

EDMONTON PUBLIC SCHOOLS

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TO: Board of Trustees

FROM: A. McBeath, Superintendent of Schools

SUBJECT: Update on District Occupational Health and Safety (OHS)Issues

ORIGINATOR: Bob Holt, Executive Director, Instructional and Curricular Support Services

RESOURCE

STAFF: Les McElwain, Brian Fedor, Mark Egan, David Fraser, Lisa Johnston, Jean Westergard

INFORMATION

Executive Summary

This report provides an update on the emerging OHS trends at the provincial and district levels, the status of key issues identified in the past year, and the 2003-04 OHS Plan to keep the district moving closer to full compliance with legislative requirements. Where possible, the anticipated impact on schools and district operations has been identified.

Emerging Occupational Health and Safety (OHS) Trends

1. Provincial trends:

In 2002-03, Alberta Human Resources and Employment (AHRE), Workplace Health and Safety, moved ahead in implementing their revised legislative OHS framework, which is the most comprehensive revision of health and safety legislation in fifteen years. As expected, the provincial government chose to forego a performance-based framework and follow the lead of other provinces who have implemented a heavily prescriptive framework with huge fines for non-compliance with the “prescribed” requirements. The new OHS legislative framework has three main components:

- The revised OHS Act, which was proclaimed on December 4, 2002;
- A new OHS Regulation, which took effect on March 31, 2003; and,
- A new OHS Code, which is scheduled to be released September 30, 2003, with an effective date of April 1, 2004.

Highlights of the revised OHS Act are:

- Maximum fines were increased to \$500,000 for a first offence and \$1,000,000 for subsequent offences.
- The Court can now order alternative penalties other than fines and jail sentences, e.g., the requirement to provide safety or educational programs.
- On-the-spot administrative fines may be issued by provincial OHS officers when they observe non-compliance with provincial requirements. These fines would be similar to those used for traffic violations.
- Publishing the names of the employers with the best and worst safety performance.
- The length of time to begin a prosecution has been extended from one to two years.

Highlights of the new OHS Regulation are:

- Critical workplace documents (e.g., hazard assessments, safe work procedures) must be in writing and available to affected workers.
- Employers must ensure that workers carry out safety-related duties required of them.
- Workers must report any unsafe equipment to the employer.
- Workers must be trained in the safe operation of equipment.
- The OHS new regulation consolidates rules that were previously found in 11 separate regulations.

Highlights of the OHS Code are:

- Detailed technical requirements to support the OHS Act and Regulation.
- Written hazard assessments must be completed for all different types of positions in an organization.
- Requirements to address working alone and workplace violence.
- Requirements for ergonomics related to lifting and handling of loads.

Representatives of AHRE, Workplace Health and Safety have indicated that the OHS Code's release date is firm. They have indicated that the OHS Code will be 400 pages and the explanatory guides to complement the OHS Code will be 800 pages. To enforce this new legislative framework, the provincial government has tripled the budget of AHRE, Workplace Health and Safety, which has led to the hiring of nineteen new OHS officers (plus 80 current officers) to increase inspections and to target employers with poor WCB performance. Workplace inspections increased from 2,700 in 1999 to 8,500 in 2001. At a recent Calgary Safety Expo, Clint Dunford, Minister of AHRE, told the audience that he has the commitment to penalize employers who fail to prevent accidents and injure Albertans.

This assertion of high levels of employer accountability is evident in other areas of Minister Dunford's portfolio. The CEO of the Workers' Compensation Board has visited the CEO's of five major employers to discuss their WCB claims history and length of time for reporting WCB claims. Recent changes to WCB legislation introduced administrative fines and increased the penalty for untimely reporting from a maximum of

\$500 to a maximum of \$25,000. The Minister's Workplace Safety 2.0 initiative has a target for reducing the provincial lost time claim rate by 40% by 2004.

Alberta Justice currently has one full-time crown prosecutor dealing with OHS offences, with a second one in training and two more requested. In terms of recent court cases, the sentencing trend in Alberta continues to increase. Before 2000, average fines ranged from \$10,000 to \$50,000. After 2000, average fines increased to between \$75,000 and \$150,000, the maximum that could be imposed. In 2002, the average fine was \$102,000 per case. Legal opinion suggests that the trend appears to be moving to large "alternative, out-of-court settlements" for non-fatalities. In a recent case involving the education sector, Lakeland College, as prime contractor, was fined \$1000 plus a 15% victim fine surcharge and ordered to provide \$19 000 in training to employees after being found guilty of a charge in connection with an incident that resulted in serious injury to a contracted worker.

District issues and trends:

(a) District workers' compensation (WCB) claim costs have increased significantly. It is anticipated that the district could face a significant surcharge for the 2004 calendar year based on 2002 claim costs that indicate a:

- 66% increase in number of WCB claims over last year; and,
- 153% increase in compensation and medical costs, as injured staff wait longer periods to see a specialist or have surgery;

Analysis of the data indicates there are several variables that have caused the increase in claims and claim costs: increased knowledge of reporting requirements; an aging workforce; delays in injured staff accessing medical specialists and/or surgery; the severity of injury and the need for significant workplace accommodations, including permanent restrictions. On the positive side, staff with less severe injuries returned to work, on average, 20 days after injury (third lowest number of days in seven years).

(b) In April, 2003, the district received its first stop work order in several years, related to the handling of asbestos containing materials (ACM). All but three schools returned the required asbestos checklist by the end of June, and 463 Division A custodial staff received a full day of required training. It is estimated that direct costs to comply with the stop work order were a minimum of \$85,000 (\$35,000 for training and respirators, plus \$50,000 for loss of productivity while at training). Indirect costs (e.g., time in schools to complete tasks associated with the checklist, time spent on this issue by central staff) would add to the total amount. The district is able to recover a portion of the money for training and respirators from the provincial government under BQRP.

(c) One of the key issues identified last year was the question of how schools/the district will pay for costs related to health and safety issues. While principals are trying to control school expenditures and maximize the resources in the classroom, requirements to ensure compliance with OHS code may add costs to their maintenance and operations budget. Similar challenges exist at the district level.

- (d) Another issue identified was the potential liability arising from the confusion of designation of prime contractor in school-initiated projects. The district has resolved this issue by having Facilities Services staff designate a prime contractor/project coordinator for all renovation and maintenance projects this summer. A long term approach will be developed based, in part, on this summer's experience.
- (e) To address custodial staff injuries and work accommodation, two health and safety committees were established in response to letters of intent in the collective agreement: the Custodial OHS Committee and the Custodial Return to Work Committee.
- (f) The last issue was student-focused and dealt with the applicability of the OHS Act regarding students in CTS and Off Campus Education programs. The district received a written interpretation from AHRE Workplace Health and Safety that students in classrooms, labs and CTS shops are not within the purview of the OHS Act. The only students to which the OHS Act applies are those in off campus education programs, e.g., RAP and Work Experience. Central services staff from Curriculum and Personnel Support Services have worked together to develop a set of OHS guidelines for work experience coordinators in schools. To address broader health and safety issues impacting staff and students, a CTS/Science OHS Committee was established, as per a letter of intent in the teachers' collective agreement.
- (g) In addition to the steps taken to address the aforementioned issues, the administration re-established the District OHS Committee, with representation from all staff groups, principals and central services. The Committee has met twice and reviewed the proposed administrative regulation and guidelines for working alone.

#### Implementation of the District OHS Strategic Plan

Based on the scope of provincial legislative changes, capacity of resources in our schools and demands on current central services OHS staff, the timeline for full implementation of a district OHS Program that is in compliance with all legislated requirements and demonstrates due diligence, has increased from three years to five years. The following priority activities are planned for 2003-04:

##### 1. Policy and Regulation Framework:

- Introduction of a revised district OHS Policy and a new administrative regulation on OHS roles and responsibilities (October 2003)
- Introduction of a new administrative regulation and guidelines on Working Alone (October 2003)
- Introduction of administrative regulations related to First Aid, Recording and Reporting Staff Accidents and Injuries Confined Space Entry, and Fall Protection (Proposed for Winter/Spring 2004).

*Impact on Schools:* For the most part, the revised policy and administrative regulations lay the groundwork for what is already occurring (e.g., first aid, WCB reporting) or

primarily impact other areas such as maintenance services (e.g., confined space entry and fall protection). In some cases, it may mean that tasks traditionally performed by the school custodian (security light changes from rooftops or crawlspace checks) may need to be conducted by trained and properly equipped Facilities Maintenance personnel. The major impact on schools this year will be in the area of working alone. While the Personnel Principal Support Group indicated the proposed guidelines are clear, practical, doable, and user-friendly (e.g., fill-in-the-blank templates), they were also unanimous in their concerns about: the time impact on school staff (e.g., completing hazard assessments and safe work procedures, training); the need for resources (e.g., upgraded security systems); and the need for ongoing support from central services staff (e.g., two district OHS Consultants spent 65 to 75% of their time over two months responding to the asbestos stop work order).

## 2. Leadership Training:

Once the provincial OHS Code has been released and the revised district OHS policy and administrative regulation on OHS roles and responsibilities have been approved, Personnel Support Services will provide mandatory training to all principals and central services administrators on their health and safety responsibilities. This training is proposed to begin November 2003. The training will be provided in conjunction with November SELT and will provide principals and central service administrators with essential information related to OHS responsibilities and issues. It should be noted that over 70% of our principals were appointed since the last time OHS leadership training was offered.

*Impact on Schools:* Principals will initially require approximately 2 – 3 hours training, which will be offered as a seminar after the November SELT meeting. Further training will be provided as required either over a series of short seminars or in one full day.

## 3. Hazard Assessments:

The new provincial OHS Regulation and Code have a requirement for written hazard assessments for all positions or groups of positions. In 2003-04, the district OHS Consultants will develop universal district templates for hazard assessments and safe work procedures, and identify six to nine positions across three CUPE staff groups for hazard assessments, based on the analysis of the 1996-2002 WCB injury statistics.

*Impact on Schools:* should be minimal as this area is only being developed this year. Some schools will be chosen as test subjects for the hazard assessments. The major impact on schools will be in 2004-05 when the hazard assessment templates and safe work procedures will be rolled out to all schools.

## 4. Indoor Environmental Quality (IEQ)

District OHS Consultants currently spend an inordinate amount of time on IEQ issues in schools. Activities in this area include responding to requests, administering and analyzing surveys, air sampling and mould testing, interpretation of results and coordination of remedial activities between schools and maintenance services. In Fall

2003, Personnel Support Services and Facilities Services will release updated district guidelines for addressing IEQ concerns in schools.

*Impact on Schools:* Schools will have a detailed protocol and self help guidelines for addressing IEQ issues in their schools. Services that were provided free-of-charge previously by district OHS consultants will now be fee-for-service through Facilities Services and/or external environmental consultants.

5. OHS Committee Work

Reports with recommendations and guidelines are scheduled for release in 2003-04 by all OHS related committees: the District OHS Committee; the custodial committees on health and safety, return to work and training; and, the teacher's CTS/Science OHS Committee.

*Impact on Schools:* will vary depending on the school. Junior and Senior High Schools will be impacted the most, due to the CTS/Science component.

6. OHS Program Administration

Personnel Support Services will undertake three major initiatives in this area in 2003-04:

(a) Tracking of OHS Related Certificates and Training

Schools have spent a lot of time and money training staff in transportation of dangerous goods (TDG), first aid, asbestos awareness, and Workplace Hazardous Materials Information System (WHMIS). Many of these certificates have expired and staff have changed locations. This makes it difficult to know if they have trained staff with up-to-date certificates who can meet legislative requirements. The district cannot demonstrate due diligence by producing an up-to-date list of trained staff, a requirement under the provincial legislation. Personnel Support Services will gather up-to-date information from schools and enter the information on the Personnel/Payroll System. The system will be continuously updated based on input from Consulting Services and Metro Community College. Beginning in September 2004, principals and administrators will receive school listings of their staff who have up-to-date certificates and/or expiring certificates. The impact on schools should be minimal, mainly gathering and forwarding information from staff.

(b) Personnel Services Website

Currently, district health and safety information is housed in a variety of electronic and paper mediums. As part of a broader Personnel Services website, all OHS information will be in one area and easily accessible. It is expected that the Personnel Services Website will be in place by the end of the calendar year of 2003.

(c) Annual OHS Workbook for Schools

District OHS Consultants have received favourable feedback from administrators regarding the Asbestos Stop Work Order Checklist. Personnel Support Services are exploring the idea of providing administrators with an annual workbook that would contain ten monthly checklists that, when completed, would demonstrate due diligence on behalf of the administrator. These workbooks would assist central services staff in fulfilling its monitoring role and demonstrating due diligence on behalf of the district. The challenge will be in condensing the legislative requirements into ten monthly checklists that are practical, doable and user-friendly.

7. WCB Strategic Planning

District staff from various areas (OHS, Health Recovery, Employee Assistance, Facilities Services, and union representatives) will increase collaborative efforts to identify high risk areas and develop preventative strategies in an effort to reduce WCB claims and costs. Proposed strategies include work hazard assessments, hiring an ergonomist, expediting referrals through preferred providers, increasing district knowledge of work accommodation, examination of claims for opportunities for cost relief, pre-placement screening, development of a district job bank, benchmarking best practices of other organizations, and on-going communication with all district staff.

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