RESULTS

Student version

Question (and response reported)		2019/20	2020/21
Are you of Indigenous ancestry (First Nations, Inuit, <i>Métis</i>)? (yes)	Grade 7	15%	12%
	Grade 10	11%	12%
	Grade 12	9%	10%
	All grades combined	12%	12%
At school, do you respect people who are different from you (for example, think, act, or look different)? (at least a few times)	Grade 7	96%	96%
	Grade 10	97%	96%
	Grade 12	97%	97%
	All grades combined	97%	96%
At school, do you respect people who are different from you (for example, think, act, or look different)? (many times or all of the time)	Grade 7	94%	95%
	Grade 10	95%	94%
	Grade 12	95%	96%
	All grades combined	95%	95%
I feel safe when I am going from home to school, or from school to home. (agree or strongly agree)	Grade 7	78%	77%
	Grade 10	79%	77%
	Grade 12	83%	81%
	All grades combined	80%	78%
Do you feel safe at school? (most or all of the time)†	Grade 4	78%	80%
	Grade 7	73%	73%
	Grade 10	75%	76%
	Grade 12	80%	80%
	All grades combined	76%	77%
Do you feel welcome at your school? (most or all of the time)†	Grade 4	76%	78%
	Grade 7	67%	67%
	Grade 10	64%	65%
	Grade 12	65%	66%
	All grades combined	68%	70%
Is school a place where you feel like you belong? (most or all of the time)†	Grade 4	60%	60%
	Grade 7	56%	54%
	Grade 10	50%	49%
	Grade 12	52%	49%
	All grades combined	55%	54%

Question (and response reported)		2019/20	2020/21
How many adults at your school care about you? (at least one adult)	Grade 4	73%	70%
	Grade 7	74%	70%
	Grade 10	74%	69%
	Grade 12	84%	82%
	All grades combined	75%	72%
Do adults in the school treat all students fairly? (most or all of the time)†	Grade 4	72%	75%
	Grade 7	58%	61%
	Grade 10	48%	53%
	Grade 12	50%	53%
	All grades combined	58%	62%
I am happy at my school (most or all of the time)	Grade 4	71%	74%
Have you ever felt bullied at school? (at least a few times)	Grade 4	68%	63%
(most or all of the time)	Grade 4	11%	9%
At school, are you bullied, teased, or picked on? (at least a few times)	Grade 7	94%	94%
	Grade 10	93%	92%
	Grade 12	94%	93%
	All grades combined	94%	93%
At school, are you bullied, teased, or picked on? (many times or all of the time)	Grade 7	19%	17%
	Grade 10	16%	14%
	Grade 12	13%	13%
	All grades combined	17%	15%
At school, I am learning to understand and support human rights and human diversity (for example, differences in culture, gender, physical or mental ability) (agree or strongly agree)	Grade 7	67%	70%
	Grade 10	61%	60%
	Grade 12	63%	62%
	All grades combined	64%	65%

† The Grade 4 survey had the response option of 'most of the time' and the Grade 7, 10, and 12 surveys had the response option 'many times'.

Parent version

Demographics		2019/20	2020/21
Grade of child	Grade 4	37%	37%
	Grade 7	29%	28%
	Grade 10	20%	21%
	Grade 12	14%	14%
Child identifies as Indigenous (First Nations, Métis, Inuit)		7%	7%
Parents who responded 'yes' to ...		2019/20	2020/21
Is your child respectful of people who are different from them?	Elementary	98%	98%
	Secondary	96%	97%
	Total	97%	98%
Do you feel welcome at your child's school?	Elementary	92%	83%
	Secondary	83%	72%
	Total	89%	80%
Is your child learning to understand and support human rights and human diversity (for example, differences in culture, gender, physical or mental ability)?	Elementary	78%	77%
	Secondary	79%	79%
	Total	78%	78%
Does your child's school have an anti-bullying strategy or program in place?	Elementary	62%	60%
	Secondary	53%	53%
	Total	59%	58%

Administrator version

Demographics		2019/20	2020/21
Level of administration	Elementary	64%	66%
	Middle	7%	7%
	Secondary	28%	26%
	District	1%	0%
Question		2019/20	2020/21
What percent of your students believe that at least three adults in the school community care about their success?	0-25%	3%	3%
	26-50%	14%	10%
	51-75%	42%	41%
	76-100%	41%	45%
To what extent do students in your school participate in community or school-level multicultural events or other events that celebrate diversity?	Never	2%	4%
	A few times a year	53%	52%
	Seasonally	27%	32%
	Monthly	14%	11%
	Bi-weekly	2%	1%
	Weekly	3%	1%

MINISTRY OF EDUCATION AND CHILD CARE
INFORMATION BRIEFING NOTE

DATE: September 7, 2022
CLIFF: 283796

PREPARED FOR: Honourable Jennifer Whiteside, Minister – **FOR INFORMATION**

SUBJECT: BCEdAccess – Exclusion Tracker Report

PURPOSE: Update on the Exclusion Tracker Report released Aug 29, 2022.

BACKGROUND:

- On August 29, 2022, BCEdAccess Society released *Exclusion Tracker: Report on the 2020/21 and 2021/22 School Years* (Report), which examines instances of student exclusion in schools across B.C (Attachment 1).
- The Report has been discussed in the media (Attachment 2) since its release. On August 29, 2022, BCEdAccess Chair Nicole Kaler, and Executive Director Tracy Humphreys, spoke to Michelle Elliot on BC Today radio to discuss the report.
- BCEdAccess has collected data on exclusion for the past four years beginning in the 2018/19 school year and have published four interim reports, a COVID snapshot report and a year-end Exclusion Tracker Report. The 2022 Report summarized and compared data between the past two school years (2020/21 and 2021/22).
- The Tracker (Attachment 3), is hosted online to collect exclusion data as identified from parents/guardians, includes 51 questions:
 - 22 required answer questions, and
 - 29 optional answer questions
- For the 2021/22 school year:
 - 272 respondents, and
 - an estimated 4,760 incidents of exclusion.
- For the 2020/21 school year there were:
 - 193 respondents, and
 - an estimated 4376 incidents of exclusion.
- Families can report on multiple incidents over days, weeks and months.
- Ministry staff meet regularly with provincial organizations, including BCEdAccess Society. The organizations consistently voice concern about exclusion from school settings and the Ministry is aware of the issue.

DISCUSSION:

- The Tracker is available for all parents/guardians of students in the K-12 system to record instances of school exclusions and “is intended to be used by them on a continuous basis, as often as necessary”.
- Section 91(5) of the School Act defines school exclusions for medical conditions only.
- The Report provided examples of types of exclusion such as:
 - exclusions at the beginning of the school year,
 - only allowed to attend partial days,

- no EA or Nursing Support in place,
- bullying or safety concerns,
- child cannot attend without a parent/guardian present,
- not enough funds to support child full time,
- cannot attend field trips or extra-curricular activities, and
- not adhering to COVID-19 school safety protocols during the pandemic

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- The Report also includes “exclusions while in school” as an instance of exclusion as indicated by respondents selecting:
 - Not learning with class
 - No supports for Learning Disabilities,
 - Course materials not adapted,
 - EA not available to stay on task, etc..
- The Report found that in the 2020/21 school year the most common reason given to parents/guardians were:
 - aggression towards others (23.8%, 46 respondents), and
 - disruptive behavior in the classroom (16.1%, 31 respondents)
- For the 2021/22 school year the above averages are noted as having decreased, but exact percentages are not provided.
- In 2020/21 school year 84 respondents (43.5%) who completed the Tracker reported no specific incident that led to their child’s exclusion.
- In 2021/22 school year it is reported that approximately 45% (number of respondents not provided) of parent(s)/guardian(s) no specific incident that led to their child’s exclusion.
- The Report indicated that exclusions have significant negative impacts such as mental health declines, social isolation, gaps in learning, etc.
- While the main topic of the report was exclusions in the school setting, additional themes are also referenced in the Report, including:
 - restraint and seclusion,
 - lack of access to specialized services, and
 - Nursing Support Services (NSS)
- Demographic data was an optional section that was collected from some respondents.
- BCEdAccess Society is developing some recommendations for schools, school districts, the Ministry of Education and Child Care, and for parents, guardians and disabled students that they plan to release separately, but do provide a number of suggested steps that would stop exclusions from occurring (Attachment 4).

CONCLUSION:

- Ministry staff will continue to work directly with school districts to support them to offer all students a full educational program.

**MINISTRY OF EDUCATION AND CHILD CARE
INFORMATION BRIEFING NOTE**

Attachments

1. 283796 IBN-ADM_Exclusion Tracker Attachment 1_ BCEdAccess Exclusion Report
2. 283796 IBN-ADM_Exclusion Tracker Attachment 2_Media Mentions
3. 283796 IBN-ADM_Exclusion Tracker Attachment 3_ BCEdAccess Exclusion Tracker
4. 283796 IBN-ADM_Exclusion Tracker Attachment 4_ Exclusion Tracker Report excerpt-
How do we stop exclusions

Program ADM/Branch: Jennifer McCrea, ADM Learning Division

Program Contact (for content): Jennifer Halbert, Director Inclusive Education

Drafter: Veronica Horgan, Inclusive Education

Date: September 7, 2022



Exclusion Tracker

REPORT ON THE 2020/21 AND
2021/22 SCHOOL YEARS

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MINISTRY OF EDUCATION AND CHILD CARE
INFORMATION BRIEFING NOTE

DATE: September 26, 2022
CLIFF: 284025

PREPARED FOR: Honourable Jennifer Whiteside, Minister – **FOR INFORMATION**

SUBJECT: Greater Victoria School District (SD61) Judicial Review

PURPOSE: To provide an update on the SD61 judicial review decision and next steps.

BACKGROUND:

- On January 27, 2022, SD61 interim Superintendent Deb Whitten notified the Ministry of a board of education ('board') meeting that had occurred on January 25, 2022. At that in-camera meeting, a majority of the trustees present voted to censure and suspend two other trustees after accepting an independent investigator's findings of misconduct.
- After giving the trustees an opportunity to respond, the Board maintained the censure and suspension, effective February 11, 2022.
- s.13
- On February 28, 2022, Trustees Rob Paynter and Diane McNally each filed a separate petition for judicial review of the actions of SD61 in suspending them.^{s.14}
- s.14
- The petitions were heard in BC Supreme Court on May 4-6, 2022. All parties agreed that the *School Act* does not provide express authority for a board to suspend a democratically elected trustee. The main questions for the court to decide were:
 - **Is there implied authority for a board to suspend a trustee?**
The trustees conceded a board has some implied powers but argued they do not authorize a suspension that is effectively a removal. The board argued its legal obligations to protect its own employees from bullying and harassment support implied powers to suspend trustees.
 - **Was the board's suspension of the trustees procedurally fair?**
The trustees argued the board's process was unfair, including because they did not have adequate knowledge of the allegations and could not properly respond. The board argued its process was sufficient and it could not be faulted for the trustees' refusal to participate when invited.
 - **Was it reasonable for the board to suspend these two trustees?**
The trustees argued the suspension was unreasonable because the board took no interim steps first and the consequences were disproportionate. The board argued that as the investigator had found bullying and harassment contrary to the board's policy, and the evidence suggested the trustees would not cease that behaviour, the

board was required to respond to prevent further harm. The board also argued the *School Act*'s express authority to address improper conduct in board meetings is insufficient where the conduct occurs outside meetings.

- Justice Hardwick reserved her judgment noting the question of whether boards of education have the authority to remove trustees had never been heard before in court.

OUTCOME:

- On September 23, 2022, Justice Hardwick released her reasons for judgment (Attachment 1), allowing the petitions of both Trustee Paynter and Trustee McNally. The Court found:
 - the suspensions of the two trustees effectively amounted to their removal from office for the remainder of their elected terms (paras. 103-105).
 - while the board does have some implied authority to sanction a trustee for misconduct, the board's authority **does not extend so far as to effectively remove an elected trustee from office**, and therefore the board's resolutions removing the trustees were outside the board's jurisdiction; and
 - as a result of the conclusion that the board's actions were outside its jurisdiction, it was **unnecessary** to consider the alternative grounds for review – namely that the board's decisions were unreasonable and procedurally unfair.
 - The Court therefore granted the following orders:
 - declarations that the February 8, 2022, resolutions of the board are "ultra vires" the board and invalid to the extent that they purport to suspend Paynter and McNally;
 - orders setting aside the second paragraph of the February 8, 2022, resolutions which impose the suspensions; and
 - subject to any further submissions the parties may wish to make, the board must pay Paynter and McNally their costs of the proceedings at scale B (this is not full indemnification costs).
 - As the suspensions have been set aside, Trustees Paynter and McNally have effectively been reinstated to the SD61 board, with full participatory rights.^{s.13}
- s.13
- The board has 30 days (until Oct 24, 2022) to bring an appeal if it wishes to do so.

DISCUSSION:

- s.13
-
- The Court accepted that the Board could impose time-limited sanctions of certain trustee rights or responsibilities. (e.g., earlier sanctions to Trustee McNally which limited her ability to attend confidential meetings or receive confidential materials for one year).

- The Court also highlighted the comments of the independent investigator to the effect that the *School Act* provides “few meaningful remedies” and “few available tools” for addressing the conducted of elected officials (para. 27). The Court found the *School Act* is a “complete code” in respect of when a trustee can be removed or disqualified and concluded a removal authority could not be implied. As a result, to the extent there may be a desire to empower boards to take stronger actions to address trustee misconduct, this decision suggests legislative amendment would likely be required.
- This decision will be considered by staff and the Advisory Committee as part of the research component of the codes of conduct development work.

CONCLUSION:

- Subject to any appeal that may be brought, for the time being, this decision resolves outstanding issues in SD61 with respect to the suspension of their trustees. Both Trustee McNally and Paynter are running in the 2022 election.

Attachment(s)

1. 284025 IBN-MJW Attachment 1_Justice Hardwick’s Judgment

Program ADM/Branch: A/ADM Cloe Nicholls, Education Policy Branch

Program Contact (for content): Tyann Blewett

Drafter: Julia Lloyd

Date: September 26, 2022

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Paynter v. School District No. 61*,
2022 BCSC 1671

Date: 20220923
Docket: S220689
Registry: Victoria

In the Matter of the *Judicial Review Procedures Act*, R.S.B.C. 1996, c. 241
and the *School Act*, R.S.B.C. 1996, c. 412

Between:

Robert Paynter

Petitioner

And

The Board of Education of School District No. 61 (Greater Victoria)

Respondent

- and -

Docket: S220692
Registry: Victoria

Between:

Diane McNally

Petitioner

And

The Board of Education of School District No. 61 (Greater Victoria)

Respondent

Before: The Honourable Madam Justice Hardwick

Reasons for Judgment

Counsel for the Petitioner R. Paynter:

N. Vaartnou

Counsel for the Petitioner D. McNally:

E.W. Pedersen

Counsel for the Respondent:

R. Sieg
A. Owen, Articling Student

Place and Dates of Trial/Hearing:

Kelowna, B.C.
May 4–6, 2022

Place and Date of Judgment:

Victoria, B.C.
September 23, 2022

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Introduction and Overview

[1] These are my reasons for judgment in respect of two petitions for judicial review (the “Petitions”) that were argued before me on May 4, 5 and 6, 2022.

[2] Both Petitions were filed on February 28, 2022 and arise out of generally the same fact pattern, although there are some facts which distinguish the two petitions as I will address specifically in the individualized background section of these reasons for judgment.

[3] The primary focus of the Petitions is whether the respondent, the Board of Education of School District No. 61 (Greater Victoria) (the “Board”) has the authority to suspend a trustee for the remainder of their elected term in office. The position of the petitioners, as I will detail below, can be broadly summarized as follows:

- (a) There is no express or implied statutory authority for the Board to suspend a trustee under the *School Act*, R.S.B.C. 1996, c. 412 [*School Act*], particularly where doing so amounts to what the petitioners assert is effectively removing an elected trustee from office. As such, any suspension resolution purporting to do so is *ultra vires*;
- (b) In the alternative, if the Board does have the authority to suspend a trustee, the Board’s decision to do so, in this factual matrix, was unreasonable; and
- (c) To the extent that the Board relied on events other than the findings set out in the reports made by the investigator retained by the Board to investigate the complaints that ultimately led to the impugned resolutions, the Board breached its duty of procedural fairness owed to the petitioners.

[4] The Board opposes the Petitions and takes the position that the Board clearly had the jurisdiction to make the impugned resolutions. The Board does acknowledge that this is a novel issue such that there is no case authority directly on point as to whether the Board had the necessary implied authority pursuant to the *School Act*.

[5] The Board further asserts that the impugned resolutions were reasonable and were made following a procedurally fair process.

Relief Sought in the Petitions

[6] The petition to the court filed on February 28, 2022 on behalf of the petitioner, Diane McNally (“McNally”), seeks the following relief:

1. A declaration that the resolution of the Board of Education of School District No. 61 (Greater Victoria) (the “Board”) dated February 8, 2022 (the “Resolution”) is *ultra vires* the Board and is invalid to the extent that it purports to suspend Diane McNally from participation in and receiving materials regarding all meetings of the Board for the remainder of her term as a school trustee.
2. In the alternative, a declaration that the Board’s decision to suspend Diane McNally from participation in and receiving materials regarding all meetings of the Board for the remainder of his term as a school trustee is unreasonable.
3. In the further alternative, a declaration that the Board breached its duty of procedural fairness owed to Diane McNally in passing the Resolution.
4. An order setting aside the second paragraph of the Resolution, which imposes the sanction of suspension.
5. An order pursuant to section 17 of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241 (the “**JRPA**”), directing the Board to produce and file the record before it when making the Resolution, including all reports provided by the Investigator.
6. An order for costs of this proceeding.
7. Such other relief as this Court may determine appropriate.

[7] The petition to the court filed on February 28, 2022 on behalf of the petitioner, Robert Paynter (“Paynter”), seeks the following similar, but not identical, relief:

1. A declaration that the resolution of the Board of Education of School District No. 61 (Greater Victoria) (the “**Board**”) dated February 8, 2022 (the “**Resolution**”) is *ultra vires* the Board and is invalid to the extent that it purports to suspend Robert Paynter (“**Trustee Paynter**”) from participation in and receiving materials regarding all meetings of the Board for the remainder of his term as a school trustee.
2. In the alternative, a declaration that the Board’s decision to suspend Trustee Paynter from participation in and receiving materials regarding all meetings of the Board for the remainder of his term as a school trustee is unreasonable.

3. In the further alternative, a declaration that the Board breached its duty of procedural fairness owed to Trustee Paynter in passing the Resolution.
4. An order setting aside the second paragraph of the Resolution, which imposes the sanction of suspension.
5. In the event that this Court finds the Board breached its duty of procedural fairness owed to Trustee Paynter in passing the Resolution, an order quashing the Resolution.
6. An order pursuant to section 17 of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241 (the “***JRPA*”**), directing the Board to produce and file the record before it when making the Resolution, including all reports and recommendations provided by Investigator McNeil to the Board.
7. An order for costs of this proceeding.
8. Such other relief as this Court may determine appropriate.

Background Facts Generally

[8] McNally is a trustee on the Board for School District No. 61 (the “School District”). McNally was elected by eligible electorate pursuant to the *School Act*.

[9] McNally was first elected as a trustee on November 19, 2011 and was most recently re-elected on October 20, 2018.

[10] Paynter is also a trustee on the Board for the School District elected by the eligible electorate pursuant to the *School Act*.

[11] Paynter was first elected as a trustee on November 15, 2015 and was most recently re-elected on October 20, 2018.

[12] The Board is a board of education established under s. 3 of the *School Act*. The Board is, further, a statutory corporation established pursuant to s. 65 of the *School Act*.

[13] The Board generally consists of nine elected trustees.

[14] Pursuant to s. 49 of the *School Act*, the term of office for both McNally and Paynter runs until the later of the day before the first Monday in November after

November 1, 2022 (specifically November 6, 2022) or whenever at least three trustees elected or appointed in the October 2022 election have taken office.

[15] The relations between certain trustees, school board administration staff and portions of the electorate within the School District since the October 2018 election can generally be defined as strained.

[16] As a result of these strained relations, it is also fair to describe there being effectively two “factions” within the Board at the material times following the October 2018 election. The majority faction (comprised of five trustees, including the chair of the Board) and the minority faction (comprised of four trustees). Both McNally and Paynter were generally aligned with the minority faction at all material times.

[17] For the reasons set out below regarding the admissibility of certain portions of the affidavit evidence relied upon by McNally and Paynter in support of the Petitions, this conflict between Board members is largely immaterial to the substantive matters in issue in the Petitions. As such, I have generally not considered the evidence on this particular point beyond putting the “record of proceeding” for the purposes of the Petitions into some context given the acknowledged conflict as between certain Board members at the material times.

[18] In June and July 2021, two School District administrative staff members made formal complaints (the “Complaints”) against McNally, Paynter and two other trustees (namely, trustees Whiteaker and Duncan).

[19] The substance of the Complaints against McNally related to her use of social media and comments made by McNally to the complainants.

[20] The substance of the Complaints against Paynter also related to his social media posts and certain comments made at public board meetings.

[21] In broad terms, the Complaints alleged bullying and harassing behaviour by both McNally and Paynter.

[22] Following the Complaints, the Board ultimately engaged an investigator, Marcia McNeil, (the “Investigator”) in the fall of 2021 to review the matter and make findings as to whether the trustees named had violated Board policies or the applicable law. The Investigator was also directed to make recommendations to the Board as may be appropriate, having regard to her findings on the issues within her mandate.

[23] On or about January 11, 2022, the Investigator delivered two reports to the Board and the School District (the “Reports”) regarding her investigation (the “Investigation”) into the aforementioned complaints.

[24] The Investigator found that the Complaints against McNally and Paynter were substantiated. Specifically, the Investigator found in the Reports that the conduct of McNally and Paynter constituted bullying and harassment within the meaning of the Board’s regulation #4304 and violated the Board’s bylaw #9221. The Investigator also provided written recommendations to the Board regarding sanctions against McNally and Paynter. Of note, the Investigator concluded in the Reports that the Complaints against the other trustees named were not substantiated.

[25] For the benefit of the record, the relevant provisions of the regulation and the bylaw are reproduced below:

- (a) Board regulation #4304 defines workplace bullying and harassment as follows:

Workplace bullying and harassment includes any inappropriate conduct or comment by a person towards an employee that the person knew or reasonably ought to have known would cause that employee to be humiliated or reasonably ought to have known would cause that employee to be humiliated or intimidated. Bullying and harassment can also be described as the assertion of power through aggression and targets the competence level of the person being bullied or harassed. Although it can include physical abuse or threat of physical abuse, bullying and harassment usually causes emotional rather than physical harm.

. . .

Bullying and harassment should not be confused with exercising managerial authority. Examples of reasonable management action might include decisions relating to job

duties, workloads, deadlines, transfers, reorganizations, work assignment, work evaluation, performance feedback, and disciplinary actions; and

(b) Bylaw #9221 provides, in part, that the School Board shall:

5. Provide adequate safeguards for the Superintendent and other personnel so that they may perform their proper functions on a professional basis. . . .

[26] The Reports of the Investigator are also found, for ease of reference, at Volume 1, Tab 10, of the joint petition and application record, specifically at Exhibit “D” to the Affidavit #1 of Robert Paynter. I provide this specific reference as the Reports clearly form a very integral portion of the “record of proceeding” for the purposes of the Petitions.

[27] Contained in the joint petition and application record is also correspondence from the Investigator dated January 11, 2022 which speaks directly to the issue of authority of the Board to sanction or censure McNally and Paynter for their conduct. Several relevant quotes from that January 11, 2022 letter are as follows:

It has been a challenge to make recommendations that will allow the District to meaningfully address the Trustee’s conduct.

I am concerned that if the Board were to sanction Trustees McNally or Paynter for their conduct this would lead to further divisiveness on the Board and would not improve the interactions between Trustees and senior staff.

At present, there are few meaningful remedies available to address the conduct of elected officials. I understand this that this is an issue that has been the subject of discussion at the UBCM and undoubtedly in other fore.

I have no doubt that Ms. [complainant #1] and Ms. [complainant #2] have been significantly impacted by the actions of Trustees McNally and Paynter. Although the District has a responsibility to protect them from bullying and harassment there are few available tools which allow you to do so when the conduct in question is initiated by an elected official.

[Emphasis added.]

[28] On January 25, 2022, the Board held an *in camera* meeting to consider the Reports.

[29] At said *in camera* meeting, the Board resolved to accepting the findings in the Reports.

[30] Specifically, at the Board's meeting on January 25, 2022, the Board passed motions resolving to censure and sanction both McNally and Paynter. The proposed resolutions in respect of McNally and Paynter are identical. Specifically, the proposed resolution (the "Proposed Resolution") stated as follows:

Be it resolved that Trustee [McNally/Paynter] be censured for breach of confidentiality as a result of their repeated public statements denigrating the performance and reputation of Board staff contrary to Board Policy #6215 (Trustee Code of Conduct) and Regulation #4304 (Bullying and Harassment) and for their repeated breaches of their fiduciary obligations and their obligation to respect the confidentiality of Board process.

Be it further resolved that Trustee [McNally/Paynter] be suspended from participation in, and receipt of materials regarding all meetings of the Board, for the remainder of their term as trustee.

[31] McNally and Paynter each received a letter from the Board chair dated February 1, 2022 advising them of the Board's decision to pass the Proposed Resolution. The Board chair's letter further stated that the Proposed Resolution would not become effective until after the Board's meeting on February 8, 2022. McNally and Paynter were both invited to provide written submissions in response to the Proposed Resolution and corresponding sanction by February 7, 2022. The content of the February 1, 2022 correspondence from the Board chair to McNally and Paynter is similar but not identical. I will refer to those slight differences below.

[32] In the February 1, 2022 letter to each McNally and Paynter, the Board chair expressly acknowledges that the "Board cannot remove you from office" but maintains that the Proposed Resolution (and, implicitly, the proposed sanction contained within) represents an exercise of the Board's "inherent powers to take the actions necessary to protect the integrity of its processes by depriving [McNally/Paynter], to the fullest extent possible, of [their] ability to use [their] platform as a trustee in a manner which undermines the Board's reputation, expose[s] it to liability and deprive[s] it of its ability to function in accordance with its legal obligations."

[33] On February 8, 2022, the Board held a meeting in which they passed a resolution in respect of each McNally and Paynter. The resolution passed varies

somewhat from the Proposed Resolution, most notably by removing any reference to a breach of confidentiality. The resolutions ultimately passed in respect of McNally and Paynter are identical and provide as follows:

Be it resolved that Trustee [McNally/Paynter] be censured as a result of their repeated public statements denigrating the performance and reputation of Board staff, contrary to Board Policy #6215 (Trustee Code of Conduct), and Regulation #4304 (Bullying and Harassment), and for their repeated breaches of their fiduciary obligations and their obligation to respect the confidentiality of Board process.

Be it further resolved that Trustee [McNally/Paynter] be suspended from participation in, and receipt of materials regarding all meetings of the Board, for the remainder of their term as trustee.

(the “Resolutions”)

[34] By letter dated February 11, 2022, the Board chair wrote to each of McNally and Paynter and informed them of the Resolutions. The February 11, 2022 letter cites the basis for the Resolutions as being the reasons set forth in the February 1, 2022 letter from the Board chair. The February 11, 2022 letter from the Board chair also provides certain particulars as to the scope of the suspension which, pursuant to the Resolutions, purports to continue until the end of each of McNally and Paynter’s current elected term:

- (a) Neither trustee is entitled to attend public sessions of the board as a trustee, or participate in closed meetings or committees;
- (b) If either trustee attends meetings, they will be closely monitored and could be removed or muted in the event the presiding officer feels they are not being respectful or cooperating;
- (c) Neither trustee is allowed to communicate with staff and may only communicate with the chair of the Board;
- (d) The Board email account for both McNally and Paynter would be suspended; and
- (e) Neither McNally nor Paynter will receive information packages provided to trustees.

[35] Although not expressly stated in the February 11, 2022 correspondence from the Board chair, it is common ground that the Resolutions also render McNally and Paynter from voting on any issues and otherwise performing any duties as a trustee of the Board during their remaining term as an elected official.

Background Facts Specific to McNally

[36] As indicated above, the factual matrix underlying the relief sought in the Petitions by both McNally and Paynter is very similar. However, there are some specific factual nuances as between McNally and Paynter. I will address those nuances with respect to McNally below and then subsequently do the same for Paynter.

[37] In the report by the Investigator, it is noted that McNally declined to meet with the investigator. McNally asserts this is incorrect and deposes that:

(a) McNally wrote to the investigator on October 20, 2021 requesting that she be provided relevant documents prior to agreeing to meeting with the Investigator; and

(b) on November 18, 2021, McNally wrote to the Investigator offering to meet.

[38] The evidence of the chair of the Board, Robert Painter, conflicts somewhat on this point. He deposes, amongst other somewhat related facts, that the Investigator extended an additional offer to meet with McNally prior to the conclusion of the Investigation on December 1, 2021 but that McNally did not respond to the offer.

[39] Ultimately, I do not find this conflict in the evidence regarding the efforts to coordinate a meeting between the Investigator and McNally to be a material impediment in deciding the issues before the Court in respect of the McNally petition.

[40] As indicated above, at the Board's meeting on January 25, 2022, the Board passed a motion endorsing the Proposed Resolutions to censure and sanction McNally.

[41] McNally was excluded from participating in the January 25, 2022 *in camera* meeting. However, on January 24, 2022, in advance of said meeting, McNally had submitted a written response to the Reports.

[42] In the February 1, 2022 correspondence sent to McNally from the Board chair, the chair sets out the Board's reasons for the Proposed Resolution. Those reasons expressly included the following:

- (a) McNally's general history of misconduct;
- (b) the fact that this was not the first time the Board had been required to "take action" arising from McNally's refusal to comply with the Board's bullying and harassment policies and the Board Trustee's code of conduct;
- (c) McNally's refusal to apologize for the aforementioned conduct;
- (d) McNally's "complete lack of regard" for her or the Board's obligations under the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 [FOIPPA], including statements on social media accusing Board employees of incompetence and improper behaviour and public statements about the current investigative process;
- (e) McNally's prior release of the report of Ms. Roslyn Goldner (an investigatory report previously commissioned by the School District as a result of an earlier complaint regarding McNally);
- (f) McNally's conduct in exposing the Board to possible liability for defamation, constructive dismissal, breaches of applicable privacy legislation and serious damage to the Board's reputation as an employer;
- (g) McNally's alleged "complete and ongoing lack of respect" for her "fiduciary obligations"; and
- (h) McNally's prior suspension from attendance at *in camera* meetings for a period of one year.

[43] McNally did not provide further written submissions in advance of the February 8, 2022 Board meeting. Instead, McNally informed the Board, via email,

that she relied on her previous written submission (namely the January 24, 2022 submission referred to above).

Background Facts Specific to Paynter

[44] Paynter deposes that he was initially only advised of one complaint made against him and only became aware of the second complaint in January 2022 after the Investigator completed the Investigation and issued the Reports.

[45] Paynter received copies of the Reports on or about January 18, 2022. Upon reviewing the Reports and learning of the second complaint, Paynter issued a written apology, via email, to one of the complainants on January 20, 2022.

[46] After receipt of the written apology, the Board instructed Paynter to refrain from any direct or indirect communication with the complainant and to direct all correspondence on Board matters to the chair or the superintendent. There is no evidence before me that suggests that Paynter did not comply with this direction.

[47] As indicated, the Board held an *in camera* meeting on January 25, 2022. Paynter was advised that he could not attend the meeting, but would be permitted, if he so chose, to speak to the Board for 15 minutes following a presentation by the Board's counsel regarding the Investigator's reports and prior to Board deliberations.

[48] Paynter subsequently advised the chair of the Board that he was not willing to speak to the Board, citing the lack of context of what the Board was requesting of him at this juncture.

[49] As indicated above, at the Board's meeting on January 25, 2022, the Board passed a motion endorsing the Proposed Resolutions to censure and sanction Paynter.

[50] In the February 1, 2022 correspondence sent to Paynter from the Board chair, the chair sets out the Board's reasons for the proposed resolution which included:

- (a) Paynter's general history of misconduct;

- (b) the fact that this was not the first time the Board had been required to “take action” arising from Paynter’s refusal to comply with the Board’s Bullying and Harassment Policies and the Board Trustee’s code of conduct, including its confidentiality provisions;
- (c) Paynter’s “lack of regard” for his or the Board’s obligations under the *FOIPPA*, including statements on social media accusing Board employees of incompetence and improper behaviour;
- (d) Paynter’s conduct in exposing the Board to possible liability for defamation, constructive dismissal, breaches of applicable privacy legislation and serious damage to the Board’s reputation as an employer;
- (e) Paynter’s alleged “complete and ongoing lack of understanding or respect” for his “fiduciary obligations”; and
- (f) Paynter’s prior warning as to his responsibilities as a trustee and the need to refrain from public criticism and denigration of Board employees.

[51] On February 7, 2022, Paynter did provide written submissions to the Board. In those submissions, Paynter opposed the suspension and expressed concerns about the Board’s process in passing the Proposed Resolution. Paynter further disputed the reasons provided by the chair of the Board in the February 1, 2022 letter. However, Paynter did offer to provide a formal statement of retraction and remove the social media comments at issue.

Issues to be Determined

[52] The parties are *ad idem* that there are three issues for determination in respect of the Petitions:

1. Is the suspension of a trustee from the Board *ultra vires* the Board’s jurisdiction?

2. Was the Board's decision to suspend the petitioners unreasonable in the circumstances?
3. Did the Board breach its duty of procedural fairness in passing the Resolutions?

Positions of the Parties on the Issues to be Determined

[53] The position of McNally and Paynter on the issues to be determined is, as alluded to above, as follows:

- (a) The effect of the Resolutions is to remove an elected official from office. The Resolutions are thus *ultra vires* of the Board, as there is no express or implied statutory authority for the Board to suspend a trustee under the *School Act*. Thus, the Resolution is unreasonable on jurisdictional grounds;
- (b) In the event that the Board does have the authority to suspend a trustee, the Board's decision to do so was unreasonable in this particular factual matrix and falls outside the range of possible, acceptable conclusions that are defensible in light of the facts and law; and
- (c) To the extent that the Board relied on events other than the findings set out in the Reports of the Investigator in coming to its decision, the Board breached its duty of procedural fairness owed to the petitioners in passing the Resolutions.

[54] The first two grounds, the petitioners submit, give this Court the authority to set aside the suspension portion of the Resolutions. The third ground, the petitioners submit, renders the Resolutions *void ab initio* and they should thus be quashed in their entirety.

[55] The Board opposes the relief sought. The position of the Board on the issues to be determined is as follows:

- (a) The Board had the jurisdiction to make the Resolutions and this determination is entitled to deference. The Board further submits that it would be an absurd result to find that the Board did not have the power to take positive action to remedy unsafe working conditions created by McNally and Paynter;
- (b) The Resolutions were reasonable; and
- (c) The Resolutions were made following a procedurally fair process.

[56] The Board does not challenge the Court's authority to set aside the suspension portion of the Resolutions or quash the Resolutions in the event the petitioners are successful on any of the three grounds set forth in the Petitions. Rather, the Board's submissions focused on opposing the relief sought in the Petitions on their merits.

Preliminary Issue – Application to Strike Portions of Petitioners' Affidavits

The Impugned Portions of the Petitioners' Affidavits

[57] In conjunction with the hearing of both judicial review petitions, the Board brought two preliminary applications to strike portions of the petitioners' affidavits pursuant to Rules 9-5(1)(b) and 22-2(12) of the *Supreme Court Civil Rules* [Rules].

[58] In respect of the McNally Petition, the Board brought a notice of application to strike paragraphs 13–16, 19, 23–26, 28–29 and 57–63 of the Affidavit #1 of McNally sworn February 28, 2022, along with Exhibits "O" to "R" of said affidavit.

[59] In respect of the Paynter Petition, the Board brought a notice of application to strike paragraphs 8–12, 14, 19–20, 25, 30–32 and 37–42 of the Affidavit #1 of Paynter sworn February 28, 2022, along with Exhibits "F", "G", "K", "N", and "R" to "Y" of said affidavit.

[60] The grounds for applying to strike the impugned portions of the affidavits of McNally and Paynter are as follows:

- (a) The evidence was not before the Board when it made the Resolutions;
- (b) The evidence does not assist the Court in determining whether the Board had the jurisdiction to make the Resolutions or whether it acted fairly; and
- (c) The evidence is not admissible or relevant to the matters at issue in the Petitions.

An Overview of the Law Regarding Striking Portions of Affidavits

[61] Rule 9-5(1)(b) of the *Rules* empowers a court to strike out the whole or any part of a pleading, petition or other document on the ground that it is unnecessary, scandalous, frivolous or vexatious.

[62] Affidavit evidence that is not probative of a fact put in issue by the parties is an “unnecessary” document under Rule 9-5(1)(b) (see *6180 Fraser Holdings Inc. v. Ali*, 2012 BCSC 247 at para. 41).

[63] Further, R. 22-2(12) provides that, subject to subrule (13), an affidavit must state only what a person swearing or affirming the affidavit would be permitted to state in evidence at a trial. This applies in the case of a petition where a final order is being sought (see *British Columbia Investment Management Corporation v. Canada (Attorney General)*, 2016 BCSC 2554 at paras. 6–7).

[64] Similarly, affidavits must not include opinions, argument or legal conclusions (see *British Columbia Investment Management Corporation*, at para. 7).

[65] As such, an affidavit containing improper or inadmissible content may be struck under either R. 9-5(1)(b) or R. 22-2(12) (see *Lang v. Lapp*, 2015 BCSC 1838 at para. 34).

[66] Practically speaking, where an application to strike is heard at the same time as the petition on its merits, the struck portions of the impugned affidavit(s) are given no weight by the court (see *McMahon v. Harper*, 2017 BCSC 2328 at para. 108).

[67] Important for the present applications before the Court is the well-established principle that a judicial review petition is not a *trial de novo*. Rather, as a general rule, the court's review of a decision in the context of a judicial review must be based on the decision makers record of the proceeding as defined in the *Judicial Review and Procedure Act*, R.S.B.C. 1996, c. 241 [JRPA].

[68] Section 1 of the JRPA provides that the "record of the proceeding" includes the following:

- (a) a document by which the proceeding is commenced;
- (b) a notice of hearing in the proceeding;
- (c) an intermediate order made by the tribunal;
- (d) a document produced in evidence at a hearing before the tribunal, subject to any limitation expressly imposed by any other enactment on the extent to which or the purpose for which a document may be used in evidence in a proceeding;
- (e) a transcript, if any, of the oral evidence given at a hearing; and
- (f) the decision of the tribunal and any reasons given by it.

[69] This court in *Kinexus Bioinformatics Corporation v. Asad*, 2010 BCSC 33 described the approach to the admissibility of evidence not before the decision maker on a judicial review as follows at paragraph 17 (citing *Ross v. British Columbia (Human Rights Tribunal)*, 2009 BCSC 1969):

[17] The Court's power to admit evidence beyond the record of proceeding must be exercised sparingly, and only in an exceptional case. Such evidence may be admissible for the limited purpose of showing a lack of jurisdiction or a denial of natural justice. In *Ross*, Silverman J. said the following at paras. 26-27 after reviewing the relevant caselaw:

[26] The general rule with respect to the admissibility of extrinsic material is that it is, except in very special circumstances, inadmissible. This is because a judicial review is a review of a decision on the tribunal's record of proceedings. It is that very record which is the subject of the judicial review. Affidavit material describing evidence not before the tribunal or attaching documents that were not before the decision-maker is not part of that record and is generally inadmissible on judicial review. . . .

[27] There are, however, exceptions to the general rule where extrinsic evidence may sometimes be admissible. For example, it may be admissible for the limited purpose of showing a lack of jurisdiction or a denial of natural justice. In circumstances where the grounds for

judicial review are a breach of natural justice or procedural fairness, the petitioner may be entitled to adduce new evidence. However, the new evidence must be both relevant and necessary before it will be admissible [.]

Application of the Law to the Petitioners' Affidavits

[70] In respect of the impugned portions of the McNally affidavit, I have concluded that the respondent's objections are generally well founded. As such, I am substantially allowing the respondent's notice of application on the basis that the impugned affidavit evidence is not relevant to the Board's jurisdiction (or lack thereof) to make the Resolutions, is not of probative assistance to the Court in determining whether the Board acted unfairly, or is otherwise inadmissible. In accordance with the direction of the Court in *McMahon*, I am giving no weight to the following paragraphs of the McNally affidavit:

- (a) paragraphs 13–14 and 29 which contain opinion evidence regarding the role of a school trustee and the appropriateness of McNally's behaviour as a trustee within the context of that role;
- (b) paragraphs 15–16, 25–26 and 28 which contain inadmissible evidence about the impact of McNally's role on the Board relative to her emotional state at various times during her tenure as a trustee;
- (c) paragraphs 19 and 23–24 which contain unnecessary evidence about the fractious relations amongst the Board's trustees prior to the Resolutions. In finding that this evidence is unnecessary, I recognize that this conflict is referenced in passing in the first Report of the Investigator but note that the Investigator expressly states that such issues are outside the scope of her report. It is also referred only in passing above in these reasons for judgment in putting the record of proceeding into context;
- (d) paragraphs 58–60 which contain inadmissible evidence about school system stakeholders who took issue with the Resolutions. Exhibits "P" and "Q", which are examples of said complaints, are similarly not admissible

and, in any event, are hearsay which is not admissible given that the Petitions seek final orders; and

- (e) paragraphs 62–63 which contain opinion evidence as to the effect of the Resolutions on students, employees, residents and taxpayers.

[71] The impugned portions of the McNally affidavit which I will not strike are paragraphs 57 and 61, which also append Exhibits “O” and “R”. Exhibit “O” is the media release issued by the Board on February 11, 2022 (the “Media Release”) and Exhibit “R” is an open letter written by the Board chair dated February 24, 2022 (the “Open Letter”). The Media Release provides a general overview of the Board’s decision to pass the Resolutions and the Open Letter goes into considerable detail regarding the Board’s position, including case authority and its basis for passing the Resolutions. In my view, both properly form part of the “record of the proceeding” as defined in s. 1 of the *JRPA* and as such are admissible for the purposes of McNally’s Petition.

[72] In respect of the impugned portions of the Paynter affidavit, I have concluded that the respondent’s objections are also generally well founded. As such, I am substantially allowing the respondent’s notice of application on the basis that the impugned evidence is not relevant to the Board’s jurisdiction (or lack thereof) to make the Resolutions, is not of probative assistance to the Court in determining whether the Board acted unfairly, or is otherwise inadmissible. In accordance with the direction of the court in *McMahon*, I am giving no weight to the following paragraphs of the Paynter affidavit:

- (a) paragraphs 8–10 which contain unnecessary evidence about the fractious relations amongst the Board’s trustees prior to the Resolutions. In finding that this evidence is unnecessary, I again recognize that this conflict is referenced in passing in the first Report of the Investigator but note that the Investigator expressly states that such issues are outside the scope of her report;

- (b) paragraphs 11–12 which contain opinion evidence as to whether the actions taken by Paynter during his tenure as a trustee were justified;
- (c) paragraph 25 wherein Paynter deposes that McNally provided him with a copy of the letter from the Board chair she received on February 1, 2022 and appends that letter at Exhibit “K”. Said letter clearly forms part of the “record of proceeding” as defined in the *JRPA* as it relates directly to the McNally Petition and is already in evidence for that purpose. However, it is both hearsay and unnecessary in the Paynter affidavit;
- (d) paragraphs 31–31 wherein Paynter provides opinion evidence as to the effect the Resolutions have had on him;
- (e) paragraphs 30, 37–39 and 41 wherein Paynter refers to various open letters, news articles and media releases about the resolution. Neither these paragraphs, nor the corresponding exhibits, namely Exhibits “N”, “R” to “W” and “Y”, are admissible for the purposes of the Paynter Petition given the relief sought; and
- (f) paragraph 42 wherein Paynter provides opinion evidence as to matters that may be before the Board during the duration of his suspension.

[73] The impugned portions of the Paynter affidavit which I will not strike are:

- (a) paragraph 14 which appends School District 61 regulation #4304 – Bullying and Harassment and provides a brief overview as to the processes provided for in said regulation. Regulation #4304 clearly forms part of the “record of proceeding” as defined in the *JRPA* given it is specifically relied upon in the Resolutions. Further, in my view, the brief context provided in the Paynter affidavit is admissible. It was not necessary to simply append the Regulation as an exhibit to the Paynter affidavit without any commentary;

- (b) paragraphs 19–20 which provide evidence about an email Paynter sent to one of the complainants whose complaint triggered the Investigation and the Board’s response (both of which are appended as Exhibits “F” and “G”). These communications took place prior to the passing of the Resolutions and, in my view, form part of the “record of proceeding” as defined in the *JRPA*. Further, in the February 1, 2022 letter from the Board chair to McNally, her refusal to apologize was specifically noted. As such, it would be inconsistent to exclude evidence of Paynter’s offer of apology made prior to the passing of the Resolutions; and
- (c) paragraph 40 which refers to an email received during the course of the investigation leading to the Goldner report. The Golder report is specifically referenced in the Board chair’s Open Letter. As I have concluded that the Open Letter forms part of the “record of proceeding”, Paynter is entitled to provide this evidence which puts the relevant portion of the Open Letter into context.

Standing

[74] The Petitions are, as noted, judicial review petitions brought pursuant to the *JRPA*.

[75] In very broad terms, judicial review is the process by which the court supervises the exercise of statutory and public authority by administrative decision makers to ensure that they act within the scope of their delegated authority (see *Strauss v. North Fraser Pretrial Centre (Deputy Warden of Operations)*, 2019 BCCA 207 at paras. 18–24).

[76] The Resolutions, which are passed pursuant to section 65(4) of the *School Act*, are thus subject to judicial review.

[77] Both McNally and Paynter have standing to apply for judicial review as parties whose legal rights and powers were/are affected by the Resolutions.

[78] Neither of these propositions were challenged by the Board.

Standard of Review

[79] The parties also agree that the standard of review of whether a decision is within the jurisdiction of an administrative body, subject to certain exceptions which are not engaged in either of the Petitions, is reasonableness (see *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras. 65–68).

[80] The Supreme Court of Canada in *Vavilov* described why the reasonableness standard is to be applied to questions of administrative jurisdiction and how that standard of review is to be applied at paras. 65–68 of their decision:

[65] We would cease to recognize jurisdictional questions as a distinct category attracting correctness review. The majority in *Dunsmuir* held that it was “without question” (para. 50) that the correctness standard must be applied in reviewing jurisdictional questions (also referred to as true questions of jurisdiction or *vires*). True questions of jurisdiction were said to arise “where the tribunal must explicitly determine whether its statutory grant of power gives it the authority to decide a particular matter”: . . . Since *Dunsmuir*, however, majorities of this Court have questioned the necessity of this category, struggled to articulate its scope and “expressed serious reservations about whether such questions can be distinguished as a separate category of questions of law”: . . .

[66] As Gascon J. noted in *CHRC*, the concept of “jurisdiction” in the administrative law context is inherently “slippery”: para. 38. This is because, in theory, any challenge to an administrative decision can be characterized as “jurisdictional” in the sense that it calls into question whether the decision maker had the authority to act as it did: . . . Although this Court’s jurisprudence contemplates that only a much narrower class of “truly” jurisdictional questions requires correctness review, it has observed that there are no “clear markers” to distinguish such questions from other questions related to the interpretation of an administrative decision maker’s enabling statute: . . . Despite differing views on whether it is possible to demarcate a class of “truly” jurisdictional questions, there is general agreement that “it is often difficult to distinguish between exercises of delegated power that raise truly jurisdictional questions from those entailing an unremarkable application of an enabling statute: . . . This tension is perhaps clearest in cases where the legislature has delegated broad authority to an administrative decision maker that allows the latter to make regulations in pursuit of the objects of its enabling statute: . . .

[67] In *CHRC*, the majority, while noting this inherent difficulty — and the negative impact on litigants of the resulting uncertainty in the law — nonetheless left the question of whether the category of true questions of jurisdiction remains necessary to be determined in a later case. After hearing

submissions on this issue and having an adequate opportunity for reflection on this point, we are now in a position to conclude that it is not necessary to maintain this category of correctness review. The arguments that support maintaining this category — in particular the concern that a delegated decision maker should not be free to determine the scope of its own authority — can be addressed adequately by applying the framework for conducting reasonableness review that we describe below. Reasonableness review is both robust and responsive to context. A proper application of the reasonableness standard will enable courts to fulfill their constitutional duty to ensure that administrative bodies have acted within the scope of their lawful authority without having to conduct a preliminary assessment regarding whether a particular interpretation raises a “truly” or “narrowly” jurisdictional issue and without having to apply the correctness standard.

[68] Reasonableness review does not give administrative decision makers free rein in interpreting their enabling statutes, and therefore does not give them licence to enlarge their powers beyond what the legislature intended. Instead, it confirms that the governing statutory scheme will always operate as a constraint on administrative decision makers and as a limit on their authority. Even where the reasonableness standard is applied in reviewing a decision maker’s interpretation of its authority, precise or narrow statutory language will necessarily limit the number of *reasonable* interpretations open to the decision maker — perhaps limiting it one. Conversely, where the legislature has afforded a decision maker broad powers in general terms — and has provided no right of appeal to a court — the legislature’s intention that the decision maker have greater leeway in interpreting its enabling statute should be given effect. . . .

[81] Although the parties agree that *Vavilov* mandates that the standard of review to be applied to the determination of whether a decision is within a statutory decision maker’s jurisdiction is reasonableness, the Board stresses in its submission that the Board’s determination as to whether it had the jurisdiction to pass the Resolutions is entitled to deference from this Court.

[82] Pursuant to *Vavilov*, the standard of review of the Resolutions on their merits is also reasonableness as there is nothing in the factual matrix of the Petitions which would rebut the presumption of reasonableness (see paras. 10 and 16 of *Vavilov*).

[83] However, with respect to the duty of procedural fairness and any allegation of breach thereof, the parties are again *ad idem* that the standard of review remains correctness or “fairness” (see *Murray Purcha & Son Ltd. v. Barriere (District)*, 2019 BCCA 4 at paras. 23–28).

The Governing Legislation

[84] The entirety of the provisions of the *School Act* referred to by the parties in their submissions are set out in Schedule 1 to these reasons for judgment. I will briefly summarize the key provisions of the *School Act* relevant to my consideration of the issues raised in the Petitions as follows:

- (a) Section 15 of the *School Act* sets out a school board's duties toward employees;
- (b) Sections 35 and 49 of the *School Act* provide that trustees are elected at a general school election and typically serve for a four-year term;
- (c) Section 65 of the *School Act* establishes that the school board is a corporation and then sets out some of the powers of a school board, the most important, in the circumstances, being s. 65(4) which provides that unless expressly required to be exercised by bylaw, all powers of a board may be exercised by bylaw or by resolution;
- (d) Section 67(2) of the *School Act* requires that the Board elect a chair amongst its members;
- (e) There are a number of provisions in the *School Act* that address the disqualification and removal of a trustee, albeit there are none specifically addressing the suspension of a trustee. Namely, a trustee will be disqualified from holding office if, amongst other things, the trustee fails to make the oath or affirmation of office, is continuously absent from board meetings, commits an election offence under the *Local Government Act*, R.S.B.C. 2015, c. 1, maintains status as a school district employee, is convicted of an indictable offence or any other offence that renders a trustee unsuitable to perform their duties, or votes on matters of which they have a pecuniary interest (see ss. 33, 34, 48, 52, 53, 58–63);

- (f) Under ss. 54(1) and s. 62(1) of the *School Act*, the electorate can also apply to the court to address a trustee's right to hold office. However, a school board is not expressly provided with this standing;
- (g) Section 70(2) of the *School Act* does expressly permit a majority of trustees to expel a fellow trustee from a meeting for improper conduct. However, the scope of this section only permits the majority of trustees present to remove a trustee from the single meeting in which the trustee is engaging in the improper conduct. It is not a roving power to remove a trustee from board meetings generally;
- (h) Section 85 of the *School Act* expressly grants school boards the power and capacity of a natural person;
- (i) Under s. 168.03 of the *School Act*, the Minister of Education can issue an administrative directive to a school board if the board is failing or has failed to meet its obligations under the *School Act*, or it is in the public interest to do so; and
- (j) Section 172 of the *School Act* provides the Lieutenant Governor in Council the authority to remove an entire board of trustees upon the appointment of an official trustee in very limited circumstances, including *inter alia*, default of certain financial obligations, serious financial jeopardy, substantial non-compliance with the *Act* or the regulations, or substantial non-performance of the duties of the board.

[85] There is no significant controversy between the parties as to the scope and application of the aforementioned provisions of the *School Act*. The primary controversy, as I will address below, is whether the *School Act* provides a complete code of procedures by which an elected trustee can be removed from office, disqualified from office or otherwise restrained from carrying out their duties as a trustee in office.

[86] McNally and Paynter maintain it is such a complete code and that nothing in the *School Act* provides the Board with the authority or jurisdiction to suspend a trustee from office; particularly where the suspension amounts to what they assert is a *de facto* removal.

[87] The Board disagrees and maintains that the *School Act* is not a complete code and as such, the Board has as the jurisdiction, by necessary implication, to suspend trustees such as it did in the case of McNally and Paynter. The Board further disputes the suggestion that the suspensions of McNally and Paynter amount to a *de facto* removal from office.

[88] In terms of other relevant statutory authority:

(a) as employers, a school board must ensure the health and safety of their employees and remedy any workplace hazards pursuant to s. 21 of the *Workers Compensation Act*, R.S.B.C. 2019, c. 1; and

(b) the *Interpretation Act*, R.S.B.C. 996, c. 238, s. 27(2) sets out the following regarding ancillary powers generally:

If in an enactment power is given to a person to do or enforce the doing of an act or thing, all the powers that are necessary to enable the person to do or enforce the doing of the act or thing are also deemed to be given.

Implied Authority to Suspend or Sanction Trustees

[89] As set out above, the Board recognizes that it did not, in the circumstances, have the express ability under the *School Act* to suspend either McNally or Paynter as trustees. As such, any authority conferred on the Board to suspend a trustee or trustees from performing their duties must come from the doctrine of necessary implication.

[90] As a starting point, the Supreme Court of Canada in *Chamberlain v. Surrey School District No. 36*, 2002 SCC 86, described the decision-making powers of a

school board under the *School Act*. Specifically, Chief Justice McLachlin (as she was then) described those powers as follows at para. 28:

28 Here I differ from my colleague, Gonthier J., who maintains that the Board can function in a manner akin to a municipal counsel or a legislature. It is true that, like legislatures and municipal counsels, school boards are elected bodies endowed with rule-making and decision-making powers through which they are intended to further the interests of their constituents. However, school boards possess only those powers their statute confers on them. Here the Act makes it clear that the Board does not possess the same degree of autonomy as a legislature or a municipal counsel. It must act in a strictly secular manner. It must foster an atmosphere of tolerance and respect. It must not allow itself to be dominated by one religious or moral point of view, but must respect a diversity of views. It must adhere to the processes set out by the Act, which for approval of supplementary materials include according to a general regulation and considering the learning objectives of the provincial curriculum. Finally, to ensure that it has acted within its allotted powers, the Board is subject to judicial review in the courts.

[91] As set forth in the summary of the provisions of the *School Act* above, the *School Act* does not provide any express authority for the Board to suspend a trustee. The only express power of sanction conferred upon the Board *vis-à-vis* a trustee is that set out in s. 70(2) and that, as noted, simply provides authority to expel a trustee from a single meeting due to improper conduct at said meeting.

[92] In light of this lack of an express power to suspend a trustee under the *School Act*, the court must take a purposive reading of the legislation to determine whether such an implied power exists and, if so, the extent of such a power conferred upon the Board. In so doing, the court may look to the intention of the legislative drafters, the wording of the legislation, the structure of the legislation and the purpose of the legislation to determine what powers are practically speaking necessary to allow the Board to accomplish its objectives mandated by the *School Act*. This involves the application, as referred to above, of the doctrine of jurisdiction by necessary implication.

[93] Jurisdiction by necessary implication exists where the power in question is reasonably necessary for the statutory body to accomplish its mandate, but is not one to which the legislature has clearly turned its mind.

[94] In *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4, the Supreme Court of Canada expressly explained the doctrine of jurisdiction by necessary implication. Specifically, Justice Bastarache, for the majority, described the doctrine as follows at paras. 50–51 and 73:

50 Consequently, a grant of authority to exercise a discretion as found in s. 15(3) of the AEUBA and s. 37 of the PUBA does not confer unlimited discretion to the Board. As submitted by ATCO, the Board's discretion is to be exercised within the confines of the statutory regime and principles generally applicable to regulatory matters, for which the legislature is assumed to have had regard in passing that legislation (see Sullivan, at pp. 154-55). In the same vein, it is useful to refer to the following passage from *Bell Canada v. Canada (Canadian Radio-Television and Telecommunications Commission)*, [1989] 1 S.C.R. 1722, at p. 1756:

The powers of any administrative tribunal must of course be stated in its enabling statute but they may also exist by necessary implication from the wording of the act, its structure and its purpose. Although courts must refrain from unduly broadening the powers of such regulatory authorities through judicial law-making, they must also avoid sterilizing these powers through overly technical interpretations of enabling statutes.

51 The mandate of this Court is to determine and apply the intention of the legislature (*Bell ExpressVu*, at para. 62) without crossing the line between judicial interpretation and legislative drafting (see *R. v. McIntosh*, [1995] 1 S.C.R. 686, at para. 26; *Bristol-Myers Squibb Co.*, at para. 174). That being said, this rule allows for the application of the “doctrine of jurisdiction by necessary implication”; the powers conferred by an enabling statute are construed to include not only those expressly granted but also, by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory regime created by the legislature (see Brown, at p. 2-16.2; *Bell Canada*, at p. 1756). Canadian courts have in the past applied the doctrine to ensure that administrative bodies have the necessary jurisdiction to accomplish their statutory mandate:

When legislation attempts to create a comprehensive regulatory framework, the tribunal must have the powers which by practical necessity and necessary implication flow from the regulatory authority explicitly conferred upon it.

...

73 The City seems to assume that the doctrine of jurisdiction by necessary implication applies to “broadly drawn powers” as it does for “narrowly drawn powers”; this cannot be. The Ontario Energy Board in its decision in *Re Consumers’ Gas Co.* (1987), E.B.R.O. 410-II/411-II/412-II, at para. 4.73, enumerated the circumstances when the doctrine of jurisdiction by necessary implication may be applied:

- [when] the jurisdiction sought is necessary to accomplish the objectives of the legislative scheme and is essential to the Board fulfilling its mandate;
- [when] the enabling act fails to explicitly grant the power to accomplish the legislative objective;
- [when] the mandate of the Board is sufficiently broad to suggest a legislative intention to implicitly confer jurisdiction;
- [when] the jurisdiction sought must not be one which the Board has dealt with through use of expressly granted powers, thereby showing an absence of necessity; and
- [when] the Legislature did not address its mind to the issue and decide against conferring the power to the Board.

(See also Brown, at p. 2-16.3.)

[Emphasis added].

Analogous Caselaw

[95] All parties rely on case law from somewhat analogous circumstances which address the limits of a representative body's implied power to censure and sanction its own elected members. Specifically, as the issue does not appear to have ever been judicially considered in the context of a school board as noted at the outset, examples are drawn from the municipal governance and Indigenous governance context to assist the court in deciding the issues posed in the Petitions.

[96] The following cases are relied upon from the municipal governance context:

- (a) Mr. Justice McKinnon in *Barnett v. Cariboo Regional District*, 2009 BCSC 471 at paras. 21–28 and 56, found the censure of an elected director to be procedurally unfair. While the board had an implied authority to govern its own internal procedures by regulating the conduct of its elected members, they did not have the implied authority to effectively remove or suspend an appointed director;
- (b) In *Skakun v. Prince George (City)*, 2011 BCSC 1796, Mr. Justice Crawford recognized that the implied power of a city council to regulate misconduct of a fellow councillor fell short of disqualification. In *Skakun*, the city councillor petitioner admitted to misconduct by disseminating a

confidential report, in breach of their oath of office and *FOIPPA*. At paras. 29, 43 and 46, Justice Crawford found that the *Community Charter*, S.B.C. 2003, c. 26, provided the circumstances in which a city councillor may be disqualified such that the council only had the implied power to regulate the conduct of council members that did not give rise to disqualification:

[29] It is a very careful path for council to embark on because it is not necessarily charted. Whether or not the conduct, or in this case the proposed censure and sanctions, is appropriate, is not set out clearly in the legislation. The legislation deals with matters that go to disqualification. A council member is an elected member, like a member of the House of Parliament, and so the most serious matters that can arise such as conflicts of interest, failure to take the oath of office, insider knowledge that is acted on, all of those matters are set out in the statute and can give rise to disqualification.

...

[43] By my reading of the *Community Charter*, it is reasonable to imply council have an obligation to regulate a councillor's misconduct when there is a substantial falling away from the expected standard.

...

[46] In sum then, I find there is an implied power in council to regulate misconduct of a councillor that falls short of disqualification.

[97] Paynter and McNally argue that *Skakun* can be relied on for the proposition that representative bodies do not have the implied power to disqualify members where disqualification processes are set out in their governing legislation. Paynter specifically states that a direct analogy can be drawn to the *School Act*'s provisions on trustee removal. Further, Paynter relies on the court's comments in *obiter* in *Skakun* at paras. 44 and 48–50 that any implied sanction power must be exercised cautiously:

[44] I think it reasonable to think in certain cases council need to state the standard of expected conduct, but I note this: it is a power to be exercised with great care and great discretion. Far too easily, this could turn into an abuse of process for cheap political gain, and any council that sets out in this direction must be careful in what it is doing. But I do not see any such suggestion in the situation before me.

...

[48] But when I look at how the Houses of Parliament have approached this matter, it seems to me they have been most cautious, and one can see that even in the American elected houses, and that an expression of censure is indeed a most serious step to take. To propose sanctions on top of that is perhaps not necessary.

[49] It seems to me, if I may make the suggestion to council, that while I imply a reasonable exercise of power to censure, I am not so confident of the basis for sanction, though it was argued that some of those matters, such as appointment to committees or to acting mayor and so on, are set out in the statute, and thereby, by reasonable implication, those attributes of office could be withdrawn or rescinded.

[50] That may well be, but I put these five matters for consideration: one, I question the extent of the power, firstly to censure, but secondly to sanction; . . .

[Emphasis added.]

(c) In *Anderson v. Strathcona Regional District*, 2021 BCSC 1800, Mr. Justice Gaul dismissed a petition to quash a resolution to censure and sanction an elected director on the board of a regional district, finding that the decision was not unfair or unreasonable. Mr. Justice Gaul further found that restrictions placed on the director's access to confidential reports were also within the board's authority to govern its own internal procedures and process; and

(d) Finally, Paynter also draws on Madam Justice Marzari's decision in *Dupont v. Port Coquitlam (City)*, 2021 BCSC 728, to uphold the censure and sanction of a city councillor. In *Dupont*, a resolution was passed censuring the councillor for 12 months, removing her from certain committees and roles, and providing alternative procedures for access to confidential materials in response to her improper release of confidential information. Justice Marzari stated, at paras. 23 and 27-28, that city council had properly exercised its jurisdiction in censuring the councillor:

[23] Sections 4 and 114 of the *Community Charter* provide municipalities and their councils broad authority to control their processes. Generally speaking, councillors are not subject to the ordinary reviews and disciplinary processes of traditional employment; their performance is left to be evaluated by the electors every four years at the ballot box. Problematic behaviours may nevertheless

arise during the course of a councillor's term, and motions of censure have long been used by all levels of government to express disapproval of a member's conduct. In the local government context, the courts have affirmed that councils and boards are entitled to use this procedure to respond to the conduct of their members. . . .

. . .

[27] In addition, I agree with the City that the authority of local government councils and boards to remove discretionary appointments is inherent in their authority to make such appointments, for example pursuant to ss. 114, 116 and 130 of the *Community Charter*.

[28] The authority to set the procedures for access to confidential materials arises from Council's express authority to govern its own internal procedures.

[98] On the basis of the foregoing, it is acknowledged that the court has recognized that municipal councils and regional districts have an implied power to censure or sanction elected members for matters which are not expressly set out in the *Community Charter* or the *Local Government Act*. Further, while the Supreme Court of Canada in *Chamberlain* drew a distinction between the broader decision-making powers of a municipal council as compared to a board of education, it is not disputed by the petitioners that the Board has some limited implied power to secure and sanction trustees under the *School Act*. The issue turns on whether the nature of the sanction imposed on McNally and Paynter, namely a suspension from performing all duties whatsoever for the balance of their elected term, falls within that implied power having regard to the limits placed pursuant to the doctrine of jurisdiction by necessary implication.

[99] Drawing analogies from another somewhat similar area of law, the Indigenous governance cases relied on by the petitioners can be summarized as follows:

- (a) In *Whalen v. Fort McMurray No. 468 First Nation*, 2019 FC 732, Mr. Justice Grammond of the Federal Court quashed a First Nation's decision to suspend one of its councillors as the council did not have the implied or inherent power to do so as their election regulations acted as a complete code which provided an "exhaustive statement of the rules governing the election, removal and suspension of its leaders" (see

para. 2). Further, at paras. 46-47, 49-50 and 52-53, Mr. Justice Grammond expanded upon this conclusion and held that:

[46] I am not sure that the distinctions that FMFN attempts to draw with *Orr* are tenable. I reject FMFN's arguments, however, for more fundamental reasons: they are based on an incorrect analogy between employees and holders of public office and they would upend the political structure that the Election Regulations put in place.

[47] The Election Regulations are an expression of FMFN's membership's will to delegate certain powers to the Council, but to remain responsible for the selection of Council members. Not only are councillors elected by the membership, but they can only be removed by a vote of the members (sections 18.6 and 18.7). The Council has no power to remove a councillor without a vote of the membership.

. . .

[49] In this context, the distinction suggested by FMFN between suspension and removal is untenable. Both have the same effect of preventing a councillor from exercising his or her powers and duties, including the right to participate and vote at council meetings. The rationale for withholding from the council the power to suspend (or remove) councillors is obvious. Suspension by the council would deprive FMFN electors of the right to choose their leaders. The suspension of a councillor has the practical effect of overturning the results of the election and of depriving the electors of representation: *Prince v Sucker Creek First Nation*, 2008 FC 1268 at paragraph 31 [*Prince*]. This cannot be reasonably reconciled with the purpose and structure of the Election Regulations.

[50] Moreover, representative democracy is not a "winner-takes-all" affair. While decisions may be made by the majority of a representative body such as FMFN's Council, this must be done within a process that allows for deliberation and the expression of dissenting voices. . . .

. . .

[52] If the majority of Council had the power to suspend councillors, there would be a risk of transforming deliberation into monologue and excluding dissenting councillors altogether.

[53] In its wisdom, the FMFN membership decided to reserve to itself the power to remove and suspend councillors and to deny the Council the power to act alone in those matters, save in certain specific circumstances that do not apply here. In the Election Regulations, the absence of a provision authorizing suspension in the circumstances of this case may well be a deliberate choice: *Johnson*, at paragraph 31. This deliberate choice does not create a gap to be filled by this Court.

[Emphasis added]; and

(b) In *McKenzie v. Mikisew Cree First Nation*, 2020 FC 1184, Madam Justice Strickland of the Federal Court quashed a resolution that suspended three band councillors until they apologized in writing for the “unethical” actions which resulted in their suspension. The court held, at paras. 66 and 80, that even where election regulations were silent on suspension powers, indefinite suspension was effectively a removal from office and thus outside the council’s authority:

[66] It is true that the Election Regulations are silent as to suspensions. However, s 15 of the MCFN *Election Regulations*, like the relevant provisions at issue in *Prince* and *Lafond*, governs the removal of councillors from office. In both *Prince* and *Lafond*, the Court rejected any distinction between removal and what was essentially an indefinite suspension (*Lafond* at paras 12 – 13; *Prince* at para 33). Because the suspensions were not time limited, they effectively amounted to removal. . . .

. . .

[80] The primary point made by both *Prince* and *Whalen* – as well as *Orr*, *Lafond* and other cases – is that where election regulations cover the subject then there is no inherent right to suspend or remove councillors. *Prince*, like *Lafond*, held that the application to set aside the suspension of the councillors must be allowed because the indefinite suspension was effectively a removal and the council had not followed the election rules to remove the applicants. In *Whalen*, Justice Grammond was not quoting *Prince* nor did he misstate that decision. He implicitly acknowledged that the finding in *Prince* was concerned with the indefinite suspension when he stated that in *Prince* the suspension was tantamount to a removal. Moreover, his analysis was not concerned with the duration of the suspension, but with the rationale for withholding from the council the power to suspend (or remove) councillors and the impact of either a suspension or a removal, being that suspension would deprive the electors of the right to choose their leaders.

[Emphasis added.]

[100] Drawing on the principles in *Whalen* and *McKenzie*, McNally and Paynter submit that the Board does not have the implied authority to suspend either of them from their duties as an elected trustee because:

(a) the *School Act* represents a complete code on the circumstances where trustees may be removed from office; and

- (b) the Board's implied power to suspend trustees entirely for the remainder of their term would improperly deprive the electorate of their right to choose their educational representatives.

[101] In contrast, the Board submits that it clearly had the jurisdiction to make the Resolutions by virtue of the *School Act* and the overarching statutory context in British Columbia. Specifically, the Board relies upon s. 85(1) of the *School Act* which, as set out above, provides that the Board has the capacity of a natural person for the purposes of carrying out its powers, functions and duties under the *School Act* and can and does so in accordance with its statutory obligations (see s. 27(2) of the *Interpretation Act*).

[102] The Board further submits that the comments of the Supreme Court of Canada in *Chamberlain* cannot be generalized as the factual matrix underlying that case makes it distinguishable from the circumstances underlying the Petitions.

Analysis Regarding Jurisdiction and Implied Authority

[103] Having considered the issues raised and argued in the Petitions at length, I shall start my analysis of the relevant statutory provisions and caselaw with the conclusion that the practical effect of the suspension of McNally and Paynter provided for in the Resolutions is to remove an elected official from office for the remainder of their elected term.

[104] This, as submitted by counsel for Paynter, is evident upon a review of the description of the breadth of the suspension set forth in the Board chair's correspondence of February 11, 2022. As I have set out the terms of that correspondence in detail above, I will simply summarize that the correspondence both McNally and Paynter received made very clear that they would not be entitled to participate in public or private sessions for the remainder of their elected term as trustee, would not be provided information meetings about those meetings and would be precluded from using the email account each received as a result of their election as trustees to communicate with district staff, other trustees, stakeholders and so forth.

[105] Looked at from another perspective, I cannot find any substantive duties that the either McNally or Paynter possessed following the passing of the Resolutions, other than ceremonially holding the title of a Trustee for the Board pending the upcoming election.

[106] Having reached that conclusion, the focus of the Court's inquiry must turn to whether the Board has the implied authority to do so by the doctrine of necessary implication. I further have concluded, for the reasons set forth below, that it does not.

[107] Specifically, I have concluded that the *School Act* is a complete code in relation to the authority to remove a trustee. There are various provisions in the *School Act*, expressly cited above, that address the disqualification and removal of a trustee. None of those provisions are applicable here. Rather, for the Board to succeed, it must be necessary to conclude that despite the multiple provisions addressing the removal of a trustee, there remains an implied authority to suspend a trustee on terms that I have concluded amount to a removal. That position is not tenable upon a consideration of the law regarding the doctrine of necessary implication.

[108] In this regard, I refer back to my earlier restatement of the law that jurisdiction by necessary implication exists where the power in question is reasonably necessary for the statutory body to accomplish its mandate, but is not one to which the legislature has clearly turned its mind.

[109] In drafting and passing the *School Act*, the legislature clearly turned its mind to the issue of disqualification and removal. It would appear it did not expressly turn its mind to suspension apart from the very limited provisions of s. 70(2). As a result of that gap in the legislation, there is some implied power to sanction trustees where the circumstances warrant same. I note in this regard that McNally was subject to a prior sanction which limited her ability to attend meetings and receive materials for a finite period of time. Although the propriety of that sanction was not the subject of the Petitions and not before this Court for substantive determination, this would appear to be the type of sanction or censure beyond s. 70(2) for which jurisdiction is

available by virtue of the doctrine of necessary implication. However, the Resolutions are fundamentally different given my conclusion, as set out above, that they effectively removed McNally and Paynter from performing all substantive duties as an elected trustee for the remainder of their elected term.

[110] In reaching the above conclusion, I do recognize that the Board relies upon its obligations as an employer under s. 21 of the *Workers Compensation Act*, the text of which I referred to above.

[111] However, I accept the submission of the petitioners that while the Board's obligations under that legislation may be relevant to determine whether the Resolutions were substantively reasonable on their merits, those obligations do not assist this Court in determining the initial overarching question of whether the Board had the jurisdiction to pass the Resolutions. Specifically, given that I have concluded that the Board's implied authority can only arise under the *School Act*, it is not permissible for the Board to attach to the *Workers Compensation Act* to create jurisdiction under the doctrine of necessary implication. Especially given that the Board has satisfied its *Workers Compensation Act* obligations through the Board's regulation #4304 and nothing in that regulation provides the Board with the express authority with power to suspend trustees (and if it did, the question of how to reconcile that with the *School Act* provisions would be engaged but that is an exercise not required to resolve the Petitions).

[112] Ultimately, I have concluded, upon a consideration of the authorities and the application of the relevant standard of review from *Vavilov*, that the Resolutions represent an effort by the Board to sanction McNally and Paynter in a manner that is unreasonably outside of its authority. In this regard, as I have addressed above, although there is a limited implied power to sanction or censure trustees, the Board does not have the power to suspend a trustee in a manner that amounts to a *de facto* removal of a trustee from their elected office. In this regard, I rely specifically on the various provisions in the *School Act* which do provide for such authority and the acknowledgement that none of them are applicable in this factual matrix.

[113] Accordingly, I find that the suspension portion of the Regulations are *ultra vires* the Board's jurisdiction.

Analysis Reasonableness and Procedural Fairness

[114] Having regard to my finding that Resolutions are *ultra vires* as the Board did not have the jurisdiction by necessary implication to pass same, I have concluded it is unnecessary for me to consider the alternative grounds advanced by the petitioners, namely that the Resolutions were unreasonable or that there was a breach by the Board of the duty of procedural fairness owed to either McNally or Paynter.

Conclusion on the Appropriate Remedy

[115] In conclusion, on the basis of my finding, having regard to the reasonableness standard set forth in *Vavilov* and the jurisprudence setting forth the parameters upon which the doctrine of jurisdiction by necessary implication can be relied upon, the suspension portion of the Resolutions is hereby set aside.

Summary of Substantive Orders

[116] The relief sought in paragraphs 1 and 4 of the McNally Petition and paragraphs 1 and 4 of the Paynter Petition is hereby granted.

[117] The relief sought in paragraphs 2, 3, 5 and 7 of the McNally Petition and paragraphs 2, 3, 5, 6 and 8 of the Paynter Petition is hereby dismissed.

Costs

[118] McNally and Paynter were both substantially successful in obtaining the relief sought in the Petitions. The relief sought in the Petitions which was dismissed was alternative in nature and was dismissed, as explained above, on the basis that it was unnecessary having regard to my conclusion regarding the Board's lack of jurisdiction to pass the Resolutions.

[119] As such, subject to my statement below, McNally and Paynter are each presumptively entitled to their costs of their respective Petition at Scale B on the basis that the matter was of ordinary difficulty.

[120] In the event that the parties wish to make submissions on costs based on any formal offers to settle which may have been exchanged, counsel for the party seeking to vary the presumptive cost order must provide written submissions, through Supreme Court Scheduling, within 14 days of the release of these reasons for judgment to the parties. Those submissions shall not exceed 10 pages in length. Any responding submissions must be provided, again through Supreme Court Scheduling, within 21 days of the release of these reasons for judgment to the parties. The responding submissions shall also not exceed 10 pages in length.

[121] In the event that no additional submissions are received, the order shall provide, as set out above, that McNally and Paynter are each entitled to their costs of the Petitions at Scale B.

“Hardwick J.”

Schedule I

Interpretation Act, R.S.B.C. 1996, c. 238

Ancillary powers

27 . . .

- (2) If in an enactment power is given to a person to do or enforce the doing of an act or thing, all the powers that are necessary to enable the person to do or enforce the doing of the act or thing are also deemed to be given.

Judicial Review Procedure Act, R.S.B.C. 1996, c. 241

Application for judicial review

- 2 (1) An application for judicial review must be brought by way of a petition proceeding.
- (2) On an application for judicial review, the court may grant any relief that the applicant would be entitled to in any one or more of the proceedings for:
 - (a) relief in the nature of mandamus, prohibition or certiorari;
 - (b) a declaration or injunction, or both, in relation to the exercise, refusal to exercise, or proposed or purported exercise, of a statutory power.

Power to set aside decision

- 7 If an applicant is entitled to a declaration that a decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid, the court may set aside the decision instead of making a declaration.

School Act, R.S.B.C. 1996, c. 412

Employees

- 15 (1) A board may employ and is responsible for the management of those persons that the board considers necessary for the conduct of its operation.
- (2) board must formulate policies for evaluating employees who are not covered by a collective agreement.
- (3) Subject to subsections (4) and (5), a board must not dismiss, suspend or otherwise discipline an employee covered by a collective agreement except for just and reasonable cause.
- (4) A board may suspend from the performance of his or her duties an employee who is charged with an offence that the board considers renders the employee unsuitable to perform those duties.
- (5) If the superintendent of schools is of the opinion that the welfare of the students is threatened by the presence of an employee, the superintendent may suspend the employee, with pay, from the performance of his or her duties.

- (6) When the superintendent suspends an employee under subsection (5), the superintendent must immediately notify the board.
- (7) When the board is notified under subsection (6), it must as soon as practicable confirm, vary or revoke the suspension and must, if the board confirms and continues the suspension, determine whether the continuation of the suspension should be with or without pay.

Composition of board

- 30** (1) There is to be a board of education for each school district.
- (2) A board consists of 3, 5, 7 or 9 trustees, as determined by order of the minister under this section.
 - (3) The minister must, by order, establish the following for each school district:
 - (a) the number of trustees for the school district;
 - (b) whether trustees are to be elected
 - (i) from the school district at large, in which case the school district is the trustee electoral area,
 - (ii) from a number of trustee electoral areas specified by the minister that are in total the entire school district, or
 - (iii) in another manner that is a combination of the methods under subparagraphs (i) and (ii);
 - (c) if there is more than one trustee electoral area, the number of trustees to be elected from each.
 - (4) The minister may, by order, vary an order under subsection (3) and may determine the manner in which and the times at which the new trustees under the variation order are to be appointed or elected.
 - (5) If the minister reduces the number of trustees for a board, the order reducing the number of trustees becomes effective for the following general school election.
 - (6) An order under subsection (3) or (4) must be published in the Gazette.
 - (7) Unless an order under this section provides otherwise, the election of trustees for School District No. 39 (Vancouver) must be an election from the school district at large.
 - (8) An order under this Act or a former Act that establishes the number of trustees for a school district and the area or areas from which they are to be elected is deemed to be an order under this section.

Disqualifications

- 33** Without limiting section 32 (1) (d), the following persons are disqualified from being nominated for, being elected to or holding office as a trustee:
- (a) a person who is disqualified under section 34 as an employee of a board, except as authorized under that section;

- (b) a person who is disqualified under
 - (i) section 52 (1) [*failure to make oath or affirmation of office*], or
 - (ii) section 52 (2) [*unexcused absence from board meetings*];
- (b.1) a person who is disqualified under the *Local Elections Campaign Financing Act* from holding office on a local authority;
- (c) a person who is disqualified from holding office under
 - (i) Division 18 [*Election Offences*] of Part 3 of the *Local Government Act* as it applies under this Act, that Act or any other Act, or
 - (ii) Division (17) of Part I of the *Vancouver Charter*, as it applies under this Act, that Act or any other Act;
- (d) a person who holds office as a regional trustee of a francophone education authority under Part 8.1.

Disqualification of board employees

- 34** (1) For the purposes of this section, “**employee**” means
- (a) an employee or salaried officer of a board, or
 - (b) a person who is within a class of persons deemed by regulation to be employees of a specified board,
- but does not include a person who is within a class of persons excepted by regulation.
- (2) Unless the requirements of this section are met, an employee of a board is disqualified from being nominated for, being elected to or holding office as a trustee on the same board.
 - (3) Before being nominated for office as trustee, the employee must give notice in writing to his or her employer of the employee's intention to consent to the nomination.
 - (4) Once notice is given under subsection (3), the employee is entitled to and must take a leave of absence from the employee's position with the employer for a period that, at a minimum,
 - (a) begins on the first day of the nomination period or the date on which the notice is given, whichever is later, and
 - (b) ends, as applicable,
 - (i) if the person is not nominated before the end of the nomination period, on the day after the end of that period,
 - (ii) if the person withdraws as a candidate in the election, on the day after the withdrawal,

- (iii) if the person is declared elected, on the day the person resigns in accordance with subsection (7) or on the last day for taking office before the person is disqualified under section 52,
 - (iv) if the person is not declared elected and no application for judicial recount is made, on the last day on which an application for a judicial recount may be made, or
 - (v) if the person is not declared elected and an application for judicial recount is made, on the date when the results of the election are determined by or following the judicial recount.
- (5) If agreed by the employer, as a matter of employment contract or otherwise, the leave of absence under this section may be for a period longer than the minimum required by subsection (4).
- (6) Sections 54 and 56 of the *Employment Standards Act* apply to a leave of absence under this section.
- (7) Before making the oath of office under section 50, an employee on a leave of absence under this section who has been elected must resign from the person's position with the employer.
- (8) At the option of the employee, a resignation under subsection (7) may be conditional on the person's election not being declared invalid on an application under section 153 of the *Local Government Act* or section 115 of the *Vancouver Charter*, as those sections apply to trustee elections.

General school election

- 35 (1) Elections of all trustees, to be known collectively as a general school election, must be held in the year 2014 and in every 4th year after that.
- (2) General voting day for the general school election must be on the 3rd Saturday of October in the year of the election.

Election offences

- 48 (1) For certainty, Division 18 [*Election Offences*] of Part 3 of the *Local Government Act* and Division (17) [*Election Offences*] of Part I of the *Vancouver Charter* apply in relation to the application of those Parts to trustee elections.
- (2) In addition to the offences applicable as referred to in subsection (1), a person who contravenes section 39 (5) or 166.14 (7) of this Act commits an offence and is liable to the penalties provided in section 166 (3) of the *Local Government Act*.
- (3) Sections 164 [*prosecution of organizations and their directors and agents*] and 165 [*time limit for starting prosecution*] of the *Local Government Act* apply in relation to offences under this section.

General term of office

- 49 The term of office of a trustee elected at a general school election

- (a) begins on the first Monday after November 1 following the election or when the person takes office in accordance with section 50 (3), whichever is later, and
- (b) ends immediately before the first Monday after November 1 in the year of the next general school election or when at least 3 trustees elected at or appointed following that election have taken office, whichever is later.

Trustee disqualification from holding office

- 52 (1) If a person appointed or elected as a trustee does not make the oath required by section 50 within the time limit set by that section, the office to which that person was appointed or elected is deemed to be vacant and the person is disqualified from holding office as a trustee until the next general school election.
- (2) If a trustee is continuously absent from board meetings for a period of 3 consecutive months, unless the absence is because of illness or with the leave of the board, the office of the member is deemed to be vacant and the person who held the office is disqualified from holding office as a trustee until the next general school election.
- (3) If a person elected as a trustee is disqualified from holding office as referred to in section 33 (c), the office to which the person was elected is deemed to be vacant.

Questions as to trustee qualifications

- 54 (1) Subject to Part 5 and subsection (2), the right of a trustee to hold office may be determined on application to the Supreme Court and, for this purpose, section 111 [*application to court for declaration of disqualification*] of the *Community Charter* applies.

...

Application to court

- 62 (1) Subject to subsection (3) an elector may, within 6 weeks after the fact comes to the elector's knowledge that a trustee may have contravened section 58, apply to the court for a determination of the question of whether the trustee has contravened section 58.

...

Board is a corporation

65 ...

- (1.1) A board is responsible for the improvement of student achievement in the school district.
- (2) A board may
 - (a) establish committees and specify the functions and duties of those committees,
 - (b) establish a district advisory council comprised of persons representing parents' advisory councils and other organizations in the community, and

- (c) delegate specific and general administrative and management duties to one or more of its employees.

...

- (4) Unless expressly required to be exercised by bylaw, all powers of a board may be exercised by bylaw or by resolution.

...

Improper conduct at meetings

70 ...

- (2) A majority of the trustees present at a meeting of the board may expel a trustee from the meeting for improper conduct.

...

Power and capacity

- 85 (1) For the purposes of carrying out its powers, functions and duties under this Act, a board has the power and capacity of a natural person of full capacity.

...

- (4) A rule made under subsection (2) (c) (v) must not permit volunteers to provide services that would result in the displacement of an employee.

...

Administrative directives

- 168.03 (1) The minister may, by order, issue an administrative directive to a board if the minister believes

- (a) the board is failing or has failed to meet its obligations under the Act, or
- (b) it is in the public interest to do so.

...

Appointment of official trustee

- 172 (1) The Lieutenant Governor in Council may appoint an official trustee to any school district to conduct the affairs of the school district if, in the opinion of the Lieutenant Governor in Council,

- (a) there has been a default in a payment on the due date of either interest or principal of a debenture guaranteed under this Act or a failure to comply to the satisfaction of the minister with a condition governing the guarantee,
- (b) the board is in serious financial jeopardy,
- (c) there is substantial non-compliance with this Act or the regulations or any rules or orders made under this Act,
- (c.1) [Repealed 2012-3-23.]

- (d) there is substantial non-performance of the duties of the board,
 - (e) there is a risk to student achievement in the district and it is in the public interest to do so, or
 - (f) the board has failed to comply with an administrative directive issued by the minister under section 168.03 (1).
- (2) On the appointment of an official trustee to conduct the affairs of a school district, the trustees of the school district cease to hold office.
- (3) The Lieutenant Governor in Council may remove an official trustee and order that elections be held in the school district or may appoint trustees to hold office in the school district until the next general local election.

Workers Compensation Act, R.S.B.C. 2019, c. 1**General duties of employers**

- 21 (1) Every employer must
- (a) ensure the health and safety of
 - (i) all workers working for that employer, and
 - (ii) any other workers present at a workplace at which that employer's work is being carried out, and
 - (b) comply with the OHS provisions, the regulations and any applicable orders.
- (2) Without limiting subsection (1), an employer must
- (a) remedy any workplace conditions that are hazardous to the health or safety of the employer's workers,
- ...

MINISTRY OF EDUCATION AND CHILD CARE
INFORMATION BRIEFING NOTE

DATE: September 7, 2022
CLIFF: 283511

PREPARED FOR: Honourable Jennifer Whiteside, Minister – **FOR INFORMATION**

SUBJECT: School Trustee Codes of Conduct

s.12; s.13

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Withheld pursuant to/removed as

s.12 ; s.13