

Legislative Assembly of New Brunswick

Oral Questions



June 9, 2023

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SCHOOLS

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): Mr. Speaker, I rise today to state clearly and to reassure students, parents, teachers, and members of the 2SLGBTQIA+ community that their official opposition and the New Brunswick Liberal Party stand with them.

[Translation]

I am here to reassure students, teachers, members of the 2SLGBTQIA+ community, and parents that the official opposition and the Liberal Party of New Brunswick are here for them.

[Original]

We will not stop in the fight to protect your rights.

[Translation]

We will not stop fighting for your rights.

[Original]

Does the Premier understand the harm that his government's decisions have caused this community?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): I thank you very much, Mr. Speaker. I agree completely with protecting the rights of parents, of our teachers, of our students, and of our most vulnerable students. In this case, that extends in particular to our LGBTQ+ community as well as to the other marginalized groups of students that we have in our system. These rights are fundamental in our society.

It is fundamental in our society to realize that children do not belong to the state. They are their parents' children. They come from... Parents entrust the education system to educate their children. We need to engage with our parents, who, for the majority, are loving, kind, and caring, and we need to ensure that we are doing what is right by them and their children. Thank you.

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): Thank you, Mr. Speaker. Earlier this week the minister referenced that he consulted with constitutional experts in making these changes to Policy 713. This morning I heard him say on the radio, Well, it will be up to the courts to decide what rights we have to respect. It sounds to me as though the minister is prepared for a court challenge. I would like to

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understand this: Under what specific grounds does he feel able to override the rights of the child?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you again, Mr. Speaker, and thank you to the Leader of the Opposition for the question. It is not a simple question, and we did consult with the constitutional experts that we have in the department of the Attorney General, to get their opinions. There is not much case law when it comes to that.

However, there is case law when it comes to the obligation of a teacher concerning the position of public trust and where and how far that extends to, and that extends beyond school hours. The Supreme Court ruled that it is a 24-7 obligation on the part of a teacher—that position of public trust. It is extremely important. So the question is very fundamental. What protections do we afford teachers? What are the rights of parents? How do we support the rights of parents, and in doing so, how do we support the rights of the children that we serve in our public school system?

So it is not a simple answer. I said that if there is going to be a court challenge, perhaps that can be clarified. The position of public trust that teachers hold has already been clarified.

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): Thank you, Mr. Speaker. With all the inconsistencies and with this incoherence, one thing is clear—the changes made have weakened Policy 713 and the protections that it was created to provide.

Considering the feedback that we have received from teachers—who have told us that you are putting them in an extremely challenging position as you talk about public trust, parents' rights, and children's rights, which are primordial—and considering the feedback from the Women's Council, Pride in Education, the Human Rights Commission, and parents on these changes, until such a time that the minister can deliver on his stated intent of strengthening and clarifying this policy, will the member opposite commit today to reverting back to the original Policy 713 from August 2020?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you again, Mr. Speaker, and thank you to the Leader of the Official Opposition. I am not sure whether she saw the news conference yesterday or read the news release, but the policy comes into effect on July 1. The current policy still exists in its form, and the new policy will come into effect on July 1.

Based on the statement from the New Brunswick Teachers' Association yesterday and my subsequent conversation with the association people, yes, I need to commit fully to resourcing our schools, because it is important. We need to look at the guidance counselor allotment. We need to look to ensure that every school on the Anglophone side has access

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to a guidance counselor and that every school on the Francophone side has access to a school social worker. The resourcing is extremely important.

I do not think that I have been unclear at any point in time, but these are, you know, real issues and real concerns. I support those, and I have told them such.

[*Translation*]

Mrs. Landry (Madawaska Les Lacs-Edmundston, L): Thank you, Mr. Speaker. Yesterday morning, during a press conference on the policy under review, the minister stated that the section on sports participation was not changed; he was proud to say so. He also said the New Brunswick Interscholastic Athletic Association was doing a wonderful job, which I do not doubt.

So, if no changes were made to this section, can the minister explain why the words “and consistent with their gender identity” were removed from subsection 6.1.5, which used to read as follows: “All students will be able to participate in curricular, co-curricular, and extracurricular activities that are safe, welcoming, and consistent with their gender identity.”?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you to the member opposite for her question this morning. I believe it is a simple change in the way it is understood. We did not change anything. We are stating that the sports associations of New Brunswick are doing a good job and that they are on the right track. We will continue to let them do what they are already doing. Thank you.

Mrs. Landry (Madawaska Les Lacs-Edmundston, L): Thank you, Mr. Speaker. I am flabbergasted. How do you say that in the other language?

[*Original*]

(Interjections.)

Mrs. Landry (Madawaska Les Lacs-Edmundston, L): Flabbergasted.

[*Translation*]

If nothing is being changed, words do not get removed. However, we now see that this section on sports participation was changed, because words were removed. The beginning of the sentence may be the same, but, at the end of the sentence, the words “and consistent with their gender identity” are missing. So, since the NBIAA is not subject to Policy 713, who dictates which guidelines must be followed without discrimination, and who ensures that the NBIAA respects the spirit of Policy 713?

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Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you, Mr. Speaker, and thank you to the member opposite for her question this morning. It is a policy on sexual orientation and gender identity. So, the very title of the policy indicates what it contains. In my opinion, we have not changed anything. I talked to the director of the association, who has already added the term “non-binary” to its definition. So, we are sure the association is doing a good job, and we will continue to let it do its job. Thank you very much, Mr. Speaker.

Mrs. Landry (Madawaska Les Lacs-Edmundston, L): Thank you, Mr. Speaker. As we know, the review of this policy and the changes made to it will negatively affect the mental health of 2SLGBTQIA+ children. We have heard stories of children self-harming following the review process. Students risk being misgendered every day in school or having to hide their gender identity. How does the minister plan to address this issue?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you very much, Mr. Speaker. I feel as though I have been talking about this since I woke up this morning. As I said yesterday and as I said this morning, we will continue to support our students in our schools and involve parents as partners when appropriate.

However, if a student wants to use different pronouns and identifies as a different gender, we will support them and encourage them to speak with the professionals we have in our system. Over the 35 years I spent in the education sector, as a principal, when I had students with problems I was not sure I could solve, I called on guidance counselors. We will do the same. Thank you.

Ms. Thériault (Caraquet, L): Mr. Speaker, we have heard the Premier talk about this throughout this saga surrounding Policy 713. We have heard from the Minister of Education and Early Childhood Development. We have seen some resistance from eight Conservative members. However, we have heard very little from the Minister responsible for Women’s Equality.

Now, the minister is mandated, and I quote: “to promote gender equality and reduce systemic discrimination”. So, by extension, she is responsible for advancing gender equality in our province and paying particular attention to vulnerable and marginalized communities. That is her file; that is her responsibility. Madam Minister, what do you think about the review of Policy 713?

[Original]

Hon. Ms. Scott-Wallace (Sussex-Fundy-St. Martins, Minister of Tourism, Heritage and Culture, Minister responsible for Women’s Equality, PC): Thank you, Mr. Speaker. I appreciate the question from the opposite side. This has clearly been a massive issue. We have all had our conversations about it. I am a mother. I look at it from very different ways.

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You are right, Women's Equality does have a mandate to advance gender equality and to reduce systemic discrimination for women and for gender-diverse people. What is very important is that supports are in place to support our children. We want Two-Spirit, trans, queer, and gender-diverse New Brunswickers to feel valued and celebrated in their schools.

Mr. Speaker, our department is here to support the minister as he makes changes. What is for sure is that parents are stakeholders. Parents are partners in education. Thank you.

[Translation]

Ms. Thériault (Caraquet, L): Thank you, Mr. Speaker. I can assure you that, right now, 2SLGBTQIA+ communities certainly do not feel celebrated.

The New Brunswick Women's Council released a second statement yesterday, and I quote:

The harm that has been caused by the government's handling of this review, from its execution through to the release of the revised policy this morning, cannot be overstated. This includes harm to 2SLGBTQIA+ students and the broader 2SLGBTQIA+ community.

The Fédération des jeunes francophones du Nouveau-Brunswick also released a statement, which reads as follows:

The government should not dictate how a young person discloses their gender identity, pronoun, or name under any circumstances. In 2023, we expect our government to be more understanding of and sensitive to the issues of the 2SLGBTQIA+ community. [Translation.]

Madam Minister, these groups are calling on you and asking for your help; what is your response to them?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you very much, Mr. Speaker. I also thank the member for Caraquet for her question. I understand that there are groups with opinions that differ from ours, but I can assure you that we will continue to guarantee their rights. We will never force a student to say something they are not ready to tell their parents. They can talk to their friends and our professionals. We have no intention of forcing a student to reveal anything against their will. Thank you very much, Mr. Speaker.

Ms. Thériault (Caraquet, L): Thank you very much, Mr. Speaker. My question is for the Minister responsible for Women's Equality. The saga surrounding Policy 713 comes under her department. It is her file, and it is her responsibility. If the minister is aware of the calls for help from the 2SLGBTQIA+ community, why does she not take a stand against this harmful review? Why is she not part of the group of members who took a stand against this review? Is the minister putting politics ahead of the children of this province?

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[Original]

Hon. Ms. Scott-Wallace (Sussex-Fundy-St. Martins, Minister of Tourism, Heritage and Culture, Minister responsible for Women's Equality, PC): Mr. Speaker, there is no question, this debate has gone on and on in our province. So much of the debate is causing harm, and there is no question about that. But I believe that this is a conversation that is important because we have children in our school system who do need added support. That support includes the involvement of parents and our family structures. That is an important piece of the puzzle.

I completely understand that this is sensitive and that it is very difficult, especially for the parents in this room and for the parents of high school-age children. I have a daughter who is graduating this year. This is not a conversation that has been simple, but at the same time, I believe that parents do have a role to play.

Mr. C. Chiasson (Victoria-La Vallée, L): During the Minister of Education's press conference yesterday, he stated that gender-neutral change rooms and washrooms would be available in all schools. Does the minister know how many schools can currently support this and how many schools will need repairs by way of extra plumbing and extra construction? Can the minister inform us as to whether all schools will be ready by the fall to support this?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Through you, Mr. Speaker, to the member opposite, thank you very much for the question. It is an extremely important question and one that we have spent a great deal of time speaking to the students about. Currently, in the schools where there is a gender-neutral washroom, in some situations, it is not ideal. Sometimes, it is at one end of the school or the other so that when students go to use the washroom, they end up being late for class. We do not want that.

What we are looking for in the policy is to create universal private washrooms for all our students, including those in our LGBTQ+ community, because, in general, students are not necessarily comfortable using the washrooms on any given day. We want to help all our students to be comfortable using the washrooms. I do not know how many schools we need to work with. Some were built in the 1950s. We are going to get that number, and we are going to create a plan to make sure that we have universal, private washrooms for all our students. Thank you.

Mr. C. Chiasson (Victoria-La Vallée, L): Mr. Speaker, when constituents come into my office, I tell my staff that the first thing we need to do before we can advance the file is to answer the five Ws: who, what, when, where, and why. It is obvious to me that the minister does not know whom he is doing this for, the minister does not really know what needs to be done, the minister does not know when it will be completed, and the minister does not even know where it should be completed. I do not think that the minister even understands why he is doing this.

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I am going to ask another question. I know that I am not going to get an answer. There is a price tag for these changes. Is it the districts that are going to be responsible for making these changes and for financing the changes out of their budgets, or will extra money be allocated? Will the Department of Transportation and Infrastructure be involved in this, or will it be all on the districts?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you very much, Mr. Speaker. I thought that I had covered the five Ws in my answer. I can repeat it if the member wants me to. If he would like me to do that, I can do that again if he wants to ask that question over again.

We will ensure that the money is available to make these changes. They will take place over time. In the majority of our schools, we currently have a gender-neutral washroom, but we are moving past having just gender-neutral washrooms.

Yes, I do know whom we are doing it for. We are doing it for all our kids and, in particular, our LGBTQ+ kids and our trans kids—all our students. Not every student is comfortable going to the washroom in a public school. We want to provide them—all of them—with safe spaces, and we are going to work to do that. The budget will be there, and it will come out of the Department of Education to assist the districts in making that happen. Thank you very much.

[*Translation*]

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): Thank you, Mr. Speaker.

[*Original*]

The major concern with the revision of Policy 713 is section 6.3.2 and the fact that it appears to prevent teachers from honouring the chosen name of a student who is under 16 and to force teachers to misgender the student until such time as explicit parental consent is given, removing the section about the student's consent. It refers students to social workers and psychologists, which stigmatizes students and suggests illness, and that referral to psychologists, in itself, actually requires parental consent. I would point out that these resources are in a critically short supply and that the minister has yet to demonstrate action to properly resource these people in the schools.

There are many things that parents are not explicitly required to know about with respect to what is happening in school: whom their child is in a relationship with, what music they listen to, the friends they hang out with, and the books that they are reading. We need to support and empower and trust our teachers to do their job.

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Will the minister clarify section 6.3.2 so that teachers can continue to use a child's preferred name?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Mr. Speaker, as I said, for students aged 16 and older, nothing was changed. For students under the age of 16, it is a bit of a conundrum, because we need to work with our parents as key stakeholders. We need to support our students where they are at. We also need to recognize the significance of the position of public trust that the teachers hold.

It is not as simple as the Leader of the Official Opposition might like to portray it, that it is about not telling parents certain things. There are all kinds of books that have been sent to me that are... I am not sure which libraries they are in. There are all kinds of things that happen. We talk to students about positive relationships in schools all the time. Guidance teachers talk to students all the time. It is not a question of students needing parental consent to go to see a guidance counselor. Thank you very much, Mr. Speaker.

GOVERNMENT

Mr. Coon (Fredericton South, Leader, G): Thank you, Mr. Speaker. Yesterday, we saw an unprecedented event in the political history of this province. Eight members of Cabinet and caucus boycotted routine proceedings. They boycotted question period and released a letter to the press indicating why and confirming that they did it intentionally because of the actions of the Premier. My question to the Premier is this: Given that he is losing the confidence of so many members of his Cabinet and caucus, how can he continue to lead this government and provide stable governance to New Brunswickers?

Hon. Mr. Higgs (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Thank you for the question, Mr. Speaker, through to the Leader of the Green Party. Yes, yesterday was an unfortunate situation. There is no doubt about it. Obviously, it was certainly breaking the conventions of the British parliamentary system. But tough issues do have tough discussions. It is easy to slide along and not really face some of the challenges that our society is facing today.

And it isn't easy, and I do not feel good about any part of trying to find the way to balance this and move it forward. But, Mr. Speaker, there is a role that parents need to play, and there is a role in our society that parents have been playing less and less. Interestingly enough, it is amazing how many parents I have heard from who did not know anything about Policy 713. They had no idea as to what was happening in the schools. You could say that it is just because they are not engaged, but, Mr. Speaker, we are finding a way to engage them with their children's future. Yes, it is tough, but tough decisions require an ability to deal with them. Thank you.

Mr. Coon (Fredericton South, Leader, G): Mr. Speaker, it is not only members of the Premier's Cabinet and caucus who are losing confidence in his leadership. The people of

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New Brunswick are also losing confidence in his leadership. He is ranked the second to last leader in the country in popularity.

My question to him... He posed the question, so I am looking for an answer. At the state of the province address, he posed the question of whether he should stay or go. New Brunswickers want him to go. Will he go?

Hon. Mr. Higgs (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Thank you. Mr. Speaker, the situation that we have in our province is unprecedented in terms of where we are provincially—we are growing and seeing people move to our province. As I have been wandering around this province in the last several months and actually going to Europe and to different areas, people are looking at New Brunswick for the first time.

As I just said, while difficult decisions cause a lot of concern, it is also refreshing people. They are sending so many—so many—emails. I think I have received over 200 or 300 and the minister has received about 600 from parents who are saying: Finally. Finally, there is a discussion about the role of parents. Finally, there is an interest in seeing parents play a role and understand what is happening in our school system.

Mr. Speaker, in this last year, per capita, we have had the largest exodus of students from our school system to private schools. Now, we have had an increase in the school population because of the influx of new people. But there is a trend happening, and why is it happening? Because parents are moving away from our public system. We can do better, Mr. Speaker.

SCHOOLS

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): Thank you, Mr. Speaker. The language being used in this Chamber today has me... I do not even know. It has been referred to as a bit of a conundrum that we are in and as an unfortunate situation that the Premier finds himself in. It is an unfortunate situation of his making.

The reason why parents did not know about Policy 713 is that it did not affect them. Teachers, parents, and students were working together smoothly in our school system. Every day, teachers are engaging parents in the education of their children. It was not until the Premier decided that he was not comfortable with this policy that it became an issue, and he now finds himself wandering around New Brunswick while New Brunswickers find themselves wondering what is going to happen in their schools now that he has tried to make a distinction between parents' rights and children's rights. I would like to understand this from the Premier: Where is he going to wander next with this policy?

(Interjections.)

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Mr. Speaker (Hon. Mr. Oliver): Order.

Hon. Mr. Higgs (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Mr. Speaker, I am always impressed by how the new Leader of the Opposition likes to do things differently in politics.

Do you know where we are going to wander next? Into people's homes to see how families are playing a role in developing their kids for their future. Do you know what we are seeing? We are seeing parents saying: Hold it. What is happening here? What are my kids being taught? What are we seeing every day?

It is disappointing to see the Leader of the Opposition really discounting families in New Brunswick, not standing up for families, and not taking a role here to say that we have a need to protect both the children's and the parents' rights. At the end of the day, when our kids grow up, they will actually have the maximum benefit at home and at school.

Mr. Speaker, that is what this is all about. It is not about a policy that kind of slid in without any fanfare because no one really knew about it. Well, they know about it now, and they want to know more about it. They want to know what role they can play. We are hearing from parents. I do not know whom the Leader of the Opposition is hearing from, but I could point her to a few parents.

LEGISLATION

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): I can tell you one home I do not want the Premier wandering into.

I would also like to say that there are many parents who have expressed the impact of not following Policy 713—parents such as Nicole Paquet, who expressed the impact on her and her child. This shines a light on something that I would like to switch to.

We are watching the minister and the Premier override expert advice, override Cabinet members, and override the partners' and the public's wishes on Policy 713 while this House is also considering Bill 46, *Education Act*. This Act has been rushed. It contains major changes to ministerial powers, governance, inclusion, and more. There has been a lack of transparency and insufficient consultation on this critical legislation. The partners and the official opposition are requesting more time to give this critical Act due diligence. We have seen the public engagement on Policy 713. The *Education Act* deserves the same. Will the minister affirm the importance of the *Education Act* and agree that it will be exempted from any time allocation?

Hon. Mr. Hogan (Carleton, Minister of Education and Early Childhood Development, PC): Thank you very much, Mr. Speaker. I agree that the *Education Act* is an extremely important Act for the future of our children and our province and for the future of our parents and

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their role in our province. We will continue to engage parents in a positive way, as we have done in the past.

We are going to have to have a robust, honest discussion about what the perceived powers of the district education councils are and what the actual powers of the district education councils are. I am looking forward to this bill going to the economic policy committee so that we can have a robust discussion about all those items instead of—instead of—having slingshots coming from across the way and innuendos and things that are not necessarily accurate until we get a chance to talk about them in the economic policy committee. The Leader of the Official Opposition knows full well, because I have said it more than once, that there were some errors in the drafting of the bill that we are going to fix.

GOVERNMENT

Ms. Holt (Bathurst East—Nepisiguit—Saint-Isidore, Leader of the Official Opposition, L): Thank you, Mr. Speaker. This week has made one thing exceptionally clear: The government of New Brunswick is struggling under a failure of leadership, from the micromanagement of Health, Energy, and Education; an inability to build productive relationships with industry, First Nations, and community partners; an inability to delegate; and now, an inability to lead a caucus and a Cabinet to consensus. The Premier has demonstrated an unwillingness to listen, an unwillingness to delegate, an unwillingness to be transparent and to communicate respectfully and responsibly, and, quite simply, an unwillingness to lead.

New Brunswickers deserve a leader who will be open and transparent, a leader who will empower their team to get the best results for New Brunswickers. How will the Premier address this lack of leadership?

(Interjections.)

Mr. Speaker (Hon. Mr. Oliver): Order.

Hon. Mr. Higgs (Quispamsis, Premier, Minister responsible for Intergovernmental Affairs, PC): Mr. Speaker, leadership is not easy. Leadership is not about just going along. That is why the province is actually moving along so well. It is because we have, during the past five years, moved the bar dramatically in this province.

It is easy for the Leader of the Opposition to kind of spin out the same old rhetoric and say: Oh well, if we just get along with everyone and do not make any real decisions, we will all do better. Mr. Speaker, there are fundamental things that allow us to keep improving, and that does not mean that you kick the can down the road to someone else. It means that you address it directly. Yes, it calls for tough discussions, but I am prepared to have those tough discussions with anyone and to say: Look, let's understand how we move forward and do not just kick it down the road.

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I know what the tradition has been, and I would like to talk to the Leader of the Opposition in relation to some of the things that were kicked down the road when she was a key player in the Gallant government. They are some of the issues that we are dealing with right now. When she was in charge of the Jobs Board, when agreements were made with First Nations, tax agreements... Mr. Speaker, it was amazing.

(Interjections.)

Mr. Speaker (Hon. Mr. Oliver): Thank you, members. I do not need to be reminded. Thank you, Premier.