Index

Abuse, <i>see</i> Child protection Abuse of public office, 218-219 Access to information financial records, 65 freedom of information and protection of privacy, 65-68 Municipal Freedom of Information and Protection of Privacy Act compliance with Education Act, 67 generally, 365-368 health information, 368-374 personal information, defined, 67 purpose, 65 record, defined, 66 Assault and battery, 191-192 Autistic children, educational rights of, 466-470 Best interests of the child, 7, 245-246, 249-250, 251-252, 260-261, 270- 273 Boards, <i>see</i> School boards	full text, 505-512 funding of private schools, 33-36 funding of public schools, 33-36 minority language rights, 6, 26-35 parental rights under s. 7, 246-250 prohibition against running for school board where spouse is board employee, 87-89 public access to board property, 68- 70 religious views of parent, 252-253 searches of students and property, 6, 290-304 separate schools, and, 26 special education, and, 438-445 Child abuse, see Child Protection Child, Youth and Family Services Act, 2017, 278-281 constitutional rights of children, 251 duty to report, 157, 281-282 issues to consider, 276-277 keeping private notes, 276 support for parents, 276
Charter of Rights and Freedoms aboriginal rights, 254-255 autistic children, educational rights of, 466-469 best interests of the child, and, 252 compulsory education, and, 39-40 corporal punishment of children, 408-415 denominational education, and, 13- 14	Child, Youth and Family Services Act, 2017 (Ont.) child protection, and definitions, 278-280 duty to report, 281-282 Voluntary Youth Services Agreement (VYSA), 280-281 Indigenous children, and, 257-259 preamble, 255-256
family law, tool of interpretation, as, 245-246 freedom of expression of teachers, 472-479	Children's Lawyer, 267-268 Conflict of interest board members, 56-64 employees, 64-65

Constitution Act, 1867	Family law
hiring by separate school boards, 18-	best interests of the child, 270-273
26	Charter of Rights and Freedoms
provincial jurisdiction over educa-	generally, 245-246
tion, 2, 8-12	parental rights under s. 7, 246-
s. 93, denominational rights, 12-18,	250
33-36	child protection
Corporal punishment	Child, Youth and Family Services Act, 2017, 278-281
from trial court to Supreme Court,	constitutional rights of children,
408-415	251
generally, 408	issues to consider, 276-277
physical restraint, and, 211-212	keeping private notes, 276
Creed, accommodation of, 343-352	support for parents, 276
Cyber-bullying, 355-365	Children's Lawyer, 267-268
	compared to criminal proceedings,
Defamation, 182-191	240-244
Defences	culture, 268
contributory negligence, 160-163	duty to report, 281-282
intentional torts, 219-220	evidence
voluntary assumption of risk, 163	generally, 261
Dress codes	hearsay, 262-265 rules of evidence, 265-266
accommodating creed, 343-352	generally, 240
generally, 338-343	grandparents' access, 268-270
	Indigenous children
Duty and standard of care, <i>see</i> Negligence	Child, Youth and Family Ser-
	vices Act, 2017, 255-261
Education law generally	generally, 253-255
Constitution Act, 1867, 2, 8-12	joint custody, 273-274
defined, 2-3	religion and religious practices, 251-
evolution of, 5-8	253
generally, 105 non-specific laws, 3	shared parenting, 273-274
other perspectives, 4-5	Voice of the Child (VOC) reports,
school law, 4	266 withdrawal from parental control,
specific laws, 3	274-276
Educational malpractice, 226-234	_, _, _,
_	Fiduciary duty, 220-226
Electronic devices, electronic and on- line communication, student use	Grandparents' access, 268-270
cyber-bullying, 355-365	Human rights and special education
generally, 353-355	litigation, 458-465
<i>6.</i> , ,	

Human rights and special education — Cont'd	sexual misconduct, 118, 157-160, 170-171, 192-211
Moore v. British Columbia (Ministry of Education), 445-458	Jordan's Principle, 254
Human Rights Code (Ont.)	Kirpans in school, 8, 343-352
denominational schools, 20-24	Limitation periods, 168-171
disability defined, 484 kirpans and religious rights, 348 special education, 439-440	Minority language education rights, 26-33
wrongful dismissal and disabilities, 482-487	Municipal Freedom of Information and Protection of Privacy Act (Ont.)
Identification, Placements and Review Committee (IPRC) appeals, 427-428	compliance with <i>Education Act</i> , 67 exemptions from right to see public records, 65-66 generally, 368
identification and placement process, 424-426	health information, 368-374 personal information, defined, 67
Indigenous children Child, Youth and Family Services	purpose, 65 record, defined, 66
Act, 2017 (Ont.), 255-261 child protection proceedings, 259 "First Nations, Inuit and Métis community" defined, 257 preamble, 255-256 purpose, 257-259 federal jurisdiction over, 36, 254 generally, 253-255 Jordan's Principle, 254 provincial jurisdiction over education, 36-37	Negligence consent to participate, 166 defences contributory negligence, 160-163 voluntary assumption of risk, 163 duty of care common law, 117 Education Act and regulations (Ont.), 113-116 generally, 111-112
Individual education plan (IEP), 431	statutory duty, 112-113 foreseeability, 148-152
Intentional torts abuse of public office, 218-219 assault and battery, 191-192 corporal punishment and physical restraint, 211-212 defamation, 182-191 defences, 219-220 generally, 181-182 privacy torts, 212-218	generally, 110-111, 167-168 minors, 163-166 outside school hours, 155-157 proximate cause, 148-152 sexual misconduct, 118, 157-160, 170-171, 192-211 standard of care absence of supervisor, 130-140 allegations in typical statement of claim, 117-118

Negligence — Cont'd bullying, 118 "careful or prudent parent", 118, 124, 126-127 field hockey, 121-122 football, 122-125 generally, 117-130 gymnastics, 119-121, 126 modified standard, 140-148 mountain climbing, 125 sexual assault, 157-160, 192-211 suicide, 130 weapons, 128-130	hiring by separate school boards, 18-26 Indigenous persons, 36-37 minority language education rights, 26-33 private school funding, 33-36 Pupils corporal punishment from trial court to Supreme Court, 408-415 generally, 408 dress codes accommodating creed, 343-352
transportation of pupils, 152-155	generally, 338-343
Occupiers' liability, 171-181 Personal information, confidentiality of generally, 365-368 health information, 368-374	medication, administration of asthmatic or anaphylactic children, 376-378 consent to treatment, 379-383
Privacy torts, 212-218	generally, 374-376 personal information
Private schools funding not constitutionally required, 33-36 generally, 95-105 procedural fairness, and, 336-338 Procedural fairness generally, 48-51 suspension and expulsion, and, decision-making stages, 324-325 factors determining, 321-324 nature of duty, 320-321	generally, 365-368 health information, 368-374 school attendance, 284-290 searches by school officials, 290-304 special education, <i>see</i> Special education student records, Ontario (OSR) confidentiality, 398-400 correcting information, 398 disclosure to parents, 407-408 ordering production of, 400-407 types, 397
other disciplinary measures, 328-338 right to know school rules, 325 zero tolerance, 325-328 Provincial jurisdiction Constitution Act, 1867, 2, 8-12 denominational rights, 12-18 exercise of power, 37-38 generally, 8-12	types, 397 suspension and expulsion Discipline Committee, 319-320 discipline in Ontario, 308-310 generally, 304-308 grounds for suspension, 310-313 procedural fairness decision-making stages, 324-325 factors determining, 321-324 nature of duty, 320-321

Pupils — <i>Cont'd</i> other disciplinary measures, 328-338 right to know school rules, 325 zero tolerance, 325-328 suspension pending reommendation for expulsion, 314-318 <i>Youth Criminal Justice Act</i> generally, 383-387 provisions affecting schools, 388-390 "school board exception", 391-397 Religion and religious practices best interests of the child, 251-253 <i>Child, Youth and Family Services Act, 2017</i> (Ont.), 278-279 creed, accommodating in schools, 343-352	board members, personal liability, 91-92 qualification/disqualification of board members, 86-89 vacancies, 89-90 mandatory duties, 43 meetings exclusion from meetings, 53 procedures, 90 public access to meetings, 51-52 retreats and <i>in camera</i> meetings, 53-56 ministerial supervision, 46-47 procedural fairness, 48-51 property public access, 68-70 trespassers, 70-72 school closure, 72-86 School councils, 93-95
Risk management, 234-237	Separate school boards
School attendance, 284-290	funding, 10-17, 34
School boards, see also Separate school boards access to information financial records, 65 freedom of information and protection of privacy, 65-68 civil liability, see also Negligence burden of proof, 110 generally, 108-109 provincial role, 109 vicarious liability, 109-110 collective action, 38-43 conflict of interest board members, 56-64 employees, 64-65 discretionary and incidental powers, 43-46 election and organization appointment of secretary and treasurer, 91	hiring, 18-26 Sexual misconduct, 118, 157-160, 170-171, 192-211 Special education autistic children, 466-470 Charter of Rights and Freedoms, 438-445 different perspectives, 419-420 discipline of exceptional pupils exclusion from school for safety reasons, 433-437 generally, 431-432 duty of Minister of Education, 421-423 duty of school board, 423-424 exceptional pupil defined, 422 generally, 417-419, 421 human rights issues litigation, 458-465

sexual harassment, 488-489 Special education — Cont'd Moore v. British Columbia Ethical Standards for the Teaching (Ministry of Education), 7, 445-Profession, 498-499 458 freedom of expression Identification, Placements and Recase law, 475-479 generally, 472-473 view Committee (IPRC) role models, 479-480 appeals, 427-428 s. 1, 474-475 identification and placement process, 424-426 s. 2(b), 473-474 technology and online commuindividual education plan (IEP), 431 nities, 480-482 review, 426-427 special education program defined, Occupational Health and Safety Act, duty to investigate, and, 489-491 Framework Special Education Tribunal, 428-431 Ontario Leadership (OLF), 498-499 Standard of care, see Negligence positions of trust, 501-504 Student records, Ontario (OSR) profession generally, 471-472 confidentiality, 398-400 school leader responsibility, 498-500 correcting information, 398 sexual harassment, 488-489, 491disclosure to parents, 407-408 498 ordering production of, 400-407 wrongful dismissal, 483 types, 397 Torts, see Intentional torts Student trustees, 95 Vaccination, mandatory, 289-290 Suspension and expulsion Voice of the Child (VOC) reports, 266 Discipline Committee, 319-320 discipline in Ontario, 308-310 Voluntary Youth Services Agreement (VYSA), 280-281 generally, 304-308 grounds for suspension, 310-313 Youth Criminal Justice Act suspension pending recommendagenerally, 383-387 tion for expulsion, 314-318 Indigenous children, 253 provisions affecting schools, 388-**Teachers** 390 discrimination Human Rights Code, 482-487 "school board exception", 391-397

sexual discrimination, 488-489