



Final Executive Summary - Responding to Sexualized Abuse in Yukon Schools: Review of Policies and Governmental Response

**By Yukon Child & Youth Advocate Office
October 2022**

Thesis statement

Children have not been prioritized, and their rights have been violated, before, during, and after Educational Assistant William Auclair-Bellemare (hereonin referred to as WAB) was charged in 2019 with sexual interference of a student in his care at Hidden Valley Elementary School (HVES). The longstanding gaps in educational supports for students with special needs created opportunity for harm to occur. The harm was compounded by inadequate government response. Following the incident, communications to family and the public were poorly managed and mostly non-existent. This ultimately impacted access to therapeutic supports for students and their families and highlights the need for improvements to a coordinated response across departments.

The responses we have observed to date do not provide confidence that students with special needs are being adequately protected at school, nor that responses from the systems meant to protect them are developmentally appropriate . Subsequent commitments from the government, however, provide hope that in the future there can be a coordinated response across government departments that promotes a child-centered approach, transparency, and accountability.

Introduction

The duty of the Yukon Child and Youth Advocate Office (YCAO) is to the children and youth of the Yukon - to ensure that their views, rights, and interests are upheld as articulated in the United Nations Convention on the Rights of the Child (UNCRC). This review finds that children have not been the priority in the Yukon Government (YG)'s response to incidents of sexualized abuse towards students by WAB. Communications and decisions made in the aftermath of these incidents demonstrate a concerning lack of attention to upholding children's rights on the part of YG, despite their statutory obligation to do so.

Many UNCRC rights have either not been upheld or have been violated throughout this ordeal. Children have a right to an education that helps them meet their full potential (Article 28, 29) and to receive special supports when required (Article 23). They have a right to be safe from abuse (Article 3, 19, 34) and to

have support in recovery after harm has happened (Article 39). They have a right to information and guidance (Article 3, 17, 18) while protecting their privacy (Article 16). Children's views and best interests must be paramount in decisions and actions made about them (Article 3, 12).

When YCAO launched this review in July 2021, our hope was that YG's response would acknowledge and address the harm students and their families had experienced. Our intention was to ensure children and families had the supports required to start the 2021-22 school year feeling safe, informed and emotionally supported. We hoped to see the school staff provided with adequate support and resources to manage the impacts. Instead, there were numerous distractions at the decision-making level that took the focus further away from children.

We understand this review and its recommendations are not going to be enough for many people affected directly and indirectly by YG's handling of this incident. YG has committed to addressing systemic gaps and inefficiencies that have been identified in the review commissioned by lawyer Amanda Rogers. However, for many community members, adequate steps have not been taken to address the impacts of these acts against vulnerable young people. We have had numerous conversations about what accountability means to parents of children involved. For many, it means personal responsibility from those in charge of this situation, at all levels of government. For our office, accountability means demonstrating a commitment to the safety and wellness of children through actions and decisions where children are protected and their rights, views and interests are prioritized. The impacts on victims and families will be long-lasting and efforts to promote healing should be interdepartmental and comprehensive. It is our intention to respectfully and transparently report on what we found in the review while honouring the stories of the impacted families and turning the attention firmly back towards where it should have been this whole time - the children.

Findings

1. *Reporting and investigating sexualized abuse in schools*

YCAO believes that the multiple ongoing hardships for children and impacted families could have been drastically mitigated had the incidents been reported and investigated according to a) the Child and Family Services Act (CFSA); and b) Interagency Protocols between RCMP, Family and Children Services (FCS) and the Department of Education (EDU). The CFSA clearly lays out the duty to report for anyone who "has reason to believe that a child is in need of protective intervention...". This duty includes reporting any incident where a child is or is likely to be physically, sexually or emotionally harmed. Further, the Education Act and Interagency Protocol between EDU and FCS lists the duties of both teachers and principals in circumstances related to child welfare.

According to records obtained from EDU and FCS, it is apparent that the above legislation was not consistently adhered to. During the 2015-2016 school year, EDU did not uphold their mandatory obligation to report abuse when a classroom teacher expressed concerns about an incident involving an EA. This concern was handled internally by EDU and not communicated to the appropriate authorities. Consequently, the EA was able to continue to work with vulnerable students without an opportunity for the appropriate agencies to explore the incident and assess risk. In 2019, although sexualized abuse was reported to the appropriate authorities, EDU, FCS and RCMP did not consistently follow Interagency Protocols. The lack of coordination meant that the investigation was superficial and resulted in victims being missed.

Through communication with impacted families, it has also become clear that the investigation lacked inclusive processes for children with significant disabilities. Parents of non-verbal students shared their distress at feeling like their children had been left behind in the investigation. RCMP and FCS lacked an approach to adequately assess harm for suspected victims who did not have developmental capacity to provide verbal interviews.

Had the CFSA and Interagency Protocols been followed correctly in 2015-2016 and 2019, EDU, RCMP and FCS would have worked collaboratively to review initial concerns and all incidents of sexualized abuse. This would have increased the likelihood of identifying all victims. Timely identification of victims would have meant earlier access to therapeutic supports to address the harm.

2. *Therapeutic supports and coordinated response*

One of the key areas of concern from YG's response to the sexualized assault at HVES is the untimely and disorganized way that students and other members of the school community received the necessary therapeutic supports in the aftermath of the incident. This resulted in delays and gaps in services. Ultimately, and after ongoing public pressure, EDU facilitated access to Mental Wellness, Victim Services and to additional therapeutic supports. However, YCAO heard from families and educators that access to services was not always timely, sufficient or developmentally appropriate. This last point is especially salient as many of the students impacted were young, with various degrees of verbal ability. There are many questions families will never have answers to, including whether their child was abused, what their child remembers, and what the long-term impacts of abuse could be.

EDU has emphasized over the course of this review that they are working on multiple policies and processes for interagency collaboration and communication. However, for the parents who have spoken with YCAO for advocacy purposes, they have been clear that their children need support now. There is empirical research data demonstrating that children who experience sexualized abuse are more susceptible to outcomes such as mental health issues, trauma, and suicidal ideation. Outcomes improve with appropriate professional response.

Another consequence of the gap in therapeutic supports has been the toll this incident has taken on staff at HVES. Grappling with having worked alongside the perpetrator, hearing ongoing media and public scrutiny about their workplace, and trying to teach with energy and passion in the midst of a political firestorm (and a pandemic) are examples of challenges that have led to negative impacts on mental health. Some have shared that they feel unable to take time to access therapeutic supports and they feel constant pressure to maintain stability for the school community.

If a clinical counselor or social worker had been provided to the school before the beginning of the 2021-22 school year, students, families and educators could have accessed the necessary support to manage these stressors and begin the recovery from harm. The allocation of additional professional support could have alleviated some of the burden of managing a school community in crisis.

3. *Educational supports for students with special needs*

What has become abundantly clear throughout YCAO's individual and systemic advocacy is that urgent and ongoing attention is needed to address major gaps in the education system for students with special needs. This was brought to light by the Auditor General's report Kindergarten through Grade 12 Education in Yukon in 2019, and further emphasized in both the independent Review of Inclusive and Special Education in the Yukon and YCAO's Review on School Attendance in the Yukon: What is, What Could Be. EDU consistently states that they are dedicated to helping all students reach their full potential, yet we are not seeing the programs and resources provided to schools to adequately achieve this goal.

Through conversations with parents, students and educators, not exclusive to HVES, YCAO has repeatedly heard about concerns regarding the physical and emotional safety of students with special needs. These students are some of our most vulnerable citizens and are at increased risk for harm when they are in programs with inadequate and inconsistent resources and oversight. Article 23 of the UNCRC states that children with special needs have the right to receive special supports when required. Many factors, including lack of teacher and specialist participation in educational programs and lack of training and support for EAs, contribute to major gaps for students with special needs.

Even when educational programs are adequately designed and meet the needs of individual students, there must be processes in place to ensure student safety. Due to the vulnerability of students with special needs, it is necessary to mitigate risk. When adults have regular opportunities to be alone with vulnerable children, risk is increased. The normalized practice of educators, particularly EAs, removing students from the classroom without adequate tracking processes in place contributed to the EA being in situations where he could abuse students.

If school systems had been in place to ensure developmentally appropriate programs with accountability and oversight in 1:1 work with students, risk to the most vulnerable students would have been mitigated. With sufficient participation from appropriate educators (specialists, classroom teacher, LAT, EA, etc.) there is increased accountability for students with special needs.

4. *Communications to families and public*

Throughout this painful situation and in the course of our individual advocacy work, parents and caregivers of students at HVES have repeatedly expressed outrage, confusion, and hurt at the lack of communication from EDU to the school community. Families of HVES students have shared with YCAO that they found out about the sexualized assault from the CBC's article on the civil case from a victim towards WAB on July 16, 2021. Understandably, members of the school community were shocked that communication about the incident did not come from EDU. EDU records obtained by YCAO indicate that a letter to the school community was drafted by the HVES principal in December 2019 but never sent. No explanation has been provided by EDU as to why. The first formal communication to families from EDU came in August 2021. Additionally, families of students who had moved schools report not being included in communication from EDU, even if their children had had close contact with the EA.

Through the course of this review, YCAO has found that children were not centered in EDU's response. Internal communications records obtained from EDU demonstrate a lack of action to

address the impact of sexualized abuse on students and the broader school community. Very few communications centred on interventions or targeted supports for impacted students. Much of the report by Amanda Rogers focused on the issue of departmental communications and the Yukon Ombudsman is currently conducting an investigation to determine if there was unfair treatment from EDU towards parents and students by not informing them about the investigation and charges laid in 2019.

It is now widely understood that the initial investigative process and early communications failed a number of impacted children and families. Article 39 of the UNCRC states that children have a right to receive support in recovery after harm has happened. With sufficient exploration and targeted communication with families following the 2019 charge, additional victims could have been identified. Delays in accessing justice and therapeutic supports could have been prevented.

Recommendations

It is the Advocate's belief that in order for YG to fulfill its obligation to uphold children's rights, relevant YG departments must work in collaboration to address instances of alleged harm in schools. As previously stated in this review's introduction, it is the legal responsibility of Canadian governments at all levels to abide by and adhere to the articles expressly stated in the UNCRC.

In accordance with Section 21 of the Child and Youth Advocate Act, the Advocate is requesting that EDU and HSS advise of steps taken towards the following recommendations. To be clear, a response to this review and its recommendations that merely subsumes the Advocate's review into the Safer Schools Action Plan (and steps taken since) is not adequate. The process of this review was foundationally informed by a children's rights framework and as such, its recommendations stand alone as child-centred calls to action.

1. *Coordinated Response*: Confirm best practices for responding to any incident in education where a child is, or is likely to have been, physically, sexually or emotionally harmed. Design and implement an interagency response process, which includes competent investigations, child and family-centred approaches to information sharing, protection of privacy, communication with families and coordination of services.
2. *Duty to Report*: Provide clear information to educators and families about their mandatory duty to report any incident where a child is, or is likely to have been, physically, sexually or emotionally harmed. Provide clear steps on how and who to report incidents to and how to follow up.
3. *Developmentally Appropriate Responses*: Implement best practices to ensure developmentally and culturally appropriate interviews and victim support services for students who have been physically, sexually or emotionally harmed.
4. *Sexual Health Information*: Provide developmentally appropriate sexual health information throughout the school year to all Yukon students. Sexual health programming should be mandatory and accessible to all students, including those with individualized plans (IEPs, Student Support Plans, etc.). Provide additional guidance to families about how to talk to children about sexual health.
5. *Therapeutic Supports*: Immediately determine therapeutic needs of students and families impacted by alleged abuse and ensure low-barrier access to appropriate supports identified by

students, families and professionals. Provide accessible therapeutic supports for impacted educators. Develop a plan to create and fill clinical counsellor positions in all Yukon schools.

6. *Educational Supports*: Provide specialized educational supports for all children with special needs. Programs should include input and oversight by Learning Assistance Teachers, Student Support Services and, if needed, external specialists. Guidance and oversight by specialists should be thorough and long-lasting with the goal of creating educational programs that have clear and measurable goals and help students reach their full potential.
7. *Accountability and Oversight for Educators*: Develop structures for training, monitoring and supervising educators, particularly 1:1 EAs working with vulnerable students. Ensure learning environments are inclusive and promote safety and belonging.
8. *YG Response*: Provide a public report outlining YG's response to the Advocate's review by November 22, 2022 and a subsequent progress report within twelve months.