

# The Canadian Teachers' Federation Briefing on a Safe Schools Amendment to the Criminal Code of Canada

October, 2025



## Executive Summary

The Canadian Teachers' Federation (CTF/FCE) is a national organization comprised of 18 Member and Associate Organizations that represent over 370,000 public school teachers in Canada from every province and territory. As a federation of teachers' organizations, the CTF/FCE believes every child has a right to quality inclusive public education. We uphold teaching as a profession and advocate for adequate resourcing, labour rights, and social justice, across Canada and around the world.

Further, we believe that all students and educators should be safe at school. Research and public opinion polls confirm that teachers, educators, parents, and the public are becoming increasingly concerned with violence in Canadian schools. In a 2024 international study, Canada had the highest incidents of school violence. Of course, most students are not violent, but rising school violence is making it difficult for all students to focus on learning to reach their full potential. At the same time, the increasing levels of violence in Canadian schools have created untenable working conditions for many teachers and education workers.

The CTF/FCE is, therefore, calling on the federal government to be proactive and implement measures to help ensure Canadian schools become much safer soon. While we will continue to seek preventative measures related to supports for student mental health and well-being, adequate resourcing of public education, and more (at the provincial, territorial, and federal levels), we are calling upon the Minister of Justice to implement a "Safe Schools Amendment" to the Criminal Code of Canada (CCC).

A "Safe Schools Amendment" would ensure that educators can responsibly and reasonably intervene when necessary to try to prevent or reduce the harm of violent incidents, including student self-harm, student to student violence, or student to educator violence. Without such protective language, educators may not only be reluctant to intervene but also advised to avoid intervening.

### School Safety Amendment

The CTF/FCE is calling on the Government of Canada to amend the CCC, inserting a Safe Schools Amendment similar to what follows. This draft language, which amends CCC Section 265, was prepared by legal counsel and approved by the CTF/FCE Board of Directors; it is intended to provide protection for educators and students.

**265 (5) This section does not apply to a schoolteacher or other education worker who applies force that is reasonable in the circumstances towards a child that is under their direct or indirect supervision relating to the following purposes:**

**(a) protecting the safety of the child; or**

**(b) preventing the child from causing bodily or emotional harm to themselves or to other persons.**

**(6) For the purposes of subsection 265 (5), “force that is reasonable in the circumstances” means force of a transitory or trifling nature.**

**(7) For the purposes of subsection 265(5)(b), “other persons” includes other students, the schoolteacher or other education worker applying force, and other individuals.**

The CTF/FCE supports the Truth and Reconciliation Commission’s call to action for the repeal of Section 43 of the CCC as an important act of reconciliation with Indigenous Peoples. However, and based upon advice from the Indigenous Educators on the CTF/FCE Advisory Committee on Indigenous Education, the CTF/FCE is concerned that repeal of Section 43 without a Safe Schools Amendment is likely to result in schools becoming less safe as educators may not be able to intervene to stop or limit violent incidents.

The CTF/FCE and its Member and Associate Organizations take seriously the responsibility of teachers and educators to do everything possible to ensure schools are safe spaces for all children and youth and we reiterate our long-standing policy against corporal punishment. With the very best interests of students and educators in mind, we believe that the proposed amendment would provide important protection, safety, and peace of mind for families, students, teachers, and education workers.

## Key Considerations

### **1. Violence at K-12 schools is a growing problem.**

55% of Canadian educators surveyed say they’ve experienced workplace violence and aggression in the past 12 months. (Parachute Survey, Fall 2024, 4,771 respondents)

### **2. Canada ranks worst for educators experiencing or witnessing violence in the workplace.**

Canada and Quebec (grouped separately for the survey) rank 1 and 2, respectively when responding to the questions “Have you been the victim of workplace violence in the past 12 months” and “At work, have you witnessed violence in the past 12 months”. (International Barometer of Education Staff, 2023 Edition, 26,281 respondents from 11 jurisdictions)

### **3. Canadians are rightly concerned with the growing level of violence in the classroom and support the CTF/FCE position that educators need to be able to intervene.**

86% of Canadians are concerned that the level of violence is increasing in schools. (Abacus Data polling, January 2024, 2,000 respondents)

87% of Canadians agree that teachers and staff should have the right to physically intervene when students are violent towards other individuals. (Abacus Data polling, January 2024, 2,000 respondents)

4. The CTF/FCE supports the Government's commitment to enact all the Calls to Action of the TRC, including #6, and has a long-standing policy opposing corporal punishment.
5. If, however, **Section 43 is repealed without amendments to the *Criminal Code*** that ensure educators may intervene physically when necessary to protect students and, in some cases, themselves, **educators will not be able to maintain safety and security in schools**. In other words, there are unintended negative consequences of repeal without an amendment to the Criminal Code.
6. **Examples of appropriate actions, for the safety and well-being of all**, that an educator might not take if Section 43 is repealed and appropriate amendments are not made, include:
  - Guiding a student by the sleeve, or pulling a student from the path of an oncoming vehicle as the student runs into the street;
  - Carefully restraining a student whose actions are posing a harm to themselves or others;
  - Redirecting a student with a history of running from the schoolyard to a safer part of the school facility, if they seem likely to run; and,
  - Redirecting a student, who has a history of violent meltdowns when triggered, by leading the student from the classroom and out of view of their peers.
7. On January 30, 2004, the **Supreme Court of Canada** released its decision in the case of Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General). The issue was whether Section 43 is unconstitutional. Six of nine justices concluded that the provision does not violate the Canadian Charter of Rights and Freedoms (the Charter), as it does not infringe a child's rights to security of the person (section 7) or a child's right to equality (section 15), and it does not constitute cruel and unusual treatment or punishment (section 12).

As part of this decision, the Supreme Court of Canada interpreted this provision to determine its scope, ruling that it is illegal to use physical force to discipline teenagers or children under the age of two, to use objects – such as rulers or belts – against a child of any age, or to slap the head of any child. In addition, teachers are prohibited from using force against children as punishment.

8. Without a **Safe Schools Amendment**, the CTF/FCE anticipates an increase in the number of assault charges filed and prosecuted. As a precaution, educators would be advised to not intervene in situations such as those noted above. This could result in more severe injuries to students and more calls to the police. Further, the ordeal of a trial for these types of charges is often career-ending for educators. Being found not guilty of assault is different from being innocent. Often, media coverage surrounding an arrest is more significant than coverage of the subsequent not-guilty verdict or acquittal.

9. Applying a **Gender Based Analysis Plus (GBA+) lens** to this legislation, we note that 76% of public elementary and secondary school educators are female (StatsCan, 2024) and urge the federal government (as well as all levels of government) to actively work to eliminate gender-based violence, including in our schools. Further, there is already a severe teacher retention and recruitment crisis in communities across Canada (~70% of educators acknowledge there is a shortage of legally qualified teachers or education workers at their school; 45% of educators have considered leaving the profession in the last year, Parachute Survey, Spring 2025, 5,065 respondents ) and the potential increase of violence in classrooms furthers the prospects of a prolonged and exacerbated crisis, which will negatively impact Canadian children and youth.
10. The **CTF/FCE Advisory Committee on Indigenous Education** (ACIE), a committee comprised of Indigenous educators from across Canada, is fully supportive of the CTF/FCE's decision to seek an amendment to the Criminal Code of Canada. Members of the ACIE have described significant challenges within their communities regarding classroom violence and the necessity for educators to be able intervene appropriately, including physically from time to time, to protect students, colleagues, and themselves.

## Supporting Items

**Appendix A** – Examples of Section 43 Defenses for Teachers Who Acted Responsibly to Try to Minimize Harm

**Appendix B** – The Elementary Teachers' Federation of Ontario's 2023 Workplace Violence Survey

- **Key Insights:**
  - 80% of respondents reported that violent incidents have increased.
  - 66% of respondents felt the severity of violent incidents has increased.
  - 80% of respondents agreed that "violence is a growing problem" at their school.
  - 83% of respondents indicated that violence "interferes with classroom management".

**Appendix C** – The Ontario Secondary School Teachers' Federation's 2023 Workplace Violence Survey

- **Key Insights:**
  - 75% of respondents reported that "There are more incidents of violence" since they began their careers
  - 60% of respondents felt "the severity of violence is worse" since they began their careers.
  - 75% of respondents agreed with the statement that "Violence is a growing problem at my school".

# Examples of Section 43 Defences for Teachers Who Acted Responsibly to Try to Minimize Harm

The following examples from CTF/FCE provincial and territorial Member Organizations refer to cases where Section 43 of the Criminal Code of Canada was or may have been used in defence of a teacher or education worker. These are cases since 2004 when the Supreme Court of Canada ruled in favour of the constitutionality of Section 43.

## The Alberta Teachers' Association

The Alberta Teachers' Association has cited **one case since 2004** wherein Section 43 was a factor.

## Elementary Teachers' Federation of Ontario

The Elementary Teachers' Federation of Ontario (ETFO) has cited **three cases since 2004** wherein Section 43 was a factor including one with a decision in June 2023. ETFO's legal counsel provided the following comments:

*Section 43 comes up a lot, often in cases where teachers are using physical force to try and gain control over students who, for example, are throwing tantrums or acting out in a way that is dangerous to those around them.*

*It is hard to gauge the extent to which the authority under section 43 convinces police officers not to lay a charge in the first place, since those police investigations may be closed with no explanation from the police or in some cases, legal counsel are not involved until after the police have decided to charge a teacher, at which point it is often too late to raise section 43 defences to attempt to pre-empt a charge.*

*It has been helpful to refer to section 43 in order to convince the Crown to withdraw charges that have already been laid. Here are two specific examples:*

**Scenario 1:** *Charged with assault after a kindergarten student went home with a bruise on his arm and said that [the teacher] caused it. [The teacher] described coming upon a kindergarten student alone in a classroom he was not supposed to be in. The student did not listen to [the teachers]'s direction to leave the room and [the teacher] took the student by the arm. The student then yanked his arm away from [the teacher], and [the teacher] held on, which caused the bruise. We filed a memorandum before the judicial pre-trial that relied on a number of arguments for dropping the charge against [the teacher], and his potential defence under section 43 was an important part of it.*



**Scenario 2:** *Charged with assault for allegedly ‘dragging’ a kindergarten student. [The teacher] described that the student was essentially having a tantrum, throwing blocks across the room in a way that was dangerous to other students. The availability of a section 43 defence was also an important factor in convincing the Crown to withdraw the charge before a trial. We did a judicial pre-trial memorandum for this case as well.*

ETFO also shared a 2023 Workplace Violence Survey with roughly 25,000 respondents. Survey highlights include: **80% of respondents reported that violent incidents have increased and 66% of respondents felt the severity of violent incidents has increased. The report also found that violence is disrupting teaching, working, and learning conditions. 80% of respondents agreed that “violence is a growing problem” at their school and 83% of respondents indicated that violence “interferes with classroom management”.**

### **The Manitoba Teachers’ Society**

The Manitoba Teachers’ Society (MTS) has cited **one case since 2004** wherein Section 43 was a factor. They provided the following excerpt from a decision from the Provincial Court of Manitoba dating from May 2012:

*Mr. Shiaro stands charged with one count of assault against Corey Watt on December 16th, 2009. This case deals with Section 43 of the Criminal Code, namely reasonable use of force in the correction of a pupil.*

*On December 16th, 2009, Corey Watt was a 10-year-old grade 5 student at Greenway School. He had just finished gym class. Another boy, who Corey described as his friend, Rodson Bautista (phonetic), was drinking water at the water fountain. Corey came up behind Rodson and a little to his left, raised his knee and hit him in the buttocks. Rodson said: “Ah”. And Corey said: “Oops, my bad”. It was at that point that Shiaro, a teacher at Greenway, grabbed Corey by his hoodie, walked him three steps into the art room, where Ms. Robyn Johnson, a grade 6 teacher, and Ms. Mousseau, the vice principal, were, and told him to stay there. The evidence as to how that was done and what was said differs.*

*[...]*

*In all of the circumstances and for the reasons I have already set out, I find that Shiaro’s use of force against Corey Watt on December 16th, 2009 was justified under Section 43 of the Criminal Code. I therefore acquit him of the assault charge.*

## Newfoundland and Labrador Teachers' Association

The Newfoundland and Labrador Teachers' Association (NLTA) has cited **three cases since 2004** wherein Section 43 was used or was under consideration for application in defence of a teacher. There is also an additional ongoing active investigation where it is expected that Section 43 will significantly influence the outcome.

The examples include a 2021 Newfoundland and Labrador Provincial Court decision: ***R v McGrath, 171 WCB (2d) 113*** where a school principal was charged with four counts of assault and one count of uttering threats. Mr. McGrath was ultimately acquitted.

## Nova Scotia Teachers Union

The Nova Scotia Teachers Union (NSTU) has cited **two cases since 2004** wherein Section 43 was a factor.

## Ontario English Catholic Teachers' Association

The Ontario English Catholic Teachers' Association has cited **three cases since 2004** wherein Section 43 was a factor including a case where the teacher was an appellant appealing a conviction in April 2016 which resulted in the recommendation for a new trial.

## Ontario Secondary School Teachers' Federation

The Ontario Secondary School Teachers' Federation (OSSTF/FEESO) has cited **43 cases since 2004** wherein Section 43 "has been applied as a defence for OSSTF/FEESO teachers and education workers (since 2004) in preliminary stages with legal counsel or law enforcement, prior to charges being laid, or during legal proceedings".

**Of the 43 cases listed by the OSSTF/FEESO three have pending rulings, four have resulted in a teacher or education worker being charged, and 37 have resulted in no charges being laid.** These examples range from handling a child throwing a fit to breaking up a fight between two students. These examples include a range of educators – teachers, educational assistants, custodial staff, and child and youth workers.

In February 2023, the OSSTF/FEESO published a membership survey report focused on workplace violence. Of the over 6,000 members surveyed, **75% of respondents reported that "There are more incidents of violence" since they had begun their careers and 60% of respondents felt "the severity of violence is worse" since beginning their careers. The report also found that 75% of respondents agreed with the statement that "Violence is a growing problem at my school".**