Questions and answers for school officials and day care providers regarding Children’s Aid Society involvement with schools and child care facilities

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Questions and answers for school officials and daycare providers regarding Children’s Aid Society (CAS) involvement with schools and child care facilities

Introduction and background

In recent years, many parents, civil liberties organizations, teachers, school administrators and daycare providers from the public and private sectors have expressed concerns over a growing and unwarranted intrusion in the private affairs of children at their schools and daycare facilities by child protection workers. In this document, the term “children’s aid societies” (CAS) has been used in a generic sense and is meant to be applied to any privately or government operated agency given the mandate of protecting children under provincial legislation.

In addition to the public at large, many teachers feel that CAS workers are interfering with children’s education at schools and interfering with the ability of teachers to fulfill their roles as educators. Many teachers have reported that they feel very much intimidated by CAS workers because they have been misled by their school boards into believing that they must fully cooperate with CAS workers without any consideration of other laws which may be applicable and even supersede school board policies. Many teachers live in fear of being disciplined if they don’t report every bruise and scratch that they see on a child. Many parents are becoming enraged with the over-involvement of CAS agencies at their local schools.

While involvement of the CAS with children in daycare facilities is less of a problem because children are much younger, a number of professional daycare providers have indicated that CAS workers have attended their facilities prying for confidential information about parents and have made their daycare workers feel very uncomfortable. In some cases, CAS workers have used children’s camps as a spying ground to illegally spy on children and to obtain information from children about their parents.

One of the significant issues causing problems in schools today is unregistered and unqualified CAS workers going into schools and questioning students in secret without the knowledge or consent of the parents or the student based on the mere speculation that a student may be the subject of maltreatment at home. In many cases, students are being forced against their will into a situation which is nothing less than an unlawful detention and interrogation at their own school. This often traumatic event causes a lot of damage to students and adversely affects the relationship which students have with their teachers and peers. In many cases, school officials are taking instructions of CAS workers which are unlawful and potentially put the school official and school board at risk of a civil lawsuit.

Unfortunately, many CAS agencies have manipulated their way onto the policy committees of many school boards and have improperly influenced school boards to implement policies relating to child abuse and maltreatment which in many cases violate the law and significantly infringe on the fundamental rights and freedoms of children and parents. It has been reported by some children that CAS workers are going into schools and threatening and intimidating children right in their own schools. Some school boards have been so misled by CAS officials that CAS workers are working inside of schools alongside of the teachers themselves. Some school boards have become puppet boards and have lost all ability to reason independently and to work in the interest of the families they are supposed to be serving.

In Ontario is has been found that the vast majority of front line CAS workers in Ontario are breaking the law by engaging in the unauthorized practice of social work in violation to Ontario’s Social Work
and Social Service Work Act (1998) which requires all CAS workers who are engaged in the practice of social work to be registered with the Ontario College of Social Workers and Social Service Workers. Most CAS workers in Ontario are not registered with the College and refuse to become members in order to avoid scrutiny by the College’s disciplinary body. Unregistered CAS workers have been going into many schools in Ontario and breaking the law since the Act was passed into law on August 15, 2000. An increase in public awareness by advocacy groups in Ontario is gradually putting an end to the unlawful activities of CAS workers in that province. Full details about the unlawful practice of social work by CAS workers in Ontario can be viewed on line at the following link:


This document has been prepared to answer many of the questions that school board officials, daycare providers and other agencies which provide services for children may have to help them better understand the role schools, daycare facilities and children’s service providers play in dealing with matters relating to child protection and to better understand the limits to the power and authority of children’s aid agencies in Ontario as well as similar organizations in other provinces of Canada. It is hoped that this document will help school officials, daycare providers and camp operators to understand that CAS workers have very little place in the lives of children at schools, daycare facilities or any other facility such as a children’s camp.

NOTE: Information in this document has been written using reference only to schools and to school officials. Readers should take note that while child care providers and children’s camps are not referenced specifically in the body of this document, the information contained in this document is equally applicable to child care agencies, children’s camps and any facility that provides care for children. Due to the fact that CAS agencies in Ontario are private not for profit corporations, some questions and the answers may apply only to Ontario.

Public input invited

This document is currently under development and review. Members of the public, especially those providing services to children in the public or private sector are encouraged to provide their feedback on this document. All comments or requests to have additional questions added to this document may be directed to:

Family Justice Review Committee  
Attn: Documents Review Team  
By Email: info@canadacourtwatch.com

Or by general mail to:
Family Justice Review Committee  
Box 61027 Maple Grove Post Office  
Oakville, Ontario L6J 7P5  
Mr. Vernon Beck, Project Coordinator (905)-829-0407

Note: This document is being updated based on feedback and experiences from members of the public. To download the most updated copy of this document in Pdf format visit:  
Premier ponders blowing up our CAS mess: Cohn

Lacking government accountability, children’s aid is bogged down in bureaucracy. The entire system should be blown up.

By: Martin Regg Cohn, Provincial Politics - Tuesday, December 22, 2015

Ontario Premier Kathleen Wynne has proclaimed herself ready to do whatever it takes to fix the children's aid societies mess, Martin Regg Cohn writes
Important terms and information which teachers and school officials should understand which relates to CAS involvement at schools

“Informed Consent”

The term *informed consent* is a phrase referred to in many places in this document and is the one most significant component that school officials must take into consideration when dealing with CAS workers who wish to meet with and question children a child in a school environment.

**Informed consent** is a phrase used in law to indicate that the consent a person gives meets certain minimum standards. As a literal matter, in the absence of fraud and extortion it is redundant. In terms of schools, the informed consent of a student can be said to have been given based only upon the student’s clear appreciation and understanding of the facts, implications, and future consequences of their actions. In order to give informed consent, the student concerned must have adequate reasoning faculties and be in possession of all relevant facts and options at the time consent is given. Impairments to reasoning and judgment which may make it impossible for a student to give informed consent include such factors as basic intellectual or emotional immaturity, high levels of stress such as Post-Traumatic Stress Disorder (PTSD), mental retardation, mental illness, Attention Deficit Hyperactivity Disorder (ADHD), etc.

Some acts, such as a children’s aid society worker questioning a child at his/her school without the student specifically requesting this beforehand, cannot legally take place because of the lack of informed consent by the student. In cases where a student is considered unable to give informed consent, then informed consent must be obtained from another person who is authorized to give consent on his/her behalf, e.g., parents or legal guardians of the student. A teacher or school official would not be considered as having the legal authority to give consent on behalf of a student.

In cases where a student or his/her parent is provided insufficient information to form a reasoned decision, serious ethical issues arise and give rise to cause for damages and the potential of a civil lawsuit against those who acted without the informed consent of the student or his/her legal guardians.

In order for informed consent of a student to have been obtained, the following conditions must exist.

1. The student must express specifically and without coercion or suggestion by any person of authority (such as a teacher) to want to meet a children’s aid society worker at the school.
2. The student must understand the potential consequences of speaking to the children’s aid society worker such as the possibility of the children’s aid becoming involved with his/her family.
3. The student must understand that they have the rights not to be detained or questioned if they do not wish to speak to the children’s aid society worker.
4. The student must be advised that they have the right to have a guardian or other person that they trust to be present with them should they choose to speak with children’s aid society workers.
5. The student must be advised that they have the option of meeting the children’s aid society worker outside the school if they would prefer.

In general, most students in primary grade schools would not be considered to be of an age of maturity where they can give their informed consent to speak with children’s aid society workers so therefore informed consent must be obtained from parents. A child who is 12 years of age or older with normal mental functioning would generally be considered as being able to provide his/her informed consent to have an interview with a child protection worker at the school.
“Due Diligence”

'Due diligence' is a term used to describe the concept involving either an investigation of a business or person prior to signing a contract, or an act conducted with a certain expected standard of care. It can be defined as the responsibility and care that is expected from, and exercised by a reasonable person to avoid harm (physical, emotional or financial) to another person or to violate their rights under laws such as the Canadian Charter of Rights and Freedoms. “Due diligence” is the precaution sufficient to prevent foreseeable harm, but not the unforeseen, the unexpected, the unknown, or the unintended harm.

From a legal perspective teachers, school administrators and school boards are expected to exercise “due diligence” to ensure that students under their care and control are not harmed in any way and that the rights and freedoms of students are not infringed upon, including rights and freedoms under the Canadian Charter of Rights and Freedoms. In other words, school board must develop polices which protect children from harm and teachers must act in a manner to protect the rights of students. School officials who fail to exercise due diligence in their responsibilities and a student is harmed or has had his/her rights violated as a result, expose themselves to civil or criminal prosecution.

“Undue Influence”

“Undue influence” is the term used to describe when one person applies mental or emotional pressure to induce another person to do something which on the surface would appear to be voluntary but in reality done without the informed consent of the other person. In the context of a school setting, when a school official (who is seen by a student to be an authority figure) instructs a student that he/she must come to a room to meet with a Children’s Aid Society worker in the school, then this would fall under the category of undue influence. In most cases, a student would do what the teacher told him to do simply because in most cases, students are trained by their parents to do what the teacher tells them to do without question. A school official who gets a student to speak to a Children’s Aid Society Worker without the student being made fully aware of his/her rights, would been seen as exercising undue influence over the student.

“Detention” (Section 9 and 10 of the Canadian Charter of Rights and Freedoms)

“Detention” is the term used to describe the removal of liberty by physical constraint or also by non-constraint such as when a person of authority (police officer, school official or teacher, CAS worker, or any agent of the state) assumes direct or indirect control over the movement of a student by an instruction or direction which may have significant legal consequence and which prevents or impedes access to counsel or direction by parents or legal guardians. The Supreme Court of Canada in the case of R. v. Thereus, [1985] 1 S.C.R. 613 has clearly ruled that detention of a person also includes the non-physical detention of a person.1

“Least restrictive manner”

“Least restrictive manner” in the context of child protection is the term used to describe how child protection workers engage in actions protect a child from risk of emotional or physical harm while at the same time protecting individual civil liberties as well as the autonomy of families to the greatest extent as is reasonably possible.

The least restrictive manner test originates from the concept that when the state (or in the case of

1 Supreme Court of Canada - R. v. Therens, [1985] 1 S.C.R. 613
private, not profit CAS agencies in Ontario) infringes upon constitutionally-protected activity (such as those rights guaranteed under the Canadian Charter of Rights and Freedoms), those infringements must do so in a narrowly-tailored manner so as to minimize any harm which may result to any individual. The least-restrictive-course of action must be taken by child protection workers where there is conflict between regulations or and any protections guaranteed under the Canadian Charter of Rights and Freedoms.

Under Section 1.(2) of Ontario’s Child, Youth and Family Services Act, 2017, S.O. 2017, c. 14, Sched. 1 (shown below) reference to the least disruptive course of action is made.

![Table: Other purposes](https://www.ontario.ca/laws/statute/17c14#BK3)

**Authority figure**

An authority figure is a person whose real or apparent authority over others inspires or demands obedience and emulation: Parents, teachers, police officers and child protection workers are traditional authority figures in the minds of children and parents. In many cases, younger children will do what it commanded of them by an authority figure in spite of not being properly informed of their legal rights or understanding of the consequences of what they are being commanded to do by the authority figure.

**Child Protection Workers as authority figures**

The Supreme Court of Canada delineated who constitutes a “person in authority” in *R. v. Hodgson* and reiterated this delineation in *R. v. Grandinetti*. The test of who is a “person in authority” is largely subjective, focusing on the accused person’s “perception of the person to whom he or she is making the statement. The operative question is whether the accused, based on his or her perception of the recipient’s ability to influence the prosecution, believed either that refusing to make a statement to the person would result in prejudice, or that making one would result in favourable treatment.” (*Grandinetti, 2005: para. 38*) The test includes an objective element which is concerned with the reasonableness of the accused's belief that he or she is speaking to a person in authority.

Prior to *Hodgson* the Alberta Court of Appeal considered in *R. v. Sweryda* whether a social worker constitutes a person in authority. In *Sweryda*, the Court concluded that the social worker was a “person in authority” because he or she was investigating an alleged criminal act with the power to institute a prosecution against the accused person. *Sweryda and Hodgson*, taken together, suggest that a CAS member will constitute a person in authority when his or her role dovetails with the conventional investigatory and prosecutorial agencies of the state. Lorne Glass and Seema Jain note that in considering this issue the governing statute will be an important factor (Glass and Jain, 2007: 15-16). In particular, in Ontario consideration ought to be given to the following statutory powers granted to CAS members under the *Child and Family Services Act*:

- The power to apply to the court to determine whether a child is in need of protection (s. 40(1));
- The power to apply for a warrant to bring a child to a place of safety (s. 40(2));
- The power to enter without a warrant a premise, by force if necessary, to find and remove a child (Note: Only when the child is at risk of imminent harm) (s. 40(6));
- The power to call for assistance of a police officer in removing (legal apprehension) a child (s. 40(8));
- The duty to report that a child is in need of protection or may be suffering from abuse (s. 72);

Statements from a child witness or an accused will only be admissible against the accused in a criminal proceeding if the court is satisfied beyond a reasonable doubt that the statement from the witness or accused was made voluntarily.

“Bullying”
Bullying can be defined as the activity of aggressive behavior which includes the following:

- Controlling or detaining another person
- Hurting another person either physically or emotionally
- Embarrassing another person amongst their peers and others in the community
- Getting another person to do something that they do not want to do
- Threatening to cause physical, emotional or financial harm to another person if they do not comply with certain conditions

Generally, bullying occurs when an imbalance of power exists between the person possessing the greater power (bully) uses his/her power over another person. Power can be in the form of physical strength or non-physical forms such as persuasion, intimidation, coercion, etc.

Most school officials have been led to believe that bullying amongst students means only those situations where one student will act in an aggressive manner towards another student either in person or by other forms of communication such as email or Facebook.

Many school officials see bullying as something that occurs only between students but in reality bullying is a behaviour that can be directed by anyone of any age towards anyone else of any age. Persons who are considered as an “authority figure” such as school officials and CAS workers can easily fall into the category of bully if they fail to carry out their duties with due diligence and professionalism within the limits of the law.

Canadian Charter of Rights and Freedoms
The Canadian Charter of Rights and Freedoms (also known as The Charter of Rights and Freedoms or simply the Charter, French: La Charte canadienne des droits et libertés) is a bill of rights entrenched in the Constitution of Canada. It forms the first part of the Constitution Act, 1982.

The Charter guarantees certain political rights to Canadian citizens and civil rights of everyone in Canada from the policies and actions of all areas and levels of government. This included students at all levels in schools). It is designed to unify Canadians around a set of principles that embody those rights. The Charter was signed into law by Queen Elizabeth II of Canada on April 17, 1982 along with the rest of the Act. The Canadian Charter of Rights and Freedoms outranks all legislation in Canada, including the policies and procedures of school boards and police agencies anywhere in Canada.
Policies and procedures of school boards, police agencies and any government or public related agency must be written and followed in a manner which protects the rights and freedoms of persons under the Canadian Charter of Rights and Freedoms.

The rights of students in schools was reaffirmed in a court decision in February of 2015. In the court ruling, it was determined that even children in school are protected under the Canadian Charter of Rights and Freedoms. In a lengthy court ruling, Madame Justice Susan Himel said the students had a reasonable expectation of privacy and school authorities do not possess reasonable grounds to conduct this type of search and seizure. [Note: Removing children from their classrooms and taking them to a private room at the school to be interrogated is a form of search and seizure]

Toronto students win court challenge over prom breathalyzer test
By Olivia Carville Staff Reporter -Tuesday Feb 24, 2015

The implied legal trust (Fiduciary trust) between school officials and parents

When a parent sends their child off to school, in effect, the parent is handing over limited care and control of that child to school officials on a temporary basis. However, the passing of the care and control of the child to school officials does come with implied limitations to school officials. Generally, that is why permission forms are obtained from parents giving school officials permission to engage students in activities which are outside of the normal school curriculum. Just because school officials are given the care and control of a student for a period of time during the school day, it does not give them the authority to do whatever they want with the student while he/she is at school or to permit others to do with the student. The implied trust between school officials and parents also ends once a parent comes to the school at any time to take back control of the student or at the end of the school day. Parental rights always trump the trust provisions which school officials have when a student is at his/her school.

When a parent sends their child off to school to become a student of the school during the school day, there is an implied understanding or trust established between the parent and the school. Under normal circumstances, parents would expect school officials would do their best to ensure that the following conditions and protections are provided to the student while at school:

- That the student will be educated using materials in accordance to the published school curriculum.
- That the student will not be exposed to information or activities which are not part of the recognized school curriculum.
• That the student will be granted exemption from activities which may not confirm with the student's religious beliefs.
• That the student will be taught by teachers who are knowledgeable, competent and properly registered with a regulatory body.
• That the student will be kept safe from unnecessary physical and emotional harm.
• That the student will be kept safe from threats, intimidation, bullying and ridicule by other students.
• That the parents will be informed promptly of any behavioural issues observed with their child while at school which violate any code of behaviour at the school or are of concern to school officials, including child protection concerns.
• That permission from parents will be obtained should school officials wish to take the student off school property which may expose the student to risks outside of the school.
• That school officials will treat students and parents with respect.
• That school officials will act as guardians to the fundamental rights and freedoms of students while under the care of school officials.
• That both parents will be treated equally and fairly, especially in situations where parents are separated or divorced.

In regards to personal rights, protecting the rights which students have under the law (such as the Canadian Charter of Rights and Freedoms) is an implied fiduciary obligation that exists between parents and school officials.

Detaining a student or questioning a student on matters which are outside of the realm of the student’s school curriculum and activities would be considered as a violation to the implied understanding granted to school officials by parents when they send their children off to school. Most parents would expect to be consulted and asked for permission from school officials and/or child protection workers should child protection workers wish to speak to their children.
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Questions and Answers

The following are sample questions and answers which relate to issues involving child protection and the detaining of children which school officials may find helpful to better understand their roles when it comes to protecting children or dealing with child protection workers.

1) What responsibilities do teachers and school officials have under the law when it comes to neglect and/or maltreatment of a student?

When it comes to child neglect and maltreatment, the only role that school officials are responsible for is to report suspicion of maltreatment to the local child protection agency should a school official become aware of warning signs through normal day to day interaction with students at their schools AND it would appear that the person having charge of the child is failing to protect the child from the suspected maltreatment. Legislation is quite consistent in most provinces.

Unless there is a valid court Order specifically directing school officials to fulfill other more specific duties, reporting suspected abuse of a child to the local children’s aid society is the only mandatory requirement under the law that school officials are required to comply with.

When reporting suspected child abuse, school officials are acting in the capacity as private persons (witnesses) and once a report of child abuse has been made, are required to provide their testimony in court (if requested by any party) relating to the matter which caused them to report suspected abuse to child protection workers.

While each and every school official has an obligation to report suspected abuse based on their personal observations and is free to speak to qualified child protection workers about any child, this does not give school officials the right to disclose the contents of school records which are considered separate from their personal observations as witnesses. School officials can only report their personal observations and cannot give any opinion as to whether a child is actually being subjected to abuse.

A second but optional role that school officials have is to educate students about child abuse and neglect. There is nothing wrong with educating students about this subject as long as the materials being used are appropriate, balanced, gender neutral and taught by those who do not have a conflict of interest such as CAS workers themselves.

Educating students about all forms of abuse with a balanced perspective helps them to know what to do should they feel that they are the subject of abuse or neglect or know of one of their friends who may be. Educating students themselves is one of the most effective tools to combat abuse and neglect with students and provides students with the knowledge to make their own informed choices on the matter. Children who are being physical and emotionally abused while in care of the CAS by CAS workers themselves should also be taught about their rights and feel safe coming to their schools. CAS workers will generally ignore and in some cases cover up this aspect of child abuse as it involves CAS workers themselves.

It is not the role of school officials to be getting involved or conducting their own investigations into child abuse or neglect or to be actively gathering information about students or their families which would have the purpose of investigating child abuse or neglect in the homes of students. Schools are not meant to be spy agencies for child protection agencies whether privately owned, such as in Ontario, or part of a government ministry as in other provinces. At the time of writing, under the law in the province of Ontario, CAS workers are considered as private citizens and school board employees are under no obligation whatsoever to do what CAS workers tell them or ask them to do except when conducting a lawful apprehension. The same applies even when child protection workers
may be employees of a provincial government Ministry.

2) Is there any legal authority which gives a children’s aid society worker the authority to enter a school to speak to a student without a court Order or without intending to lawfully apprehend a student?

The answer to this question is that child protection workers have NO authority at all! Under the law in Canada and the Canadian Charter of Rights and Freedoms, a child protection worker in any province has no more authority than does any ordinary citizen off the street to enter a school to speak to a student at school without “informed consent”. CAS workers in Ontario are simply employees of a non-profit corporation (CAS) which gets funding from the Ontario Government. In other provinces, CAS workers are simply employees of a government ministry. As ordinary employees of a CAS agency CAS workers have absolutely no authority (Ultra vires*) over school boards or their employees.

First it should be clearly understood that the Children’s Aid Society is not nor has ever been a government organization. As a general rule, there are no automatic rights, entrusted to the police/CAS to interview young persons without parental/guardian permission.

Source: Mr. Larry Killens, retired police officer with the Ontario Provincial Police (OPP), member of the Board of Directors with the Rainbow District School Board and a former Director with the Children’s Aid Society.

In fact, coming into a school to speak to a child can constitute a violation of the student’s rights under the Canadian Charter of Rights and Freedoms which the school board and any of its employees can be found liable for if they participate with CAS workers in violating a child’s charter rights.

*Ultra vires is a Latin phrase often referenced in law meaning "beyond the powers". The ultra vires doctrine can apply to an officer or to a corporate body such as a school board or children’s aid agency. An act done by an officer or body that is in violation to any law or beyond its capacity (unauthorised) is considered invalid and described as ultra vires. School officials who engage in actions which violate a law can be tried in civil court and in some cases, criminal court.

Often CAS workers will claim that the authority to come into schools is given to them under Ontario’s Child and Family Services Act. This is simply not the case. Absolutely nowhere in Ontario’s Child and Family Services Act does it give CAS workers the specific authority to enter and school and to interrogate children without informed consent of the child or the parent.

It has been reported by some school officials that CAS workers tell school officials that the authority to enter schools is given to them under Section 35.(1)(a) of Ontario’s Child, Youth and Family Services Act (2017). Below is a copy of this section of the Act.

35 (1) The functions of a children’s aid society are to,
(a) investigate allegations or evidence that children may be in need of protection;

While section 35.(1)(a) of the Act states that one of the functions of the CAS is to investigate allegations or evidence that children may be in need of protection, this clause does not state that CAS workers have the legal “authority” to enter schools to unlawfully interrogate children in violation of
their rights and freedoms. The word “function” in the Act does not mean the same as legal “authority”. All CAS workers must still conduct their private investigations within the law at the same time to respect the rights and freedoms granted under the Canadian Charter of Rights and Freedoms.

The very same principle applies to the police. One of the functions of a police officer is to investigate violations to the law but even police officers who have much more authority than a CAS worker cannot enter a home to investigate criminal activity without a lawful search warrant. Police officers cannot detain children as well unless the children are suspected of breaking the law. The principle of “informed consent” must be applied in all cases where a person is detained for questioning.

3) Does the principal of a school have the lawful authority to refuse CAS workers from entering his/her school?

Under the Education Act of Ontario the principal of a school has the absolute decision-making power as to the persons who are allowed to enter onto a school property. The principal also is responsible for the actions of any person who is allowed to enter his/her school including CAS workers. The ONLY time that a principal cannot stop a CAS worker from entering a school is when a CAS worker is conducting a legal “apprehension” of a child under section 40 of the Child and Family Services Act (Ontario). When a legal apprehension is being conducted, CAS workers can only remove the child from the school but not engage in questioning the child at the school about matters being investigated. The authority of the principal to refuse entry of CAS workers is outlined below in the Education Act:

<table>
<thead>
<tr>
<th>Access to school or class</th>
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<tr>
<td>265. (1)(m) subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in the principal’s judgment be detrimental to the physical or mental well-being of the pupils; and</td>
</tr>
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</table>

Only the Board of Directors (not senior staff or school board lawyers) has the authority to overrule the personal decision of a principal and even then, should a CAS worker wish challenge the decision of the principal, a formal appeal must be submitted to the Board of Directors asking the Board to formally overrule the decision of the Principal. It is highly unlikely that the Board of Directors would formally over-rule the decision of a Principal regarding CAS workers coming into a school as an appeal will force an examination of the issues and once the Board of Directors makes itself aware of the Charter Rights violations, will not likely want to expose itself to the risk of a civil lawsuit when the simple solution is to have CAS workers interview children outside of the schools.

Ultimately, unless directly instructed by Board of Directors it is the responsibility of the principal to exercise his/her independent due diligence and to keep students safe from physical or mental harm based. It is also the responsibility of the principal to ensure that the Charter rights of the students are protected while the students are at school.

In other provinces outside of Ontario, it can be reasonably concluded that legislation in other provinces gives the Principal of each school the final say over who comes in and out of the school, including child protection workers.

4) As a school official do I have any obligation to follow the instructions or directions of workers with the CAS?

School officials are under no obligation to follow any instructions from CAS workers whether these workers are from privately owned agencies such as in Ontario or from government Ministries as is
the case in provinces outside of Ontario. CAS workers are merely employees of the CAS and have no more authority than anyone off the street or from any other private corporation to provide instructions or directions to school officials. School officials who follow the instructions of CAS workers could in fact find themselves the subject of a lawsuit.

5) **I am a principal and my personal decision to keep CAS workers out of my school was overruled formally by the Board of Directors at the school board. What does this mean to me?**

While no such circumstances have been ever noted at the time this document was prepared, should the Principal of a school refuse to allow CAS worker to enter his/her school but is afterward ordered by the Board of Directors to allow the CAS workers to enter the school, then the Principal of the school would likely have a reasonable personal defence against civil liability in the event of a lawsuit against the Board of Education by the child or the parents.

Should a principal allow a CAS worker to enter a school based on just the verbal instructions of senior staff such as the Superintendent and not have proof of these instructions from more senior staff at the board, then the Principal will likely still share personal liability in the event of a lawsuit as the Principal is supposed to be well aware of Section 265.(1)(m) of the Education Act (Ontario) and accept only official instructions from the Board of Directors. Principals who find themselves in a position where the Board of Directors has overruled their decision to keep CAS workers out of their own school should be sure to obtain the Board’s instructions in writing as in the event of a lawsuit, the Board may deny giving any such orders to the principal.

In some cases, principals may feel harassed and sometimes may even be threatened with their jobs by senior administrative staff into allowing CAS workers into their school. In this situation principals should not yield to pressure to not exercise their authority under Section 265.(1)(m) of the Education Act (Ontario). In situations where principals are put under pressure by senior administrative staff then principals would be well advised to secretly audio record any conversations between themselves and senior administrative staff for their own personal protection. Principals can sue their school boards and the administrative staff members who attempted to pressure on the principal to allow CAS workers to come into the schools.

6) **As a school board employee, is it lawful to secretly record conversations between myself and senior administrative staff?**

In situations where school board employees may feel threatened or harassed by senior administrative staff over the issue of CAS workers coming into the schools or being involved at the schools, it is legal to secretly record conversations with senior school staff for one’s personal protection. Should senior administration staff attempt to put pressure on an employee such as a principal to allow CAS workers into a school against the principal’s own judgement then this could be considered as **Extortion** under the Criminal Code of Canada depending on what was said and recorded. Electronic recording is one of the best ways to protect oneself from workplace harassment or intimidation by senior staff.

In this day of miniature digital recording devices and cell phones it is very easy to record conversations to protect oneself. Recordings are also admissible in court in the event of a lawsuit by a school board employee against the Board as a result of the actions of senior administrative staff. Under the Education Act in Ontario, Principals have the authority over the day to day operation of schools as it affects the students. Administrative staff should not be questioning a principal or putting the principal under pressure to engage in actions which may adversely affect students and which go
against the Principal’s personal judgement. At the school level the principal has the final say and is
the person who is ultimately responsible for his/her decision unless it is formally overruled by the
Board of Directors by a vote by the Board.

7) While acting in the capacity of principal, CAS workers have come to my school and attempted to put pressure on me to allow CAS workers to come into my school. What should I do?

Should a CAS worker come into your school and attempt to put pressure you into allowing them
access to a child for the purpose of interviewing a child or for any other purpose, then it would be
advisable to take a digital recording device out from your desk and put it out on your desk and then
advise the CAS worker that you will be recording the conversation. Simply ask the CAS worker to
show you the specific clause in any Legislation that allows them to enter a school to detain a child
without informed consent. Most principals will soon see how quickly the conversation ends and the
CAS worker leaves the school. Most CAS workers are terrified of recording devices as most CAS
workers know that they are working unlawfully and that no legislation exists which supports their
demands to question children at their schools. CAS workers do not want to get caught saying the
wrong thing on recording in case they get taken to court. It is not uncommon for CAS workers to lie
about legislation in an attempt to deceive school officials.

8) I have a student with a visible bruise or injury. Should I call the CAS first?

The law requires that school officials call the CAS if they suspect that a child is being abused or
neglected by a caregiver, not simply because of a bruise or other physical injury. Unfortunately, CAS
agencies have instilled such a fear of protecting children from abuse that many school officials are
afraid of being fined if they do not report to CAS every little mark and bruise they see on one of their
students. As a result school officials are calling CAS over the smallest of things.

One mother reported that her young child had to take injections at home for medication under the
direction of a doctor. When a teacher overheard a child tell other students at school that her mommy
gives her needles, the teacher immediately called the CAS without exercising due diligence to make
some inquiries beforehand. CAS showed up to the parent’s home the same day accuseding the parents
of being involved with illegal drugs. This of course resulted in great embarrassment to the school
teacher and made the parents angry at both the teacher and the CAS workers for acting without
thinking first.

Bruises or cuts on a student’s body to do not constitute abuse nor should the CAS be called just
because a student has a bruise or other injury. If school officials see a bruise or other injury which
they feel is unusual taking the student’s age and activity level, then the first thing they should do is
simply call the parents and to ask how the injury may have occurred. In all instances it would be
reasonable for school officials to inquire with parents first. Should there be repeated incidents of
injuries and the explanation by parents as to the cause appears to be inconsistent with what the school
official believes, then this would meet the threshold of reporting to the CAS.

9) I have a student who is demonstrating significant behavioural problems at school. Should I call the CAS first?

A number of children in schools may exhibit significant behavioural problems at school. School
officials should not be contacting the CAS first unless it appears the parent having care and control
of the child does not appear to be taking steps to reasonably deal with the issue. If the parent is
cooperating with the school then CAS should not be involved as this only adds another pressure on
the child and the parent(s) which could contribute further to the behavioural issue.
Most schools have programs designed for children with behavioural issues and social workers who work with the school. The school should first try to resolve the behavioural issues involving the parent first. Should it appear that the parent is not cooperating with school officials, then it would be acceptable to contact the CAS for assistance as this would meet the criteria of reporting to the CAS.

10) I have heard that most CAS workers in Ontario are breaking the law by not being registered with the Ontario College of Social Workers. Is this true?

(Ontario only) As unbelievable at it may sound to most school officials, the vast majority of front line CAS workers in the province of Ontario are breaking the law in Ontario and have been since the year 2000 when the Ontario Social Work and Social Services Work Act (1998) was passed into law on August 15, 2000. The vast majority of CAS workers are simply not supposed to be in schools or working with families at all because they are very simply breaking the law. In order for a CAS worker to be engaged in the practice of social work, CAS workers MUST be registered with the Ontario College of Social Workers and Social Service Workers. This is a requirement of the Social Work and Social Services Work Act (1998) which was passed into law on August 15, 2000.

Unfortunately, most CAS workers will deny that they need to be registered with the College of Social Workers and generally say that they call themselves “child protection workers” and that section 40 of the Child and Family Services Act allows them to come into schools.

However, this answer is a deception intended to fool school officials. The practice of social work is clearly supposed to be regulated. When CAS workers come into schools to interview children, they are engaging in the practice of social work and as such under legislation must be registered with the College.

Deception of the public by the Ontario College of Social Workers

The Ontario College of Social Work and Social Services Workers has failed to fulfil one of its most important objectives and legal requirements which is to regulate the practice of social work in the Province of Ontario as it is required to do under the Act as stated below from the Act:

Objects

3.(2) The College has the following objects:

1. To regulate the practice of social work and the practice of social service work and to govern its members.

Below is an image of the Mission Statement copied from the College’s website. While legislation states that the College is supposed to protect the public’s interest by regulating the “Practice of Social Work, the College publishes false and misleading information for the public by slightly altering the words in the legislation to “regulating its members” and not the practice of social workers as required by Legislation.

The Ontario College of Social Workers and Social Service Workers is misleading the public by changing the meaning and intent of Legislation so that it would appear that only its registered members are regulated and not the “practice” of social work itself.

If a person with a degree in social work wants to engage in poor and unethical practices and not have any oversight, all they have to do is to simply choose not to be members of the Ontario College of Social Workers.
The issue of the unlawful practice of social work by most CAS workers in Ontario was raised in the Ontario Legislature by Mr. Frank Klees, MPP for Newmarket, Ontario who was the person responsible for having the legislations formulated and passed in the Ontario Legislature back in 2000. Mr. Klees can be viewed on You Tube (shown below) making the statement that CAS workers “are conducting themselves against the law”. Mr. Klees’s statement about the unlawful activities of CAS workers can be viewed at 1:21minutes into the Canada Court Watch You Tube [https://www.youtube.com/watch?v=bPjPkoYTc-w](https://www.youtube.com/watch?v=bPjPkoYTc-w)

Below is the section of the Act which requires that the Ontario College of Social Work and Social Services Workers protect the public interest. The College is miserably failing in its mandate to protect the public interest.

Duty to protect public interest

3. (1) In carrying out its objects, the College’s primary duty is to serve and protect the public interest. 1998, c. 31, s. 3 (1).

Below is another example of deception which can be found on the College’s member registry search page at [www.ocswssw.org/en/onlineregister.htm](http://www.ocswssw.org/en/onlineregister.htm) under “Terms of Use”. The College describes itself as the regulatory body that governs social workers and social service workers. Note how the College has left out that the College is supposed to be regulating the practice of social work, under legislation, not just regulating its members. The image below was copied from the College’s website on September 10, 2014.
The Ontario College of Social Workers and Social Service Workers ("OCSWSSW") is the regulatory body that governs social workers and social service workers in Ontario under the Social Work and Social Service Work Act, 1998, regulations passed under the Act and College By-Laws.

Note how the College has not made any mention of clause 3.(2)1. of the Act which requires that the College “regulate the practice of social work”. The College misleads the public by making it appear as if regulating its members is all that it is responsible for.

Section 40 of the Child and Family Services Act only refers to when CAS workers are coming into a school as part of an action to lawfully APPREHEND and remove a student, not to just question a child. A close review of the Social Work and Social Services Work Act (1998) will reveal that CAS workers engaged in the practice of social work in Ontario must be registered. Tragically, the Ontario College of Social Workers which has been given the responsibility by legislation to protect the public’s interest has turned a blind eye to the massive violation of the law by workers with the various children’s aid agencies in Ontario.

Another video of interest is the introductory video to the documentary, “Powerful as God – The Children’s Aid Societies of Ontario” can be seen at this link:

[http://www.youtube.com/watch?v=fRju2KIQvns](http://www.youtube.com/watch?v=fRju2KIQvns)

The full length documentary, “Powerful as God” can be viewed at [www.blakout.ca](http://www.blakout.ca). This documentary exposes many of the abuses of children and families by the province’s private CAS agencies. (Note: the “Powerful as God” documentary may be unavailable for viewing on the Internet...
during some periods. Generally when the film is being shown at film festivals such as the Canadian Film Festival, rules prevent it from being aired to the public at the same time.

Comprehensive information about the unlawful practice of social work in Ontario by unregistered CAS workers can be found in the document titled, “The unlawful practice of social work in Ontario by CAS workers providing services to the public under false pretences” which can be downloaded from the Canada Court Watch website at:


Some CAS agencies provide their workers with preformatted business cards [shown left] imprinted with the title “child protection worker” in an attempt to mislead the public and skirt the law claiming their workers are not “social workers” but in reality they are.

The sample letter from above is the typical response that most parents receive when they inquire at the Ontario College of Social Workers about a CAS agency worker. Most CAS workers in Ontario are not registered.
11) **Are there any circumstances which would give a children’s aid society worker the authority to enter a school to speak to a student?**

The only time that a CAS worker would have the authority to enter a school to question a student would be in the following circumstances:

1) The CAS worker has obtained **prior informed consent** from the student if the student is mature enough to give his/her informed consent separate and apart from his/her parents;

2) The CAS worker has obtained the **prior informed consent** of at least one of the student’s parents where the student may not be mature enough to give his/her own informed consent.

3) CAS has a court Order (judgement) **naming the school board as a party** in the action which orders school officials to grant CAS workers to enter the school to speak to a specific student. **Note:** A court order against a parent which orders the parent to “cooperate” with CAS workers is still not sufficient legal grounds to allow CAS workers to enter a school.

In the case of #3 above, it is highly unlikely that any court of competent jurisdiction would issue such an Order as this involves Charter rights violations and potential harm to the child. At the time of writing of this document no such court order was known to have been issued by any court against a school board. Even in a case where CAS workers did obtain an Order to interview a student at his/her school, such a court Order would have no force if the child is mature enough to indicate to school officials that he/she does not wish to speak to a CAS worker at his/her school. Courts can and do make mistakes by issuing unlawful orders which violate Canadian law.

Even a judge cannot issue a legal court Order which in effect forces a child to be detained and questioned at his/her school. While theoretically a court Order could be issued granting the CAS worker the right to enter a school and to bypass the need for a parent’s informed consent, the student is still under no obligation to comply with the court order as the court Order would only allow the CAS workers to enter the school. No court Order can violate a student’s individual right to provide his/her informed consent prior to having contact or speaking with a CAS worker. Very simply, no student can be ordered to speak to or to disclose information to anyone which is why CAS workers often unlawfully use coercion, trickery, bribery and sometimes extortion during secret meetings at schools to get a student to say what the CAS workers want the student to say.

12) **CAS workers claim that they get the authority to enter schools and to speak to students under the authority of the Child and Family Services Act of Ontario and under similar legislation in other provinces. Is this true?**

There is absolutely no reference contained anywhere in Ontario’s Child and Family Services Act which gives CAS workers the specific authority to enter schools or any other institution for the purposes of detaining or speaking to a student without the prior informed consent of the student or his/her parents. There is simply no legislation which exists to give CAS workers this authority.

The reason why no legislation exists is because no law can “force” a person, including a student in school, to be detained or interrogated. While Section 40 of the Child and Family Services Act does give the power for CAS workers to legally “apprehend” a child under the age of 14 from a school without a warrant, a legal apprehension still does not give the CAS worker the authority to engage the student in questioning at the school. Detaining and apprehending are two separate things in law.

An apprehension only allows the CAS worker to physically pick up the child and to take the child back to the CAS offices or some other place of safety. When a CAS worker does apprehend a child
from school, the CAS workers must be able to justify to a court why the child would be in imminent harm if allowed to go to his/her home after school.

The reason why provincial legislation for any province cannot legally exist to grant this is because such measures would violate the Charter rights of the children and parents.

Section 15 of the Child and Family Services Act

Many school officials have been misled by CAS workers into believing that Section 15 of the Child and Family Services Act, in particular Section 15(3)(a), gives the Society workers the “authority” to come into schools to detain and question students at their schools. However, this is simply not the case.

Below is an email message sent by the Executive Director of an Ontario School Board to a parent when the parent submitted their “Cease and Desist” forms. Notice how the Director stated that the CAS had the clear “authority” to investigate, however nowhere in legislation does it give CAS any authority to enter schools.

“Please be advised that our board will not be signing off on the “Cease and Desist” form regarding CAS workers you provided. We have had a legal opinion concerning this type of issue and were told that the CAS has clear authority under subsection 15(3) of the Child and Family Service Act to investigate allegations or evidence that children who are under the age of 16 and who may be in need of protection. In addition, the CAS has legal authority to conduct said investigation without notification or prior consent of the child’s parents.”

Below is section 35.(1) from the Child, Youth and Family Services Act (2017):

Functions

35 (1) The functions of a children’s aid society are to,

(a) investigate allegations or evidence that children may be in need of protection;
(b) protect children where necessary;
(c) provide guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
(d) provide care for children assigned or committed to its care under this Act;
(e) supervise children assigned to its supervision under this Act;
(f) place children for adoption under Part VIII (Adoption and Adoption Licensing); and
(g) perform any other duties given to it by this Act or the regulations or any other Act.

Understanding the difference between “function” and “authority”

Section 15 of the Child and Family Services Act outlines ONLY the “functions” of a designated Society. The word “function” only outlines the various areas of social work which a children’s aid society can engage in. Nowhere in Section 35 of the Act does it say anything about CAS workers being given the “authority” to enter into a school to detain or question a child.

While one of the “functions” of a Society related to social work is to investigate allegations or evidence that children may be in need of protection, this does not mean that Children’s Aid Society
workers have the “authority” to investigate in a manner which violates other laws which protect the rights and freedoms of citizens. It must be always remembered that when it comes to conducting “investigations” that under the law, CAS workers are considered as private citizens employed by a private not for profit corporation. **CAS workers have no more authority than does anyone off the street to enter and school for the purposes of detaining and questioning a student.**

A good example of for comparison would be when police conduct “investigations”. Police have significant more power under legislation than do CAS workers. In fact, police officers DO have the authority to detain and arrest persons but even with this power there are significant restrictions which they must respect in the course of their duties.

Just as police have the function to “investigate” matters which fall under the Criminal Code of Canada, police must still investigate within the limitations of the Canadian Charter of Rights and Freedoms. For example, even in the course of an investigation, police cannot enter a private home without a warrant from the court. Police have the function to investigate but not the authority to enter a home without authority having been given to them by a judge. While many examples can be found where police officers have been granted a warrant from a court enter and search a home, no such warrants will be found granting CAS workers the authority to enter or search a home to question a child.

Police cannot detain and question anyone on the street unless that person is considered a suspect of committing a crime. Police cannot come into a school to detain or question a student without the student’s informed consent. Even police will generally call parents first before detaining a student who is a suspect in a crime. During the course of an investigation, Society workers must conduct their investigation within the law, including the Canadian Charter of Rights and Freedoms.

**Students must not be treated the same as criminals**

It must always be remembered as well that the powers of detention and arrest granted to police are exercised with the greatest of due diligence against only those who are suspected of committing a crime. Generally, the authority to detain and question a person is limited to those persons who are suspects in committing a crime. Police do not go around detaining and arresting persons who may be witnesses to a crime. CAS workers have no such similar power!

In situations where CAS workers may be investigating a family for suspected abuse or maltreatment of a student, it must always be remembered that even if the student is being abused, the student is still considered a victim and should be treated as such. Allowing CAS workers to come into a school to detain and question a student in his/her school without the prior informed consent of the student or his/her parent is akin to treating the student like a criminal. Treating students like criminals will adversely affect students for their lifetime which many students have testified to. Testimony from students can be viewed at the following links:

http://www.vimeo.com/1323226
http://www.vimeo.com/1112830
http://www.vimeo.com/28034150
http://www.vimeo.com/23978011
13) If there is a suspicion that a student is being abused at home by his/her parents is it not a good idea for the student to be questioned at the school without the parents being informed first?

This by far, is the most significant misunderstanding which CAS workers, school officials and police rely on to support their misguided belief that detaining and questioning a student at the school without the knowledge of the parents or the informed consent of the student is acceptable. While the thought of a student being questioned first before alerting the parents or the student does at first glance seem to make some sense, the mere speculation of abuse or neglect does not give justification to CAS workers or school officials to violate the fundamental protections for the student and/or the parents instilled in the Criminal Code of Canada and the Canadian Charter of Rights and Freedoms.

Protections guaranteed under the Canadian Charter of Rights and Freedoms take precedent above all else including school board policies. Few, if any police agencies have written protocol which deal with interviewing children at their school without prior informed consent.

Respecting the fundamental rights of persons is one of the very principles which are embraced within the Rule of Law in Canada. A free and democratic society cannot exist without the Rule of Law being respected. The Supreme Court of Canada has determined that officials, including police, cannot engage in actions which have the effect of violating a person’s rights based on what is referred to in legal terms as “speculative concerns”. In addition, laws which do restrict the personal rights of persons are meant to be applied against those who commit criminal acts, not those who are the victims of crimes.

It must also be remembered that just because a CAS worker is conducting an investigation does not mean the student is being abused. Many CAS investigations are conducted as the result of false allegations, especially when parents may be involved in family court as a result of separation or divorce. It is widely known within the legal community and demonstrated over the years that CAS workers will fabricate information and will go so far as to perjure themselves in court documents to justify their intrusion into the lives of children and parents. It must also be remembered that CAS workers are considered just “private citizens” under the law.

Questioning students at their school without the informed consent of the student or the knowledge and informed consent of the parents is fundamentally wrong and in violation to the principles of fundamental justice. In addition, child protection workers are not properly qualified to interview students nor have child protection agencies adopted procedures which require their workers to audio or video record their interviews with children for accuracy purposes. The integrity of an interview with a student at school by child protections workers cannot be relied upon in this environment.

If school authorities and parents are willing do their jobs right and are properly educating the students about abuse and neglect, then students will come forth of their own free will and make a voluntary disclose. Under circumstances of voluntary disclosure the student would be considered as having enough knowledge to provide their informed consent to be questioned at school without the parents being informed. Even younger students will come forth on their own to disclose abuse if their teachers have properly informed them of what to do and to explain to them what steps are taken to make them safe after they report.

If a student does not voluntarily come forth on their own to make a report, then the only approach that can be legally taken is that either the child is lawfully apprehended and taken by CAS workers to be questioned or the CAS workers contact the parents and advise the parents that CAS workers have concerns which require that they need to interview the student alone at their offices.
14) As a teacher, do I have an obligation to “cooperate” with CAS workers or even speak to CAS workers when there is no court Order?

When there is no court Order made against the school board or its employees directly, school officials are under no obligation to “cooperate” with CAS workers in any way at all. All CAS workers are considered as ordinary citizens under the law and have no authority to tell any school official what to do. CAS workers are merely employees of the local privately owned CAS agency in Ontario or employees of a government Ministry in other provinces. All workers must conduct their business within the limits set down by the law up to an including the Canadian Charter of Rights and Freedoms. All CAS workers must work within the limits of the law just like police officers or private investigators. Employees of a CAS have no more authority to tell school officials what do at schools without a court Order than do school authorities have to tell CAS workers what do at their places of work. The only obligation which teachers and school officials have is to report suspected child abuse.

When it comes to even speaking to CAS workers, school officials are under no obligation to speak to them. However, in the interest of assisting CAS workers in their work, teachers should provide information to CAS workers in a manner which is consistent with privacy legislation. In the event that CAS workers wish to obtain information from a teacher, then all exchange of information should be in writing. The CAS worker should simply be asked to provide their questions for school officials in writing and the school official will respond in writing. Insisting upon written communication will reduce CAS involvement with school officials and ensure that CAS workers do not engage in a verbal smear campaign against the parents.

15) The CAS workers have requested that a teacher or other school official attend a meeting at the CAS offices involving the children and/or parents. Should school representatives attend this meeting?

In some cases, a principal or teacher may get a request from a CAS worker to attend what the CAS worker may refer to as a support meeting for the family. It is highly unadvisable that school officials attend such meetings at the CAS offices. Attending such a meeting at the request of the CAS workers can have devastating consequences for both the student and the parents.

The real reason why CAS workers want school officials to attend meeting is that it gives both the student and/or the parents the impression that school officials are supporting the CAS. Once a school official enters a CAS office in the presence of the student and his/her family, the perception is that school official have come to support CAS. Such a perception will undermine the trust and confidence that students and parents have with their school.

All school officials must remember that their primary objective is to educate children and to provide a safe environment for children while they attend school. The first obligation is to the student and the parents. It is not the role of school officials to assist in resolving problems with the family which occur outside of the school.

Another reason why school officials should not get involved is that it exposes them to lawsuits and being called into court as witnesses. Once a school official is involved in such meetings, then the school official can be forced to attend court and to be examined in court proceedings. Some school officials have found themselves subjected to multi-million dollar lawsuits after getting involved with CAS after being misled by CAS workers to believe that they were helping their students by assisting the CAS.
16) **What harm can result to a student by allowing a student to be questioned by a CAS worker at the school?**

Many teachers and school officials wrongly believe that allowing CAS workers to come into their schools to interview children is acceptable because CAS workers have told school officials that CAS workers have the authority to do so.

However, throughout history there are countless examples of good people doing bad things to other people for what they believed at the time was for a good reason. In Canada, thousands of native children were forcefully taken away from their families by child protection workers and placed into residential schools where many children were beaten, abused and sexually assaulted. Yet most good Canadians at the time thought this was good for the children.

During the Second World War, good German citizens drove the trains and kept them on time for those being taken to the gas chambers while believing that they were doing an efficient job as an employee of the train company. While neither of these examples are to be used as a comparison to the harm done by CAS workers in schools today, the examples given do show how easily even good people can be misled by government bureaucracies into doing bad things to others.

**Some children have reported being assaulted and threatened right at their schools by CAS workers who were given permission by school officials to interrogate the child in school.**

Below is a note from the handwritten journal of an 11-year-old child in the York Region District School Board who describes how the CAS worker from the York Region CAS frightened and scared her during her interrogation by CAS workers at her school. According to the child, the CAS worker refused to listen to her talk about how her mother was abusing her. The CAS worker then yelled at the child and told the child that her dad was to blame.

![Image of handwritten note]

Below is another example from another child in another case dealing with the same York Region CAS. Note how this teen has written in his note how another unregistered CAS worker with the York Region CAS forced him to lie and to admit being slapped by his parent. He was taken away by force by CAS and the York Regional police even after telling the CAS and the police officer that his father did not slap him. These kinds of stories are far too common.
Tragically, in today’s politically correct times, we now have a situation where teachers and school officials in many jurisdictions have been misled by CAS workers into believing that it is lawful to have children interrogated in secret at schools by unregistered and unqualified CAS workers who are literally breaking the law and grossly violating the rights of children and parents. Some of the negative consequences of teachers and school officials allowing CAS worker entering schools to interrogate children in secret at schools are as follows:

- Violates the rights of students and their parents under Section 7 to 9 of the Canadian Charter of Rights and Freedoms. Once the schools engage themselves in violating the rights of students under the Charter, society has begun down the slippery slope where other fundamental rights and freedoms will be lost.

- Fosters disrespect for teachers and school boards as exposes the school board to ridicule. Most parents and children become angry at the teachers and the school board for allowing their rights to be violated.

- Embarrasses and humiliates the student which adversely affects the student. Many children report that after CAS workers have come to the schools to question them that they felt embarrassed and humiliated amongst their peers and their teachers. Some students have reported wanted to quit school and to register at a school in a new community after being the subject of an investigation by CAS workers at their schools.

- Labels the parents as bad parents. Just the involvement of CAS workers at the school often gets the parents labelled as abusive parents.

- Labels the child as an abused child. As soon as a CAS worker makes contact with a child at school many within the school will assume that the students is being abused by his/her parents.

- Exposes the child to the potential use of trickery, bribery, coercion and extortion by CAS workers. It is well known in the legal community that CAS workers often twist information and in some cases commit perjury in court about what children have said during secret meetings in...
school. CAS workers often interrogate children in a manner which suits the purpose of the CAS. Many children report being threatened and bribed with candy and other favours at their schools by CAS workers during these secret interrogations. Some children report being taken out to lunch and given presents by CAS workers in order to extract information. Not only are these tactics unethical but unlawful.

**Cartoons such as the one shown above reveal how the members of the public perceive the issue of CAS workers going into schools to interrogate children**

- Places teachers and school officials at risk of lawsuit. No matter how school polices are worded, once a student has being detained at school with the assistance of teaching staff, the teachers involved and the school board are implicated in any wrongdoing that may occur between the child and the CAS worker during this “secret” interrogation with the student. Teachers and school officials could very well be taken to court for facilitating such an unlawful interrogation.

- Goes against the basic principles of accountability and transparency. No matter how one looks at it, taking children and leading them into a room at their school to be questioned by a CAS worker who is breaking the law and who refuses to maintain an audio or video record of the interrogation lacks reasonable accountability and transparency. These sorts of tactics have no place in Canadian society. Police electronically record their interviews with children, yet unregistered and unqualified CAS workers are being unrestricted access by school officials to secretly interrogate children at their schools.

- Violates the principles of fundamental justice. Justice simply cannot exist in an environment where children are being secretly interrogated by CAS workers who are clearly breaking the law and in many cases take on an adversarial role against children and parents.

17) **What should school officials if a CAS worker wishes to conduct a physical exam of a student at school?**

Some school boards have written policies which talk about CAS workers being allowed to remove a student’s clothing and to physically examine a student at his/her school for bruises, etc. Without the “informed consent” of the parents or the child, examining a child is completely unlawful and a violation of the rights of the student and his/her parents. Not only are most CAS workers breaking
the law by not being registered with the Ontario College of Social Workers but CAS workers are not qualified to conduct physical examinations of a student. Neither are school officials qualified to conduct a physical exam of a child for bruises. In addition, it must always be remembered that CAS workers are acting in a conflict of interest as the CAS agency they work for gets additional funding for every new case they open up so there is an incentive for CAS workers to “find” things that can be used against the parents in court.

18) **What should school officials do when the local child protection agency asks the school to distribute a questionnaire for students regarding child abuse and neglect?**

Some child protection agencies have been known to approach school boards and request that a questionnaire be given to students which indirectly deals with child abuse and neglect. Rather than obtaining information on the general issues of child abuse and neglect in these questionnaire forms, many of the questions ask students to describe their personal living situations at home as well as their personal relationships with family and relatives. Many of these questionnaires are part of a hidden agenda of the CAS agency to go on a “fishing expedition” to gather personal information without school officials realizing what the real purpose of these questionnaires or the implications on teachers or school officials. Parents in some jurisdictions have reported that CAS workers have come around to their homes and made surprise visits after their child filled out such a questionnaire at his/her school.

Schools should not allow their staff to be involved with any activity in which students are expected to disclose confidential information about their home life and personal relationships to outside parties without the “informed consent” of their parents. In fact, if such a questionnaire is not part of the official published school curriculum, then such a questionnaire should not be distributed to students at all. Gathering information for an outside private or government agency in this way is much the same as having students being detained and interrogated by child protection workers in their school. Students in a class environment where they are being asked to answer a questionnaire of course feel compelled to participate because they are doing this at the request of persons having authority over them.

Gathering personal information about the family and then turning this private information over to the local child protection agency is a violation of the rights of the student and his/her parents. Some would say that this form of information gathering is akin to having students act as spies on their families. During the Secord World War, Nazi Germany used similar tactics during its reign as part of its campaign to make children more loyal to the government than to their own parents. Educating students about child abuse and neglect in school is one thing but to use places of education as places to gather confidential information about students and their families is something totally inappropriate. School officials should not be allowing their facilities to be used as places for private interrogation.

19) **What should school officials do if a child discloses abuse and then wants their teacher to help them during the process?**

Some teachers have a very close and trusting bond with students. Some students may trust their teachers so much that they feel that they can disclose their most innermost secrets, including abuse outside of the schools. While this close relationship between a student and a teacher may be good and may encourage the child to speak to their teacher, this trust between the student and the teacher can be permanently destroyed once the CAS become involved. In all cases, teachers must avoid becoming advocates for their students and getting too closely involved in matters involving child
protection as it is not uncommon for child protection workers to use teachers to their advantage to extract information from a student who may not want to speak to CAS workers.

The first problem is that legislation makes it a requirement that teachers report any reasonable suspicion which causes them to believe that a child is being abused. This of course puts the teacher in a position that anything the child says must be reported back to the CAS. This alone can destroy a once good relationship between a student and teacher. To avoid this, it would be advisable for teachers to ensure that students are told right up front that the teacher must report everything the students says to the CAS if it involves abuse. The teacher should inform the student that he/she has the right to remain silent. Getting this clear with the student from the beginning will help inform the students of his/her rights and help the teacher gain the respect of the student.

Teachers are best to inform students who come to them in trust that they can speak with them but only on the understanding that the teacher cannot maintain confidentiality of what the students may say and that the student fully understands that the teacher may be forced to disclose everything the student says to the teacher.

Teachers who get too closely involved personally with their students affairs can be forced to testify in court. Not only can this put a lot of stress on the teacher but adversely affect the teacher’s relationships with other students. Many students can become angry knowing that the teacher they went to for help disclosed everything they said to the CAS. It must be remembered that the first priority of teachers is to educate students, not to act as advocates for them in court or in child protection proceedings. Advocating for children is the job of advocates in the community who have the experience and knowledge for this kind of work.

20) **What should school officials do if a child protection agency wishes to have its workers provide classroom instruction to students?**

School Boards must be very vigilant about allowing CAS workers in their schools. Many children whose families are involved with CAS feel uncomfortable with CAS workers in their school as this makes it appear to the students and their parent as if CAS workers are friends of the teachers.

Forcing students and their families to be confronted at schools by the same agency or its workers who may be harassing the family outside of the school is just unacceptable. Students and their families should not be force to face the same CAS workers in their school as well. If CAS agencies feel that there might be some information that children should be taught, then they should submit their suggestions to the Board of Education for approval and adoption into the official school curriculum which can then be taught by proper educators. Under NO circumstances should school board be inviting CAS workers or their agents into schools to educate children.

21) **What should school officials do if a child protection worker wishes to search a student’s desk or locker?**

Some students have reported that CAS workers have come to the school and have searched the student’s desk or locker after being allowed access to the classroom by the teacher. Such actions by CAS workers are completely illegal. Not only do CAS workers have no authority to search through a student’s personal belongings but school officials have an obligation to protect the student’s right to reasonable privacy and security. A student has the right to feel safe while at school. Should a CAS workers ever attempt to gain access to a student’s personal belongings or even make an inquiry then a complaint in writing should be filed to the director of the CAS agency involved with a copy of the complaint going to the parents and the Ombudsman of Ontario.
22) **What should school officials do if the Children’s Aid Society asks to have one of their workers stationed inside of a school?**

Children’s Aid Society Agencies have been known to work deals out with school boards to have their child protection workers stationed inside of schools. In some cases, CAS workers have been given offices inside of schools at no charge by the Board of Education to use as their own offices. CAS agencies may sell this idea to school boards by dressing it up as providing direct assistance to teachers in schools.

At first glance, the idea of having a free CAS worker at the school sounds like a good deal, but like with most free deals there is usually a catch. CAS agencies are not in the business of providing free services. CAS agencies in Ontario get funding for every file they open and for every family they get involved with. Having a CAS worker stationed inside of a school puts CAS workers right at the source for new paying clients. In essence, CAS workers are using the schools as places where they can gather information about children directly and to seek out new sources of revenue for the CAS agency they work for. For child protection workers who work as employees of a government Ministry, the same conflict of interest exists. If workers want to keep their jobs and to keep money flowing to their specific Ministry, they must keep their caseloads up to justify their salaries and positions.

It is clearly a significant conflict of interest for CAS workers to be working on a day to day basis in schools and all school board should avoid this at all cost. Many children who are involved with child protection agencies outside of their schools, view the placement of child protection workers a threat and give them the impression that the school is not a safe place.

23) **What should school officials do if a children’s aid society worker calls the school and requests to interview or question a student at school?**

In the event that a school official gets a request from a child protection worker indicating that the CAS worker would like to interview a student at the school, the school official should advise the child protection worker that unless the decision has been made by the worker to legally apprehend a student or unless there is a court Order allowing the CAS worker to enter the school, then the CAS worker must be told to contact the parents of the student first and make the necessary arrangements with the parents to question the student. School officials should also tell the child protection worker that they should conduct any interviews off school premises as the school is not the most appropriate place for CAS workers to be conducting interviews with students.

If child protection workers want to speak to student to gather information about another student, the same guidelines must apply in that child protection workers must contact the parents and conduct their interviews off school property.

School officials must be aware that the detention of any student for questioning by a CAS worker who is considered as a private citizen under the law, would violate the Charter Rights of the student and the student’s parents. No person has the lawful authority to detain someone’s child and to interrogate that child. This could result in both the school board and the individual school board employee being subjected to a civil lawsuit and/or possible criminal charges.
24) **What should school officials do if a children’s aid agency worker or any other professional calls the school and requests to take a student out of school for a short period of time such as at lunch or recess?**

Generally, as part of their efforts to secretly coerce information from students without the knowledge or consent of parents, CAS workers have been known to call the child’s school and request to take a selected student out of school without the knowledge or permission of the parents. In some cases, CAS workers tell school officials that they are simply taking the student out for lunch. In most cases, these “excursions” off school property are to get the student away from prying eyes of school officials and other students and to allow the CAS worker to gain the confidence of the student and to extract information about the student’s family from the student.

Allowing a student to be taken from school by a CAS worker or any other professional without the informed consent of the student and/or parents can result in big problems for school officials and should be avoided unless there are reasonable grounds for doing so. Should something happen to the student while off school property without permission of the parents, the principal and/or other school officials could be found partially liable.

However, there can be rare times and circumstances where taking a student from school would be permissible. The general rule is that under NO circumstances should school officials allow CAS workers or any other professional to take a student off school property for any reason **without the prior informed consent of the child and/or the informed consent of at least ONE of the parents.**

Should a CAS worker or any other professional make a request to meet a student and wish to take the student from the school for a short period of time, then the student should be contacted and asked if he/she wishes to meet with that person. If the student says yes and if the student is 12 years of age or older, then the school official should ask the child if he/she would like one or both of his/her parents contacted first.

While CAS workers may legally take a student who is legally in care of a child protection agency out to lunch as any other parent can do, most students have reported that they do not like this. Simply stated, the vast majority of students do not want CAS workers coming around to their schools to meet or to talk to them.

In most cases, CAS workers use these off-school excursions to befriend students and in some cases to engage in unlawful activities. Canada Court Watch has one video disclosure of an 11-year-old student who reported being sexually assaulted by the CAS worker in the worker’s van. There have been a number of cases reported where children have been sexually or physically assaulted by CAS workers. Allowing a student to leave school property with a CAS worker (who, again, is a private citizen under the law) can leave school officials exposed to the most serious of consequences including a lawsuit against the Board and the school board employees involved. The consequences for the school board and its employees would be even worse should something unfortunate happen to the student while off school property with a CAS worker such as being involved in a motor vehicle accident in which the student was harmed.

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**CAS under fire for 'fiasco' when removing kids from school**

By Sarah Doktor, Simcoe Reformer

Thursday, March 14, 2013 7:42:12
25) **What should school officials do if a child protection worker requests that school officials question a student or be present during questioning?**

CAS workers have been known in the past to ask for school officials to be present when they interview a child at the school. CAS workers attempt to involved teachers, especially the first time they meet children at the school to influence the child into believing that the student’s teachers are giving their consent to the child protection worker to interview the child. It’s all part of the psychological game to gang up on the child at his/her school and to put the student in a position where he/she feels forced to answer questions in front of persons who are perceived as **persons of authority** in the eyes of the law.

When a student does something at the request of a teacher or school official such as obeying a request to go to a room to meet with a CAS worker, it is generally interpreted that the student has not given his/her informed consent to this action but is merely following the instructions of the person who in law is considered as a **person of authority**. Teachers and school officials who are in a position of authority over the child can be held liable for the consequences of the actions of the student if the actions of the student were undertaken without the prior informed consent of the student. First and foremost is that students should never be interviewed by anyone without prior informed consent of the student or his/her parents.

In the event that a school official gets a request from a child protection worker indicating that they would like school officials to question the student and informed consent has been obtained, the school official should still decline any such requests to participate. Once school officials directly engage themselves in such actions, they have become a direct participant in a child abuse investigation. Interviewing children is a specialized field with legal responsibilities which are outside the mandate of the teaching profession. School officials who engage in any kind of questioning process at the informal request of a child protection worker may find themselves in court as witnesses. Teachers could also find themselves subject to a civil lawsuit if the questioning of the student is not conducted in a professional manner. Such intervention also puts the student’s relationship with his/her teachers and school at risk and could potentially damage the student’s trust in his/her school officials.

School officials must always remember that it is the role of child protection workers and/or law enforcement officials, not school officials, to conduct investigations into child abuse or neglect. School officials should also be aware that once they get involved with any kind of interview of a child, they become a direct witness and therefore can be forced to attend court and be required to testify on the witness stand. This can be messy and put school officials, students and parents in a situation where school officials and the school board can lose the respect of families in the community. School officials should never be a party to an interview with a student unless the student has previously asked for the help and support of the school official. CAS agencies and police have all the necessary resources to conduct questioning of children without getting school officials involved.

26) **What should school officials do if a lawyer representing the parent of a student calls the school and requests to question a student at school or to obtain information about the student from the school?**

On occasion, school officials may get a call from a lawyer representing one of the student’s parents requesting information or to request an interview with a student or with teachers. If a lawyer representing one of the parents calls, it is usually done with the purpose to unlawfully obtain information from school officials which is then used against the other parent. Quite often these
lawyers are of the belief that they can intimidate school officials, especially those who work for small school boards, into giving them information that will benefit their client in court.

Should school officials get such calls then the lawyers should be advised that no information can be released and that they should address their concerns in court. It is not professional for a lawyer to be making personal calls to any school without a court order against the school board to that effect. If the lawyer is persistent, the school officials should tell the lawyer to call the lawyer for the school board.

27) **What should school officials do if the student’s lawyer calls the school and requests to question a student at school or to obtain information?**

Another situation which may arise may be a request by a lawyer with Children’s Lawyer Office claiming that they are the lawyer representing the student in a family court matter and that they wish to speak to the student at the school. School officials should provide the same response to workers from the Children’s Lawyer’s Office as they do to child protection workers and to have their meetings with the student conducted off the school property. Schools are not the places for lawyers to be meeting with their young clients unless informed consent has been obtained beforehand.

All that a meeting at school does is to draw attention to the student, violate the student’s privacy at school and in most cases embarrasses the student in front of his/her peers and teachers. School officials should also be aware that students who may have a court appointed lawyer may have been assigned this lawyer without their informed consent. These lawyers generally are forced upon the students at the insistence of other lawyers in court. A vast number of children who are appointed lawyers from Ontario’s Office of the Children’s Lawyer report unsatisfactory service from these taxpayer funded lawyers. Some children have reported that their Ontario Office of the Children’s lawyer have lied to the court about what the children have said to their lawyers. Video testimony from children and parents can be found on the internet. Examples of testimonies about the poor services of children’s lawyers can be viewed at:

- [http://www.vimeo.com/1323226](http://www.vimeo.com/1323226)
- [http://www.vimeo.com/1112830](http://www.vimeo.com/1112830)
- [http://www.vimeo.com/28034150](http://www.vimeo.com/28034150)
- [http://www.vimeo.com/23978011](http://www.vimeo.com/23978011)

28) **What should school officials do if local police call and indicate that they want to question a student regarding a child protection matter**

The same rules and considerations apply to police as do to child protection workers. Police cannot detain or question a student for the very same reasons that child protection workers cannot detain a child at the school without prior informed consent.

About the only time that police can detain or question a student would be if the student is suspected of being involved in some sort of criminal activity or is a witness to a crime, but even in that situation, the student’s parents must be contacted first and the student given the opportunity to have a parent or legal representative present with the child when the child is to be questioned. In matters of child protection, police in most provinces have authority to conduct an apprehension in the same manner as a child protection worker can under Section 40 of the Child and Family Services Act (Ontario) but they must exercise this authority by a formal apprehension before they are allowed to detain a student. Again, even in the case of an apprehension, detaining a student does not give the police or anyone
else the rights to interview a child at his/her school without the informed consent of the parents or student.

29) **What should school officials do if a children’s aid society worker shows up at the school with a police officer and asks to interview a student relating to child protection matters?**

Some parents and students have reported that CAS workers have shown up at their school with a police officer to question a student without informed consent. Unfortunately, school officials often comply with the request of the CAS workers when there is a uniformed police officer present. CAS workers may at times ask for the assistance of a uniformed police officer to accompany the CAS worker for the purpose of giving the appearance that their activities are lawful. When a CAS worker appears at school with a police officer, school officials are misled into believing that the CAS worker is working jointly with police and has the endorsement of police to question the student. The use of police officers is often used as a form of intimidation by CAS workers in order to gain the cooperation of school officials while the CAS workers conduct their often unlawful and unethical activities.

In most jurisdictions, police officers do not understand that CAS workers have no more authority than do police to go into a school and to detain and question a student. Generally, police officers go along with the instructions of CAS workers out of the belief that they must do as CAS workers tell them to do. Most police officers do not realize that CAS workers are breaking the law. If anything, police officers should be telling CAS workers to get out of the schools.

Should a CAS worker show up at a school with a police officer then both should be told to provide either a court Order or proof of prior informed consent. If neither of these documents can be produced then the CAS worker and the police officer should be denied access to school property. Under the law, school property is considered as private property and a warrant from the court against the School Board is required to enter a school unless an apprehension is being conducted.

30) **What should school officials do if a student reports that he/she is of the opinion that another student at the school is in need of protection?**

Should a student approach school officials with a report what they feel another student is in need of protection, then school officials should assist that student to make a report directly to the CAS. Remember, information through a third party is considered as only hearsay, so primary responsibility of reporting should lie with the person who is most aware of the circumstances. If school officials are doing their jobs right, even those students who are reporting abuse involving another student, will be aware of what the process involves. The main responsibility of school officials is to guide the student making the report to call the CAS. Once school officials have confirmed that the reporting student has contacted CAS, then questioning of the student by child protection workers should be done off school property. Under no circumstances should school officials begin any sort of investigation with the student who is the subject of the alleged abuse or neglect.

31) **What should school officials do if a child protection worker calls the school and advises that they are coming to apprehend a student?**

In the event that a school official gets a call from a child protection worker, indicating that the child protection agency has decided “to apprehend a student, the school official should first request that the apprehension be conducted away from the school if at all possible to minimize the harm to the child caused by an apprehension at the school. Ontario’s Child and Family Services Act specifically requires that CAS workers intervene in the least intrusive manner as possible and only when a child is in imminent harm if he/she was to leave the school.
NOTE: School officials should also be aware that students who are 14 years of age or older cannot be physically apprehended by CAS workers without an official court Order specifically authorizing the teen to be physically apprehended by CAS workers or Police using force if necessary. This includes even students who may be Wards of the CAS and living in care of the CAS.

With the full power and authority of the law and the police at their disposal, there is absolutely no reason why child protection workers cannot apprehend students outside of the school environment in order to avoid all the disruption at the school and emotional harm to the student that this causes when schools are used as a place to interrogate or question children.

In the vast majority of cases, apprehension of students at their schools is not really required but often done deliberately by unregistered child protection authorities for the purpose of convenience and also to embarrass and humiliate the student and his/her family in the eyes of school officials and to the student’s peers. Seldom, if any, is there a need for a child to be apprehended at school by child protection workers. The damage to the integrity of a parent as the result of the removal of a child has been identified in many cases by the Supreme Court of Canada. In the case of R.B. v. C.A.S of Metropolitan Toronto heard by the Supreme Court of Canada, Justice Lamer CJ wrote:

“I have little doubt that state removal of a child from parental custody pursuant to the state’s parens patriae jurisdiction constitutes a serious interference with the psychological integrity of the parent. Further, the parent is often stigmatized as “unfit” when relieved of custody. As an individual’s status as a parent is often fundamental to personal identity, the stigma and distress resulting from a loss of parental status is a particular serious consequence of the state’s conduct.....relieving a parent of his or her child restricts a parent’s security of the person.”

If CAS workers call and say that they are going to come to the school anyway, then ask for the CAS to send an official signed notification by fax or email of their intent to apprehend the student at the school. School officials cannot interfere with a lawful apprehension but at the same time school officials cannot be directly involved with detaining the student or apprehending the student. If CAS workers indicate that they have an Apprehension Warrant, then the CAS workers should bring the Warrant with them and provide a copy to school officials for their records when they come to apprehend the student.

When the CAS worker arrives at the school, if the worker is not known to school staff, then the school staff should check the identity of the person claiming to be a CAS worker by also calling the CAS offices to confirm that the worker was sent to the school for the purposes of apprehending a student. Cases have been reported where persons have impersonated CAS workers in order to unlawfully take a child from a facility. All CAS workers should carry some form of photo ID. Next, summon the student to the office to meet the CAS worker. The school official should first explain to the student that the CAS worker has come to apprehend them and that under the law, the school cannot interfere. Reassure the student that it is OK to go with the child protection worker. Advise the student that the school will call the parent to advise them of the apprehension. Immediately, attempt to contact the parents to advise them that their child has been apprehended. The CAS worker should introduce herself/himself to the student and let the student know where they are being taken and why.

In all instances, school officials must immediately notify the parents even if the CAS workers instruct otherwise. While school officials cannot impede an apprehension, school officials do have a fiduciary responsibility to notify the parents once care and control of the child has been taken away from them by another third party which in this situation would be the CAS workers. There is absolutely no authority in law which gives CAS workers the authority to instruct teachers and school administrators...
not to call the parents if their child has been taken from his/her school.

School officials DO have a fiduciary responsibility of notifying the parents as there is an implied understanding between the school and the parents that when their child goes into a school that school officials have the responsibility to care for the child at that school. School officials have an implied duty to the parents under the law, not to the CAS or its workers.

32) What should school officials do if a student refuses to leave the school with a child protection worker during a lawful apprehension?

No matter what the age of the student, if a student refuses to voluntarily leave the school with the child protection worker during an official apprehension, then school officials should not participate in any physical way such as physically holding or forcing a student into a child protection worker’s vehicle. This will only cause harm to the child’s relationship with his/her teachers and school. Only a child protection worker or police officer has the legal authority to apprehend a student using force and even then force can ONLY be used during a legal apprehension. Force cannot be used if the child protection workers are not officially apprehending a child. It is up to the child protection worker to call police for assistance or to have police come with them to the school if trouble with the student is anticipated. At no time should school officials use force or the threat of force at any time.

Another point which school officials should be aware of is that once a child reaches the age of 14, no person, including a CAS worker or police officer can use force against the child without a warrant from the court which specifically gives the authorities the ability to use force against the student. Such a situation would be extremely rare and likely used only in cases where a student may be at serious risk of physical harm to himself/herself.

33) Are there situations in which it would be acceptable for a student to be questioned at school by child protection workers?

The only time that questioning a student at the school would be acceptable would be in a situation in which the student approached school officials on his/her own initiative and made a voluntary disclosure of abuse and made it clear to school officials that they were afraid of their parents and wanted help from outside sources and were willing to speak to child protection workers at the school. In such a situation, the child should be coming forward to disclose abuse and indicate a fear of disclosure to his/her parents. This condition would meet the criteria for informed consent.

In regards to child protection workers coming into a school to question a student without informed consent, there is no reason whatsoever that would justify a student being detained and interviewed at his/her school. Involving the school in any way creates a potential embarrassment for the student and his or her family (which is a violation of their rights) plus it ties up valuable school resources and staff time. Should a child protection worker feel that they need to interview a student, all they simply have to do is to call the parents and arrange to have the parents bring the student to CAS facilities to be interviewed after school. Child protection workers can also meet with a student at his/her home.

If the child protection worker feels that the parents may not be cooperative or should the worker feel that the student is at risk of imminent harm, then the child protection worker should exercise his/her authority to legally apprehend the student and to take the student to CAS offices. This will ensure that the due process of law is followed and that the action of the CAS workers can be scrutinized by a court of law. Even if the child protection worker tells the school official that the parents are not cooperative (which CAS workers should not do), this does still not give CAS workers the lawful right to question a student at his/her school.
34) **What should school officials do if a children’s aid society worker asks for the student’s school information?**

Unless there is a court Order made against the school board itself (not the parents), all information about a student contained in school records is confidential and must not be given to a CAS worker without the proper release forms being signed by the parent or guardian of the student. No verbal information should be given as well about the student’s record at school as well. CAS workers have no more authority to ask for information about information in a student file than does anyone off the street. This is covered under Section 266 of the Education Act (Ontario) which is shown below.

### Pupil records privileged

**266. (2)** A record is privileged for the information and use of supervisory officers and the principal, teachers and designated early childhood educators of the school for the improvement of instruction and other education of the pupil, and such record,

(a) subject to subsections (2.1), (3), (5), (5.1), (5.2) and (5.3), is not available to any other person; and

(b) except for the purposes of subsections (5), (5.1), (5.2) and (5.3), is not admissible in evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceeding, except to prove the establishment, maintenance, retention or transfer of the record,

without the written permission of the parent or guardian of the pupil or, where the pupil is an adult, the written permission of the pupil. R.S.O. 1990, c. E.2, s. 266 (2); 1991, c. 10, s. 7 (2); 2006, c. 10, s. 35 (2, 3); 2010, c. 10, s. 18.

Source: Education Act (current as of October 28, 2011)

School officials in Ontario should also ensure that should a child protection worker call the school, that the worker be asked if they are a registered social worker. Only those who are registered as social workers in the Province of Ontario are authorized to engage in the practice of social work. Conducting an investigation is considered as engaging in the profession of social work. While refusing to disclose information to CAS workers may seem uncooperative, CAS workers do have tools at their disposal to easily obtain this information lawfully through proper legal channels. Teachers and school officials should exercise due diligence to ensure that CAS workers are working within the law.

**Confidentiality and privacy**

While it may be natural for school officials to want to cooperate with child protection workers, generally school officials should refrain from disclosing student information to child protection workers or any other third party unless there is written informed consent from the student or parents or the disclosure is required by law.

The school official’s duty of confidentiality is both an ethical and a legal obligation. To promote a relationship of confidence and trust between school officials, students, parents and the community in general, school officials have traditionally protected school records and personal information about students.

The legal duty to keep student information confidential originates from this fiduciary (trust) relationship between school officials and students and their parents. Privacy legislation, which applies in all provinces and territories, reinforces this duty and requires consent of an individual before his or her personal information can be collected, used, or disclosed.
There are a few exceptions when the disclosure of student information is permitted without express consent. These exceptions can include when school officials have a request from the police in the course of certain investigations or when school officials receive a subpoena, court order, or search warrant.

35) **What should school officials do if a children’s aid society worker asks to speak to school officials about a specific child at the school when there is no court Order?**

Should a child protection worker call the school and request to speak over the phone or in person to teachers about a specific child, then school officials should simply advise the CAS worker to provide his/her questions to the school officials in writing and that a response will be provided once the questions have been received and reviewed.

Unfortunately, these personal meetings between CAS workers and teachers often end up doing a lot of harm to the child and his/her family. In many cases, CAS workers will disclose information to the school officials in such a manner to make the family look bad and to gain the support of the school officials by getting them to believe they are helping. It has also been found that CAS workers have misquoted conversations with school officials in court documents in a deliberate attempt to make the family look as bad as possible in court.

School officials must be wary of their obligations to minimize the risk of harm to the student who may be the subject of questions by a CAS worker. Below are some tips to minimize the risk of potential harm to a student:

- **Any exchange of information between child protection workers and school officials should be in writing only and only with permission forms signed by the parents or the child. There should be no need for personal contact between CAS workers and school officials.**

- **At no time should the contents of school records be provided to the CAS workers without the consent of the student (16 or older) or the parents if the student is under the age of sixteen.**

36) **Should CAS workers be disclosing the nature of their concerns about the student’s family to school officials?**

Under no circumstances should a CAS worker disclose ANY information about problems or suspicions related to a student or the student’s family to any school official. Unfortunately, many child protection workers disclose information verbally to school officials hoping to gain the sympathy and support of school officials but this is very unprofessional and in fact in violation of the privacy rights of the student and his/her family. Many CAS workers discuss confidential information during meetings with school officials in which information is exchanged verbally with no record of what the CAS worker has said to influence the school official.

School officials must also be wary about what child protection workers tell them as it is not uncommon for child protection workers to distort the truth and in some cases fabricate totally false information in order to present a false picture of the student or his/her family. Claims of child protection workers twisting the truth and committing perjury in court documents are rampant in the courts today.

Violations to privacy laws and fabrications by CAS workers can be eliminated if school board employees insist that any and all communication and exchange of information between school
officials and CAS workers be on the record and in writing only.

37) Are there any situations which would justify a school official physically detaining a child at school when a parent is not present?

There are a very few situations which would justify a school official detaining a student with none of them having anything to do with a child protection agency or its workers. These situations generally involve the physical safety of a child being at clear and imminent risk. Below are a couple of examples of when it may be considered justifiable to detain a student for his/her own safety.

**Situation #1 - Dangerous weather conditions**

Should dangerous weather conditions become apparent such as hail, snow, tornado, hurricane, flood etc. and it would appear that detaining the student to go outside of the school may be placing the student at risk of harm, then it would be reasonable to detain the student and keep the student in the school. However, if a parent shows up to take the student out of the school during such weather conditions, then the school official must turn the child over to the lawful parent as the decisions relating to the safe care of the student now becomes the parent’s responsibility. At no time can school officials overrule the authority of parents over their own children.

**Situation #2 - School is in lockdown mode**

Sometimes schools go into what is referred to as a lockdown. This is usually due to some imminent perceived threat such a person with a weapon in or near the school or reports of a stranger in the school. In lockdown mode it would be considered acceptable for the child to be detained in the school until the lockdown ends. Lockdown mode is usually due to a suspected danger to the students on or near school property.

In the above two examples, the risks to a child are reasonably known and understood by school officials and without a doubt, the outcomes of the detention predictable.

38) Are there any situations which could justify a school official physically detaining a student from being released into the care of a parent?

**Situation #1 - Parent arrives at school impaired due to alcohol or drugs**

While extremely rare, should a parent or person having lawful care of a young student arrive at the school in an obviously impaired condition because of alcohol or drugs and it would appear that the caregiver is not in a state of mind to take safe control of the student, then the school official could be justified to detain the student although it would be appropriate to call authorities to deal with the situation. While detaining a student may still technically be a violation of the law, charges would not likely be laid if sufficient evidence was to show that the parent was not capable of providing appropriate care for the student.

In such a situation, the school official should first tell the parent that they feel that the parent is in no condition to take control of the child and then ask the parent to make alternate arrangements to pick up the child. At this point the school official has still not detained the child but has in effect requested the informed consent of the parent to leave the care of the child with the school official. Hopefully, the parent can be convinced to have someone else come to take charge of the student.

Should the parent say no and demand that the student be released into his/her care, then the school official could refuse and detain the student from going with the parent. If there is any possibility of the situation turning violent than school officials could allow the student to leave with the parent but then immediately call police to the scene. Police have the authority to apprehend the child legally
and under such circumstances will likely respond quickly. In all cases, it is better to avoid any direct confrontation at the school.

While technically the school official is violating the rights of the parent, individual rights can be violated to protect the individual rights of another person. In this case, the student has the right to security of his/her person and therefore when a school official intervenes in such a situation, the school official is in effect protecting the rights of the children. No court would rule that a parent’s rights were violated in this scenario. When the parent is intoxicated it poses a clear and imminent danger to the student.

Should any parent arrive at school to pick up a student in an obviously intoxicated state of mind, this should be interpreted as a sign of potential abuse or neglect and should be reported to the local child protection agency. Any parent who would show up at their child’s school in such a state is clearly not making choices which are in his/her child’s best interest.

**Situation #2 - Parent attempts to pick up student when there is a court Order which specifically forbids this.**

Although extremely rare, a court Order may exist which specifically states that a specified parent cannot attend the school where his/her child attends. Providing that school officials have a copy of this court Order on file at the school, school officials may be justified in preventing a student from being released into the care of a parent who has such a court Order against him/her. While this action may still be considered as technically and unlawful detention, it would be extremely unlikely that the school official would be charged or prosecuted in such a situation if in fact the court order was current and valid.

It must always be remembered that enforcing court Orders is the role of the courts and law enforcement officials, not school officials so even in this situation it would still be best for school officials to release the child to the parent and to advise the parent that the school is compelled to call the other parent immediately and to inform them. Should the parent still take the child under these circumstances then school officials should immediately contact the other parent or lawful guardian of the student.

The age and maturity of a student must also be carefully considered. If a student is mature (generally over the age of 12) and the student clearly appears to want to go with the parent who has come to pick him/her up, it would not be wise for school officials to intervene in such a situation even if a court Order is believed to exist. It is not the function of school officials to enforce court orders. Sometimes court Orders are old and do not reflect the current situation where a child is mature and aware of their personal safety. In many cases, hostile-aggressive parents (HAP) may attempt to engage school officials to help them keep the child from seeing the other parent, not because of any real risk to the child, but because of their compulsion to exercise power and control over the child and over the child’s other parent. School officials who would like to learn more about the behaviours of parents who are involved in high conflict separation and divorce should read research on the topic of Hostile-Aggressive Parenting (HAP).

This situation must not be confused with the situation in which a parent has access to a child at specific times. Any parent of a student who has some form of access to the student at school, even if the times are specified, has the right to have contact with their child at school, even if this is not their scheduled time to be with the child. Access times normally specified in most family court orders for a specific parent are the times in which that parent has priority with the child over the other parent. Access times specified in a court Order do not, however, eliminate the general rights of parents or children
which are protected under the Charter of Rights and Freedoms. Parental rights, unless specifically removed by a court Order, apply at all times.

**Situation #3 – Student has committed a criminal act at school such as an assault on another student and school officials are detaining the child until police to arrive.**

Although technically, a student cannot be detained, school officials would not likely face any consequences for detaining a child who had committed a crime at the school such as an assault on another student. Restraining a student physically under these circumstances would not be advisable as this should be left up to police to deal with. Should parents arrive while police are on their way to the school, the parents should be encouraged to remain with their son/daughter until police arrive.

39) **What should school officials do if police call the school and request to speak to a student regarding a criminal matter which occurred outside of the school?**

Although not common, it is possible that school officials may get a request from a police officer to interview a student at the school regarding some trouble that the student may be suspected of being involved in or a witness to outside of the school. This situation is rare because most police officers are trained to understand what “informed consent” means and to know that that even they as police officers cannot speak to a student without the informed consent of parents first or without the student being given the option of having a lawyer or advocate present.

While the police can make a request to question a student at school, it is highly unlikely that police would do so if they were to know that such a request would go against the general policies at the school. School officials should request that police do their questioning of the student off of the school property. The main reason for this is that significant emotional harm can be done to the student as a result of such interventions at the school. Police have the authority to question a student at his home or outside of the school so this should always be the preferred option. It is always best that students feel that their schools are a place of safety from the stress arising from issues outside of their schools.

Permitting police to come to the school to question a student at school for unlawful activities committed while on school premises would be an acceptable situation in which to allow a student to be questioned by police at the school. Students who engage in unlawful activities at their schools lose their right to privacy at school. Allowing police into schools to investigate unlawful activities at the school has some benefits in that some of the other students will see that school officials do take appropriate action against those students who do not conduct themselves within the standards of behaviour as set down by their school. While it is important that students witness law enforcement officials doing their jobs professionally, students must also see that law enforcement professionals respect a student’s right to privacy at school should matters under investigation not involve school issues.

40) **What should school officials do if one parent calls the school and advises that they want the school not to allow the other parent to see the student during school hours or to be involved with activities at the school?**

Schools often get requests from separated parents who are in the midst of a family court matter and who have been appointed as the custodial parent or primary caregiver parent requesting the school to prevent the other parent from being involved with their child at school. Unfortunately, most of the requests by parents to exclude or to limit another parent’s contact with the child at school are motivated by an inability of the parent making the request to act in their child’s best interest.

Unless, there is a court Order which specifically states that a specific parent cannot see or have contact
with a student at the school, then school officials must treat both parents equally and to not interfere with any reasonable request by any parent to see their child during or after school. Such contact may include:

- Taking the student out of school during lunch periods
- Visiting with the child after school
- School trips
- Working as a volunteer in class

While a parent having primary care or custody of a child gives that parent priority over the child at certain times in accordance to the parenting schedule, this does not mean that the custodial parent has the right to order school officials to interfere with the rights of the child to spend time with the other parent during times when their child is attending the school.

It is important that school officials be neutral and not take sides in issues between parents. In most cases, students want both of their parents to be involved at schools and want both of their parents to be treated equally by school officials. Should school officials get themselves involved by supporting one parent’s request just because that parent is the custodial parent then school officials risk losing the trust and respect of the student involved.

If the custodial parent wishes to exclude the other parent from involvement with the child at school, then the custodial parent must go to court and obtain a court Order against the other parent to that effect. This forces the custodial parent to explain to the court why such an order is necessary to exclude the other parent from the student’s activities at school. Rarely, will courts issue such an order because it is widely recognized by most professionals that the involvement of the non-custodial parent at their child’s school is in the child’s best interest.

41) What should school officials do if a child refuses or puts up a big fuss and does not want to leave the school with his/her parent?

In some cases involving divorced or separated parents, school officials may face a situation where a student puts up a big fuss or refuses to leave the school with the parent who has come to pick up him/her. Unless there is a court order, school officials should encourage the child to go with the parent who has come to the school. School officials should then contact the both parents and advise them of the difficulty and to get the problem worked out amongst themselves or to get matters clarified in court if the parents cannot work things out.

It is not normal for a child to react in this manner and in many cases it is a sign that one parent may be engaged in Hostile-Aggressive behaviours (HAP) intended to alienate the child from the other parent. Sometimes, the alienating parent will instruct the child to refuse to go with the other parent from school. The alienating parent will often attempt to stage this even with the student to get school officials into believe that this is a sign that the other parent is abusing the child.

School officials are encouraged to study information relating to Hostile-Aggressive Parenting (HAP) so as not to be manipulated into being an unwilling witness in a messy court proceeding between the parents.
42) **What should school officials do if one parent calls the school and says that they want their child interviewed by CAS workers at the child’s school in regards to child protection concerns involving the other parent?**

In some cases, schools may get a request from custodial parents who are in conflict with the non-custodial parents of students requesting school officials to have CAS workers question their child at the school.

School officials must exercise extreme caution in these circumstances. In many cases where parents are separated, it is not uncommon for one parent to deliberately try to drag school officials into their personal conflict with the other parent by discussing their allegations with school officials and then getting the CAS involved. Once school officials get involved, the parent can force those school officials involved to appear in court to provide testimony. Getting school officials involved in such disputes is one of the signs of a hostile-aggressive parent (HAP). In many cases, the real reason why these parents attempt to get school officials involved is to make the other parent look like a bad parent and to get school officials to take sides with them in their personal vendetta against the other parent. Many parents have been known to coach their children to tell school officials lies which will then get school officials in a position where they can be forced to attend court.

In such situations, school officials should not allow themselves to get dragged into the conflict between parents and to simply advise the parent to deal with their issues outside of the school and to discuss their issues directly with the local CAS agency. Parents should be advised that any interviewing of the student should be done off school property. There are plenty of private counsellors and other professionals where parents can go for this kind of service.

This neutral hands-off approach by school officials when parents are in conflict will help to ensure that the parents who may be the subject of allegations are not alienated from the school and also ensure that the students do not feel that school officials have taken sides against one of their parents. In such circumstances, principals should exercise their sole discretion to keep CAS workers out of the school and advise parents to have the student questioned somewhere else other than at the school.

43) **What should school officials do if a student advises school officials that he/she does not want child protection workers coming to the school to have contact with them or to speak to them?**

In some cases students may advise school officials that they do not want child protection workers coming into their school to speak to them. In fact, one of the first questions that a school official should ask a student who has disclosed abuse is whether the student wants CAS workers to come to the school. Once a child is mature enough to express their wish not to meet with CAS workers at the school, this should be considered as the student refusing to give his/her informed consent to meet with child protection workers. Under such circumstances, school officials must respect the student’s wishes and insist that child protection workers make arrangements to interview the student outside of the school. Any action by school officials to get a child to change his/her mind could be deemed as applying “undue influence” and should be avoided.

The key point to always consider is that “informed consent” must be obtained first and once a student is mature enough to refuse their consent, then their wishes must be respected. If a student is considered as being too young to give his/her informed consent then school officials must get informed consent from a parent. Unless CAS workers have a court order or come to the school to lawfully “arrest” a student, school officials must refuse access to the student by CAS workers if the student indicates that they do not want CAS workers meeting with them at school.
Cease and Desist forms to prevent CAS workers from contacting student at school

To help ensure that the rights of students are protected at their schools, community groups have come together and have developed a “Cease and Desist” form for parents and students to submit to the school or school board. Copies of these forms can be found at the end of this document. Once a student or a parent has filed a “Cease and Desist” form to the school or to the board of education, school officials should take immediate action to ensure that CAS workers do not contact the student at the school. Once the form is in the hands of the Board and principal it is likely that serious legal liability will fall on school officials should CAS workers be allowed to enter school property to either detain or speak to a student who had submitted this form or had a form submitted by a parent.

CAS workers should not even be allowed in the school for educational purposes once the forms have been signed. A CAS worker who may be working with a particular family may accidentally come in contact with one of the students where a form has been signed. This is one of the problems caused when CAS workers get involved with both child protection and going into the schools.

In an attempt to mislead school officials and parents, some CAS workers have tried to mislead school officials by telling them that the “Cease and Desist” forms are not legal and have no force because the child is not 18 years of age and not old enough to sign.

This approach by some CAS workers is totally without foundation and only another example of how CAS workers try to twist information around to mislead school officials. While a person under the age of 18 may not be able to enter into a binding legal agreement, the informed refusal forms do not constitute a legal agreement between two parties. The informed refusal form is simply a signed instruction to put School Board officials on notice that they must fulfill their fiduciary responsibility to protect the Charter rights of the student from the unlawful activities of CAS workers while students are in their school or that school officials will be legally held accountable. There are no protections for school officials who are found responsible for allowing the Charter Rights of students to be violated.

For more information on the forms school officials may check out this link on the Canada Court Watch website:


44) What should school officials do if CAS workers want to have supervised access between a child and a parent conducted at the school?

There have been some confirmed reports of CAS workers arranging to have supervised access visits between a child and a parent conducted at the school. In this scenario the CAS worker attends the school and observes the child meet with the parents in a room at the school. The CAS workers claim that conducting these supervised access visits is a good thing being done at the school as the child is in an environment which he/she is comfortable. However, testimony from most children indicate that this is not the case at all.

Interviews with children have shown in the vast majority of cases that any form of involvement by CAS workers at the school causes direct emotional damage to the child and in many cases adversely affects their grades and social attachments with their peers. Most students who have CAS workers come to their school do not like CAS workers coming to their schools. No matter how discreet CAS may attempt to conduct a supervised access, most students and teachers will know that the student and the parent involved are different from the other children and parents. Having CAS workers come into the school and to use school facilities in this manner conveys the sense that the CAS are friends
with the school board and have special influence. Schools are supposed to serve children and families, not serve Children’s Aid Agencies.

School officials should refuse any form of supervised access between a child and his/her parents at a student’s school. Schools are supposed to be a place of learning where a student feels safe. There are many other options available to facilitate supervised access between a child and a parent in the community. CAS workers simply do not belong in schools.

45) What should school officials do if CAS workers want to interview students at the school who are “Wards” of the CAS?

When a student is a “Ward” of the CAS, technically the CAS is the student’s parent. Under such circumstances CAS agencies should be treated no differently than any other parent. Schools do not generally allow parents to come into their child’s school to use school facilities to question or to discipline their own children so neither should school officials allow CAS workers to use school facilities for this same purpose. CAS workers can easily interview their own “Wards” at their foster or group homes or at the CAS offices. Many CAS workers use school facilities to interview their own wards, not out of necessity but as part of the overall objective to isolate students from any perceived source of support and to deceive students into believing that CAS is an integral part of the school system. CAS workers want students to believe that the school is on the side of the CAS and that school is not really a place of safety for the student. Students being abused while in care of the CAS are less likely to tell their teachers about being abused by CAS workers if the student feels that the CAS and the teachers are working together at the school.

46) CAS workers have a court order against the parents which orders that the parents must “cooperate” with the CAS. Can this court Order be used as grounds for allowing CAS workers to come into a school to interview a student?

In some cases, parents may have been coerced into signing consent court orders which contain a very vague condition which states that parents are to “cooperate” with CAS workers. Such conditions in a court order are worthless and from a legal perspective easily challenged.

The Supreme Court of Canada has determined that court orders cannot be so vague that they can be misinterpreted in any way which may violate another law or violate a person’s rights under the Charter of Rights and Freedoms. Unfortunately, in the real world of the family court where many of the lawyers and judges know the procedures but have lost sight of the law, such flawed and meaningless orders are often produced with nobody really thinking that such conditions in the court Order are invalid.

In order to fool people, CAS lawyers often sneak in the “cooperate” clause in agreements and orders. At first glance when in the heat of court matters, the condition of “cooperate” looks harmless and escapes the close scrutiny of most judges. However, once this clause is included in an agreement or court order CAS workers know that most parents afterwards will feel obligated to do anything that CAS want them to do, even if it is unlawful or unethical. CAS workers will often tell parents that if they don’t “cooperate” with CAS workers as outlined in the agreement, then the court will take action against them. This of course is a veiled threat to scare parents into submission and to voluntarily give up their rights and freedoms. CAS workers often abuse the “cooperate” clause and use it to make life a living hell for students and their parents.

In spite of such a condition in any agreement or court order, parents and children are within their legal rights to submit the Cease and Desist” forms to school officials and to submit the “Notice of No Trespassing” forms to CAS officials. If CAS workers attempt to claim to the court later on that
parents are not being “cooperative” then the parents only have to bring it to the attention of the court that the Charter Rights of parents and children cannot be violated by such a vague order. Arguments (such as the videos on Canada Court Watch website) outlining the harm done to children at their schools can be presented to the judge. It is highly unlikely that any competent judge will tarnish his/her record by ordering that children to be questioned by CAS workers at schools, once the arguments have been properly brought before the court.

In some cases, when CAS workers are aware that parents are on to the tricks of the CAS, workers will take a copy of the court Order or agreement to the school and show this to the principal. They will try to convince the principal of the school that CAS workers have the right to come into the school in spite of the “Cease and Desist” forms being submitted because of the condition which requires that the parents “cooperate”. This is only another deception that CAS workers may use to trick school officials. In spite of any court Order or agreement, schools are under no obligation to obey a court order which is against a parent nor can school officials be a part of the enforcement of a court Order made against another party. Faced with being served with a “Cease and Desist” form school officials must obey the “Cease and Desist” forms first as any court Order or agreement against parents regarding “cooperation” does not apply to the school board.

If the CAS workers want to enter a school to interrogate a child then they must go to court and to seek an order directly against the School Board to force the Board to become a party to enforce such an order. No judge in his or her right mind would ever grant such an order as such an order clearly violate the Charter rights of parents and children. No judge would want to be made the laughing stock amongst the legal profession for making such an order.

47) What should school officials do if there is a conflict between published school policies and procedures and the rights and freedoms of children and parents?

When faced with a situation in which published school board policies and procedures conflict with the rights and freedoms of children and parents, school officials must remember that school board policies are only policies and procedures and cannot override the law, especially the Canadian Charter of Rights and Freedoms.

School board policies have been documented to be wrong and illegal and even today, a number of school board policies contain clauses which are highly illegal such as advising teachers to detain children for the purpose of an investigation by child protection authorities. Even the instruction of a senior school official such as a Superintendent cannot cause the protections offered students and their parents as outlined in such laws as the Canadian Charter of Rights and Freedoms or the Criminal Code of Canada to be violated.

No matter what school board policy says, each and every teacher must exercise their own independent due diligence and respect prevailing laws and the rights and freedoms of students and parents ahead of any school board policy. No matter what school board policy may state in writing, teachers and school officials can be taken to court and sued in civil court for violating the rights and freedoms of students and parents if it can be shown that the teachers were in possession of information which would have reasonably shown them that school board policies are not in compliance with the laws. Ignorance is no excuse for violations to the law, especially for teachers who are supposed to be teaching students about the Canadian Charter of Rights and Freedoms.

Tragically, many teachers, school officials and child protection workers do not understand the Charter and the inherent rights which it guarantees to all Canadians, including students. The Canadian Charter is supreme and ranks above all other laws, procedures and protocols. No policy or procedure
implemented by a school board or a child protection agency which affects the fundamental values of the Charter can be written in a manner which has the effect of conflicting with the Charter. School officials and child protection workers, while acting in their official capacity, cannot engage in any action which causes the Charter rights of any individual to be infringed upon. Unfortunately, many school boards and teachers have forgotten about the importance of the Canadian Charter of Rights and Freedoms.

The diagram below shows the various levels of law and policy that govern the public education system in Ontario and shows how they rank in relationship to each other. The Canadian Charter of Rights and Freedoms outranks all, including the policies of school boards anywhere in Canada.

**School officials must put their personal conscience and the rights and freedoms of Canadians above any flawed school policies**

Schools are supposed to be safe places where our children are taught about their rights and freedoms. Teachers and school officials must act on their own conscience and bring to the attention of their school board, any school policy or procedure which is not consistent with the laws of the land. The provision of the Canadian Charter of Rights and Freedoms ranks supreme above all other laws and school board policies.

Teacher unions must oppose the involvement of CAS agencies in schools not only because it violates the rights and freedoms of children and parents but it also puts teachers at risk of lawsuits and interferes with the education of students. Many children who have been subjected to interrogations by CAS workers at their school begin to view teachers as friends of the CAS workers and not to be trusted anyone. Involvement of the CAS at schools often results in the trust between teachers and
their students being permanently broken.

Teachers must not rely on what they are instructed to do in their policy manuals but must exercise their own due diligence and to disobey any school board policy which clearly is inconsistent with the law or violates the rights and freedoms of students under the Canadian Charter of Rights and Freedoms and any other human rights laws which Canada is a supporter of.

Teachers and school officials must be willing to stand up and challenge their employers who in most cases are not the elected trustees of the Board but those few who hold senior administrative positions with the Board. One of the world’s most notable and respected civil rights leaders, Dr. Martin Luther King, once stated:

“An individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law.”

48) Can school officials be held personally liable for violating the rights and freedoms of children and/or parents as a result of allowing CAS workers to conduct unlawful interviews of children at their schools?

No matter what the circumstances, all school officials are individually required to exercise “due diligence” and to be aware of their fiduciary responsibility to students and parents at all times. School officials are also expected to be familiar with laws which may apply to them and their students in a school environment. School officials who participate in or contribute to the violation of the rights and freedoms of children or their parents can be the subject of a civil lawsuit in addition to the criminal aspects of such infringements on the rights of students.

It is of utmost importance for school officials to exercise due diligence and make themselves fully aware of the law and any policies which their employers may have in place concerning child protection issues involving students at schools. When drafting policies for school board employees, school board trustees must exercise due diligence to ensure that policies do not conflict with various other pieces of legislation such as the Canadian Charter of Right and Freedoms or the Criminal Code of Canada.

In some cases published school board policies can mislead school officials and give them a false sense of security. Below is copy of a clause from the Halton Board of Education policy on child abuse which is current as of June 2014. At first glance many school officials would get the impression that they are immune from civil prosecution as long as they act in good faith when cooperating with CAS. Of course most school officials act in good faith. Reading the clause carefully however, it must be noted that protection is granted to school officials only in regards to the REPORTING of suspected
**abuse.** Immunity from civil prosecution does not apply to school officials who cooperate with CAS and allow CAS workers to come into the school to unlawfully interrogate children without informed consent.

**From the Halton District School Board (2014)**

<table>
<thead>
<tr>
<th>PROTECTION UNDER THE ACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <em>Child and Family Services Act</em> Section 72 (7) provides that anyone who acts in good faith in reporting child abuse is protected from civil suit unless the giving of the information is done maliciously or without reasonable grounds to suspect that the information is true.</td>
</tr>
</tbody>
</table>

School officials should also be aware that there is also no statute of limitations on either criminal or Charter violations so it is possible for a child or a parent to launch a criminal or civil lawsuit at any time in the future against a teacher or school official. The chances of a lawsuit can be quite high especially if a good paper trail exists which shows that school officials failed to exercise due diligence after being notified by parents in writing not to allow child protection workers to question their children at their school.

It is not uncommon for children to launch lawsuits after they turn 18 years of age which could result in school officials being served court documents even after they have entered retirement and no longer working for a school board. Examples of similar lawsuits include those against church officials who were found to have abused children when they were young or who permitted such abuses to continue when they had knowledge of the abuses going on. The residential school fiasco involving native children is another well published example of lawsuits occurring years after the damages had occurred.

49) **What should I do if a CAS worker asks me to restrict the movement of a teenage student and and/or to stop a teenage student from leaving the school property?**

There may be times when CAS workers may ask school officials to maintain a special watch on a particular teenage student and to prevent a teenage student from leaving school property at lunch or recess times. In many cases CAS workers may actually ask school officials to physically detain a student should the student attempt to leave the school during lunch or recess times.

In general, school officials are not jail keepers for CAS agencies. Under the Canadian Charter of Rights and Freedoms school officials cannot detain a student in this manner. If a student has a reasonable reason and simply wishes to leave the school during lunch or recess, even if the student simply wants to walk over to a local mall or convenience store, school officials should not interfere with the student’s rights and freedoms.

If CAS workers feel that it is so important that a child be detained then CAS workers should move the child to another facility that is designed for this purpose. Acting as jail keepers for certain students will only cause the student and his family and others in the community to lose respect and trust in the educational system. This is not good for the community.

50) **Can I find out if any complaints have been made by members of the public against any CAS worker who I may come in contact with?**

While most professional bodies have disciplinary bodies to deal with complaints against their members, because most CAS workers in Ontario break the law by refusing to become members of the Ontario College of Social workers there is no government or disciplinary body which maintains any record of complaints or discipline against a CAS worker. CAS workers can engage in all kinds of unethical tactics and there is no record kept by any professional body and no place where the public
can go to be protected.

A volunteer citizen’s organization called the Canadian Registry for Public Accountability (CRPA.ca) has started a website which records complaints as well as recommendations of child protection workers in all provinces in Canada. While the website is fairly new and may not have a large number of names registered at this time, it is one possible source to check to see if a CAS worker has had complaints from members of the public. The website also lists the names of teachers who have allowed CAS workers to enter schools and to speak to children without informed consent.

51) **What can school officials do to help protect the rights of students from abuse by the child protection system itself?**

There are a number of actions that school officials can engage in to protect not only the rights of their students but to protect themselves and their employers from lawsuits as well. Some of these steps include the following:

- School officials should insist that if CAS workers want any information or any form of cooperation from school officials then CAS workers must submit their request in writing and that no requests will be considered based on calls over the phone.

- School officials should electronically record all meetings and phone conversations and to save these recordings for later reference.

- School officials should read and fully comprehend their school board policies relating to child protection and to bring to the attention of their Board any policies which would appear to conflict with the rights or freedoms of children and/or parents.

- School officials must not follow the instructions given to them by private sector CAS employees without fully understanding the implications to themselves and their students.

- School officials in Ontario should ensure that on any matter involving discussing information about a student or family that they deal only with CAS workers who are properly trained to engage in the practice of social work and who are registered with the Ontario College of Social Workers.

- School officials must educate students about child abuse and to teach students specifically what they can do if they are a victim of any kind of maltreatment. This education must also include teaching students about the process of dealing with child abuse and the rights of students during the process of investigation by CAS workers.

- School officials should make themselves aware of parent support or student resource groups on the internet and pass this information on to parents and students. It is well documented that many children are abused while in care of child protection agencies or directly as the result of intervention by child protection workers. Many of these resource groups provide valuable information which can help students and parents protect themselves from the abuse of the child protection system itself.

- School board employees must vigorously oppose any school board policy which is inconsistent with the law or the rights and freedoms of Canadians under the Canadian Charter of Rights and Freedoms.

- School board employees must fully respect any *Cease and Desist* forms submitted by parents or students which advise school officials to ensure that CAS workers are not allowed to speak with children at their schools.
52) As a principal, senior school board administrators are telling me that I cannot be held liable in a civil court for allowing CAS workers to speak to a student and that it is not a violation of the Charter rights of a student to be questioned by CAS workers at school without informed consent. What should I do?

Senior school administrator often will verbally tell their employees (teachers and principals) not to worry about CAS coming into schools and that it is not a Charter violation of students to allow them to be detained and interviewed by CAS workers at their schools. Senior school administrators may even tell employees that this document is not to be believed.

If senior school officials are so sure of their position, then ask for them to have the law firm which represents the school board write a letter on the letterhead of the law firm which clearly states the following three points in the body:

- That a lawyer with the law firm who is fully versed in Canadian Constitutional law has fully reviewed the issue of CAS workers entering schools to interrogate children without informed consent
- That detaining children to be interviewed by CAS workers in the absence of informed consent is not a violation of the rights of students under the Canadian Charter of Rights and Freedoms
- That detaining children at their school for the purposes of being interviewed by CAS workers in the absence of informed consent is not in any way emotionally harmful to a child.
- That school officials are immune to prosecution should they detain a student for the purposes of being interviewed by CAS workers at their school without informed consent.

No knowledgeable lawyer or law firm will want to have their name attached to such a letter as this would be an embarrassment for them and make them jointly liable for leading the school board into believing that their employees are immune from prosecution. If your school board is not willing to have their lawyers draft up such a formal letter then don’t believe what senior school board officials are telling you verbally. Insist that senior school administrators back up their words with facts and legal advice in writing.

53) Can parents take a school official to court in a civil lawsuit if the school official makes a report to the CAS about their child?

Most definitely, parents can take a school official or even a daycare provider to court and to sue them in civil court should the school official make a report to the CAS without reasonable and just cause to cause the school official to suspect that the student is being abused or neglected.

School officials should not be calling the CAS just because they are worried about a child. School officials must have reasonable reason to believe the student is being abused or neglected and they should be able to clearly identify the issues which raised concern should they be asked. They should also have grounds to support their belief that the parents are failing to act to protect the child. For example, a student with bruises on their body is not sufficient evidence to support the belief that a student is being abused or neglected. Many young students get bruises from simply playing with their friends in the playground. If however, the student may say things about his/her parents which support that the bruises may not have come from normal play, then a call to CAS may be justified.

Below is a news article outlining about how parents launched a civil suit against their child’s daycare provider as a result of the daycare provider making a call to the CAS. In this case, the judge ordered that the daycare provider pay $13,000 to the parents for calling the CAS without reasonable and just
cause which in turn caused the parents and the child to suffer emotional harm.

54) I have been told that there is growing public opposition to child protection agencies such as CAS. Is this true?

In light of serious violations to the law by CAS agencies and workers, there is growing movement of parents and justice minded citizens who are bringing attention of the public to the many problems associated with the child protection workers. In Ontario, the movement is very strong. In 2012, a documentary film called, "Powerful as God" was released during the Canadian Film Festival. Below is a photo of a theatre in downtown Toronto showing the documentary.

In response, some of the various child protection agencies have launched lawsuits against various individuals and groups in an attempt to silence growing criticism.
A new website, the Canadian Registry for Public Accountability (CRPA.ca) provides a mechanism for Canadians to register the names of child protection workers who are violating the rights and freedoms of children or parents. The website is at http://www.crpa.ca

In some cases, CAS workers themselves are breaking ranks from their coworkers and reporting how their employees are acting maliciously against parents and children.

Former inside worker with the Jewish Family and Child Services, (JF&CS), Lyndsey Cara King, interviewed during the making of the documentary, “Powerful as God – Children’s Aid Societies of Ontario”, describes the JF&CS acting maliciously against parents while she worked there as an employee. She quit her job as her conscience would no longer allow her to work under the conditions she witnessed.

Photo secretly taken of a 15 year old teen being handcuffed and dragged into an OPP cruiser just because the local children’s aid agency wanted to “speak to the teen”. This photo shows the brutal tactics that child protection workers will resort to which cause great physical and emotional harm to children. This teen too was being mentally abused by his mother with the support of the children’s aid society and just wanted to live with his father. The teen was thrown in a jail cell and locked up shortly after this photo was taken with no charges ever being laid against the teenage boy.

55) I have heard that there is no oversight of the CAS agencies or their workers in Ontario. Is this true?

There is little oversight of CAS agencies in Ontario as they are privately operated corporations and not part of the Ontario government. In light of numerous complaints from the public, Ontario’s Ombudsman has been trying for years to get legislation enacted to allow the Ombudsman to investigate CAS agencies in Ontario. In September of 2012, second reading of the Ombudsman Bill 110, "An Act to amend the Ombudsman Act with respect to children’s aid societies" passed second reading in the Legislature. Unfortunately, progress of the Bill was stopped when Premiere Dalton McGuinty shut down the Ontario Legislature in the fall of 2012 for political reasons. The bill was reintroduced in the fall of 2013 but was again failed due to the election in 2014.

Efforts to give the Ombudsman the authority to oversee children’s aid societies is being bitterly opposed by most CAS agencies who do not want to be held accountable nor have their workers registered with the Ontario College of Social Workers.

In Ontario, there is a growing movement of parents, grandparents and children fighting to bring
attention to the unlawful and unethical practices of CAS workers. Parent advocacy groups in many parts of Ontario are organizing themselves and pushing for greater oversight and accountability with CAS agencies in Ontario.

Left: Chris Carter, a volunteer member of Canada Court Watch, is shown here with a petition of more than 1,100 local signatures to be delivered to Chatham-Kent Essex MPP Rick Nichols, in support of Bill 110, to give the Ontario Ombudsman the power to investigate public complaints against children’s aid societies. Chris is part of the growing movement of concerned citizens who are fed up with the unlawful activities of CAS workers and are pushing for Ombudsman oversight of the CAS agencies in Ontario

(credit: Chatham Daily News – Sept 2012)

The past provincial Ombudsman, Andre Marin went on the public record stating that oversight of the province’s children’s aid agencies was desperately needed. With most CAS workers not registered with the College, the public has no protection.

“The Children’s Aid Society costs $1.4 billion a year and there is no complaint mechanism that is independent that can investigate complaints regarding CAS.”

Andre Marin, Ontario Ombudsman (Nov. 3, 2013)

56) Are there any benefits to preventing a child from being interviewed by CAS workers at the child’s school?

There are numerous benefits to preventing CAS workers from using schools as a place to interrogate a child. Some of the benefits are as follows:

- Will prevent the violation of the basic rights and freedoms of children at schools as guaranteed under the Canadian Charter of Rights and Freedoms.
- Will prevent children from losing trust in their teachers at their school and help to ensure that a child’s school experience is a good one.
- Will avoid distractions to students and teachers at school often caused by the presence of CAS workers, especially when CAS workers bring police along with them.
- Will not disrupt the learning experience of any child who may be involved in an investigation by CAS workers.
- Will promote respect in the community when children and parents see that schools are
maintaining their independence from CAS investigations and providing a safe environment for children to learn.

- Will avoid bullying and teasing of the child by his/her peers as a result of the other children knowing that CAS is involved with the child.
- Will avoid the labelling of parents as bad parents by teachers and other students at the school because CAS is involved with a particular child’s family.
- Will eliminate the use of resources of school officials in having to deal with CAS workers coming into schools.
- Will ensure that teachers and school officials will not get dragged into family court proceedings as participants as a result of being present during an interrogation of a child by a CAS worker.
- Will help to ensure that teachers and school officials are not the subject of civil litigation relating to the unlawful detention and interrogation of children.

Below is an example of one school board in Ontario that a policy which states that interviews with children should be conducted “off school property” and that parents be notified when their child is to be interviewed.

| DISTRICT SCHOOL BOARD ONTARIO NORTH EAST |
| POLICY MANUAL |

Step Two
The Child & Family Services agency and the Police Service will develop a plan of action that will include the following:

1. notification of parent(s)/guardian(s) of student
2. date, time, location and method of interview with child
3. interviews with witnesses
4. interview with the alleged offender

If at all possible, interviews will be held off school property.

57) Can an interview at a school of a child by a CAS worker impede the investigation of a crime which a child has witnessed or is a victim of?

An interview of a child by a CAS worker at the school in regards to a crime against the child will in most cases interfere with the course of justice.

Persons conducting interviews with children should have the interview conducted in a place where the child feels comfortable and all interviews should be video recorded. Schools are not a place for children to be interrogated. In addition, CAS workers do not interview children using appropriate line of questioning, nor do CAS workers video record their interviews with children which is a major failing on the part of CAS workers.

If a child has witnessed or been a victim of a crime, the authorities need to be careful about how they talk to and question the child. Interviewing or interrogation can be traumatic and might cause the child to shut down and stop sharing information. Questioning by an authority figure or any adult also can influence a child’s memory or interpretation of events, or even what he says about an event.
If a child has information to a crime, then school officials do not want to be part of any process that might cause that child to no longer be willing to talk to authorities about the crime. Making a report to the CAS is one thing, but getting the school and school officials involved in the actual investigation is not acceptable.

The interview with the child must be done in any way that might damage the child’s credibility. For instance, a defense attorney might argue that the form of questioning in an interview at the child’s school influenced a child witness and made the child’s testimony so unreliable that the child’s testimony can no longer be relied upon.

58) I have heard that the family court and child protection systems are broken and that families are being harmed by these systems. Is this true?

Family Courts right across Canada are in crisis with problems which have been identified as “systemic”. One of Canada’s top justices from the Supreme Court of Canada, Justice Thomas Cromwell, has reported that that, “estranged spouses and their children are seriously damaged by the adversarial system and that judges, lawyers and law schools must embrace a culture of mediation and settlement.”

Many CAS agencies have made headlines in the news and have had to pay huge sums of money in damages as a result of shoddy work by CAS workers, most of whom are not registered social workers.

Supreme Court Justice Mr. Thomas Cromwell told the Canadian Bar Association in Vancouver that broad-based action is needed to address Canada’s ‘serious and pressing problem with access to justice. Estranged spouses and their children are seriously damaged by the adversarial system and that judges, lawyers and law schools must embrace a culture of mediation and settlement.

The Chief Justice of the Superior Court of Ontario, Heather Smith, spoke how the child protection system in Ontario was out of control. In a speech at the Opening of Courts on September 12, 2012, Chief Justice Smith stated the following: “Child protection and high conflict matters are currently fraught with problems that are often referred to as ‘systemic’. Frequently, that term is a euphemism for what we believe is ‘beyond our control’. One of the most important issues plaguing the early resolution of child protection cases is the insufficient number of experienced and available counsel to handle these challenging cases. This problem is beyond the control of any single partner in the justice system, but it is not beyond the power of all partners together.”

“Child protection and high conflict matters are currently fraught with problems that are often referred to as “systemic” says Chief Justice Heather Smith.

During an interview in 2013 with the Toronto Star, former Ontario Chief Justice Warren Winkler made the following comments about the justice system in Ontario. Below are some of his public statements:

- "The family courts system, still desperately needs a complete overhaul"
- “We just have to make some hard decisions and get on with it. No more studies, no more reviews, no more think tanks. We’re at the state now when we just need to do the law reform.”
- "Unbundled legal services and better online resources are band-aids"
- "More funding, however, is not the answer"
- "Instead, in addition to the court system becoming less bureaucratic, the culture of civil litigation needs to change."
- “We’ve got a motion culture here in the civil justice system, (lawyers filing) motion after motion…it’s all lawyers fighting with lawyers. We don’t need that. It’s being overdone, it’s expensive.”
- "The judiciary also needs to be reminded that they are public servants"
- “It’s our duty, our obligation to serve the public…it’s the first thing we forget I think. So we have to keep reminding ourselves.”


The family courts system, desperately needs a complete overhaul…..the judiciary needs to be reminded they are public servants …..in addition to the court system becoming less bureaucratic, the culture of civil litigation needs to change.

Former Chief Justice of Ontario Warren Winkler

Below are just some of the news headlines about CAS agencies as a result of flawed and sometime criminal activity by CAS workers, most of whom are not registered with the Ontario College of Social Workers
Abuse of authority in Social Services: fired advisor

CTV News - May 6, 2014

London-Middlesex Children’s Aid Society slapped with record court costs of $1.4 million

By Jane Sims, The London Free Press

Thursday, April 10, 2014 9:23:11 EDT PM

Children's Aid blasted as priest wins in court

Reprint of Article in the Toronto Star July 13, 1996 page A16

Durham society "reprehensible" in false claims.

After an 11-year battle, an Anglican priest finally has managed to hold the Durham Children’s Aid Society accountable for backing false accusations by his former wife that he had molested his daughters.

The ex-wife, who had run off with a known rapist and child molester, had made the accusations in the midst of a bitter custody dispute.

Durham Aid Society had been sued successfully for negligence.

The society's treatment of the man was "reprehensible" Somers ruled. "I am satisfied that this whole experience has been utterly devastating to him."

On Thursday, the priest won his third and final round, when the Ontario Court of Appeal dismissed the society's appeal, agreeing with Somers that the investigation was tainted by "bias," and "a course of conduct akin to malicious.

Politicians call for drastic change after a judge’s indictment of the London Children’s Aid Society

By Randy Richmond, The London Free Press

Friday, April 11, 2014 10:32:57 EDT PM
Fired CAS head still makes Sunshine List

Saturday, March 24, 2012
By Brian Shypula, Stratford Beacon Herald

lay off 125 staff and close its doors Dec. 15, 2010, due to a lack of funding. The agency had $870,000 in past debt and was expected to run a deficit of $1.3 million for 2009-10.

Besides Knight, the CAS had four other people making over $100,000 last year. They were: McCaul (121,107), Joyce Brustehl, director of human resources ($112,910). Paul Castle, director of corporate services ($103,734), and Barb Tuer, senior counsel ($102,204).

Larry Marshall, who took over as executive director earlier this year, was paid by the London Middlesex CAS after being seconded by the province.

The number of Ontario public servants making an annual salary of $100,000 or more

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Premier ponders blowing up our CAS mess: Cohn

Lacking government accountability, children’s aid is bogged down in bureaucracy.
The entire system should be blown up.

By: Martin Regg Cohn, Provincial Politics - Tuesday, December 22, 2015

Ontario Premier Kathleen Wynne has proclaimed herself ready to do whatever it takes to fix the children’s aid societies mess, Martin Regg Cohn writes
All teachers, school officials, day care providers and individuals must do their part to help protect democracy and freedom in Canada by preventing children’s aid society workers from violating the rights and freedoms of children at their schools and at other facilities where services are being provided for children.

“We must vigilantly stand on guard within our own borders for human rights and fundamental freedoms which are our proud heritage......we cannot take for granted the continuance and maintenance of those rights and freedoms.”

John Diefenbaker 1895-1979
Canada’s 13th Prime Minister 1957 -1963
Other reference information

The following is a listing of some sources of additional information which schools officials may find helpful in better understanding the issue of CAS workers and schools. While links to any websites were active at the time of publication of this document, readers may find that some may have changed.

**Schools and the CAS resource data DVD**

This data DVD contains a collection of valuable information for school officials in regards to the involvement of CAS workers at schools in Ontario. In most cases, CAS workers are entering schools unlawfully and violating the rights and freedoms of students and their parents as guaranteed under the Canadian Charter of Rights and Freedoms. This data disk can be ordered from Canada Court Watch at: info@canadacourtwatch.com

**Unlawful abduction of students by school officials**

This 60 minute DVD video reveals the tragic and unlawful physical detention of two young children by their principal at an Ontario school. The unlawful detention of the children was done at the instructions of an unregistered CAS worker who gave the school principal verbal instructions over the phone to unlawfully detain and to hold the children. This video can be ordered from Canada Court Watch at: info@canadacourtwatch.com or it may be downloaded at: http://www.vimeo.com/5023797

**Report on the Trillium Lakelands District School Board administration procedure relating to the reporting and investigation of suspected child maltreatment**

This document written by child and family advocate Vernon Beck is an example of how many teachers and school boards have been misled into breaking the law and violating the rights and freedoms of students. Using just one school board as an example, this document shows that the Trillium Lakelands District School Board administrative procedure OP-6506-AP relating to the reporting and investigation of suspected child maltreatment is fundamentally flawed, unlawful, unethical, discriminates against children and their families, and increases the exposure of the School...
Board and its employees to civil and/or criminal actions. A copy of the analysis and report by the author can be found on the following website link:


**The unlawful practice of social work in Ontario by CAS workers**

This document written by child and family advocate Vernon Beck provides school officials with information which will show how most of the children’s aid society workers in the Province of Ontario are acting unlawfully and engaged in the practice of social work without being properly registered with the Ontario College of Social Workers as is required under provincial law which was put into force in August of 2000. To download this document visit:


**The Canadian Registry for Public Accountability**

A public website has been established to keep track of CAS workers and school officials in Canada who violate the rights and freedoms of children. To enter the name of an individual or to check if a child protection worker or school official has had complaints against them from members of the public check the search feature at this website:  www.crpa.ca

**Sample “Cease and Desist” forms**

The Cease and Desist forms (formerly notice of informed refusal) shown below put teachers and all school board officials on official notice that they must exercise due diligence to fulfill their fiduciary duty to protect the Charter rights students from the unlawful activities of CAS workers while students are in their school. School officials, including all school board trustees can be held legally accountable for failing to protect the rights of students while they are at school. There are no protections for school officials who are found responsible for allowing the Charter Rights of students to be violated while at their schools.

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**Notice of informed refusal to allow Children’s Aid Society workers to have contact or to question a student at his/her school (Student)**

Where it is true:

That under section 7.8 and 9 of the Canadian Charter of Rights and Freedoms all students have the right to their liberty and to not be detained by anyone for questioning without their informed consent or the informed consent of their parent(s), and;

That Children’s Aid Society workers are considered as private citizens under the law and have no special legal authority to detain or question a student at his/her school or to obtain any school record without the informed consent of the student or his/her parent(s) or a court Order to that effect.

In recognition of the above, I, the undersigned student, state the following:

1. That I do not wish to have Children’s Aid Society workers contact me or speak to me at my school.
2. That if Children’s Aid Society workers wish to speak to me for any reason then they are to contact me at my home.
3. That I expect school officials to protect me from any form of contact or interference by Children’s Aid Society workers while I am on school property effective from the date of signing of this form.
4. That I understand the intent and purpose of this form and am signing my name below willingly and of my own free will.

Signature of Student

Date

Name Printed

Phone number

Name of school student currently attends

Grade or Class No.

Witness to student’s signature

Relationship to Student

This form is directed to:

Name of school Board or CAS agency

Street

City/Province/Postal Code

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**Notice of informed refusal to allow Children’s Aid Society workers to have contact or to question a student at his/her school (Parent or Guardian)**

Where it is true:

That under section 7.8 and 9 of the Canadian Charter of Rights and Freedoms all students have the right to their liberty and to not be detained by anyone for questioning without their informed consent or the informed consent of their parent(s), and;

That Children’s Aid Society workers are considered as private citizens under the law and have no special legal authority to detain or question a student at his/her school or to obtain any school record without the informed consent of the student or his/her parent(s) or a court Order to that effect.

In recognition of the above, I, the undersigned parent/guardian, state the following:

1. That I do not wish to have Children’s Aid Society workers to have any contact with my child(ren) at the school where my child(ren) attend.
2. That if Children’s Aid Society workers wish to speak to my child(ren) for any reason then they are to contact me at my home.
3. That I expect school officials to protect my child(ren) from any form of contact or interference by Children’s Aid Society workers while my child(ren) are on school property effective from the date of signing of this form.

Signature of Parent or Guardian

Date

Name Printed

Phone number

Name of Student

School student attends

Grade

This form is directed to:

Name of school Board or CAS agency

Street

City/Province/Postal Code

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Some actual examples of flawed and/or illegal school board policies

Following are some examples of highly flawed and in some cases illegal school board policies. In most cases, highlighted boxes are scanned from the original documents being referenced.

From the York Region District School Board (2019)

Discussion: In the above policy, the statement is made that the principal of the school is required to allow CAS workers to come into their school to interview a child. This is fundamentally wrong and a violation of the child’s rights under the Canadian Charter of Rights and Freedoms and the Criminal Code of Canada.

In addition, in most cases, children suffer psychological harm when CAS workers come into their schools to conduct interviews without the prior informed consent of the child or the child’s parents.

This policy also orders principals to relegate their authority as a principal and to take directions from a CAS worker who in reality is merely an employee of one of the many private, not for profit CAS corporations in Ontario. A CAS worker has no more legal authority than any person off the street to come into a school and to interview a child without prior informed consent of either the child or the child’s parents.

From the Trillium Lakeland District School Board (2012)

Note:

Generally, it is considered best practice for the child to be interviewed at the school, as the school is a safe and familiar environment for the child. Should the principal or designate not approve the request to interview the child on school property or if the investigating worker or team believes that an alternative environment is more conducive to interviewing, the investigating worker must apprehend the child to remove the child from the school property. If the principal requests that the interview not take place on school property, the reasons will be discussed with the investigating team. It is agreed that follow up or ongoing services, after the initial investigation, need to occur off school property unless permission from the principal is provided prior to the contact.

Discussion: In the above policy, the statement is made that it is considered best practice for the child to be interviewed at school. There is absolutely no research to back up this claim. This statement was just inserted into the policy by some unknown person without any information or research to support such a statement. On the contrary, most children who are interviewed about their experience in being interrogated by CAS workers at their school say that if given an option, they would have preferred to have met CAS workers away from school property where they are often stigmatized by teachers and fellow students for having CAS being involved with their family.
From the Trillium Lakeland District School Board (2012)

4.1.4 Once the initial contact with the CAS has been completed, the principal, in consultation with the intake worker, will determine the need to alter any standard school procedures concerning how or when the child will return home and to establish a future communication process if necessary. (Appendix B may be used as a resource in this regard)

Discussion: The above policy of the Trillium Lakelands District School Board instructs school officials about how and when to allow a child to return home. This is a very dangerous policy as detaining a student without informed consent is in violation of the Criminal Code of Canada and the Canadian Charter of Rights and Freedoms. Principals or teachers who followed this policy could be charged criminally and face personal lawsuits against themselves by parents and students. Lawsuits against school official can be made years after the incident when a child turns 18 years of age.

From the Peel Board of Education (Feb 2013)

5. Every effort shall be made to refer the situation to Children's Aid as early in the day as possible in order to give that agency sufficient time to intervene before the child is scheduled to return home. Principals shall ensure coverage of a teacher's class to enable the teacher to report immediately the suspicion that the child is or likely will be in need of protection. If the report has to be made shortly before lunch or dismissal time, the Principal shall, at the request of the Children's Aid Society, detain the child at school pursuant to his/her rights and discretion under the Education Act.

Discussion: The above policy of the Peel Board of Education leads school officials and Principals to calling the CAS at a time which will make it convenient for CAS workers to come into schools without legal informed consent. The policy instructs Principals to “detain” a child at school and then contradicts the previous part of the same sentence by pursuant to his/her rights and discretion under the Education Act. The policy clearly instructs school Principals to detain children but fails to outline what the rights of children are. As outlined in this document, the Canadian Charter of Rights and Freedoms outranks the Education Act and all other rules and procedures.

From the Peel Board of Education (Feb 2013)

6. When a report is made to Children's Aid by the school that a child is or likely will be in need of protection, the Principal shall permit the Children's Aid/Police access to the child at school. Access shall also be given to siblings of the child when a need for protection is suspected. To reduce the trauma experienced by the child, and with the child's consent, the Principal shall ensure that a supportive adult from the school is present whenever possible during the Children's Aid/Police interview with the child.

Discussion: The above policy of the Peel Board of Education leads school officials and Principals to believe that they must allow CAS workers to “access” the student at his/her school. The policy also speaks about having a supportive person from the school present. Assigning school officials to work with CAS workers clearly makes school officials witnesses who can now be summoned into court for examination under Oath. In addition, making it appear to students as if teachers are part of the interview process will cause many students to see their teachers as friends of the CAS workers and to
not trust them from that point forward. This policy violated the Canadian Charter of Rights and Freedoms.

**From the Halton Board of Education (June 2014)**

**Holding Children After School**

In some circumstances a child may need to be detained after school for the purpose of the investigation. Once directed to do so by CAS, it is the responsibility of the school to inform the parents the child will be detained. When this is necessary the principal or designate will work in conjunction with the investigative team to determine the best approach with the paramount focus being the safety of the child. Once the Child Protection worker has arrived at the school he/she will assume full responsibility for the child and the communication with the parent.

In cases where a Children's Aid Society worker or a Police Officer intends to remove the child temporarily from the school, the Principal must allow the child to leave with that person.

**Discussion:** The above policy of the Halton, Ontario Board of Education is extremely dangerous in that it openly instructs teachers and school officials to break the Criminal Code of Canada by “holding” (detaining) children in violation to their rights and freedoms under the Canadian Charter of Rights and Freedoms. Such a policy is sure to make the schools enemies of children and families in the community.

Even more frightening is the second paragraph in which the school board instructs the Principal to allow a child to be removed “temporarily” from the school. There is no such legal justification for the “temporary” removal of a child from school. Once a child is removed from a school without the informed consent of the student or the parent, this becomes an unlawful detention under the Canadian Charter of Rights and Freedoms.

Some children have reported being taken out of school by CAS workers for lunch and to befriend the student in order to extract more information from the child while pretending to be a friend. Should a child get injured such as in a car accident while in the care of the CAS worker and it was found that the child was taken from school without the consent of the parents, then the school board would likely be legally responsible for damages.

**From the Peel Board of Education (Feb 2013)**

We have received your letter dated February 2, 2013.

We note your concern with respect to interactions between the Children's Aid Society and your child on school property.

The Peel District School Board is, however, **required by law to co-operate** with Children's Aid Societies in certain circumstances, including the facilitation of interactions between the Children's Aid Society and a student on school property.

We trust that this addresses your concerns.

Sincerely,

Fanitsa Housdon
Maplewood Public School
Discussion: The letter above is a copy of a letter sent to a parent from a school official at Maplewood Public School in the district of Peel (Mississauga, Ontario). The parents in this matter were objecting to CAS workers going into this school and questioning their children without informed consent and having the CAS workers scare the children.

The school Principal, Ms. Housdon very incorrectly stated in her letter that the school board was “required by law” to cooperate with CAS in certain circumstances. In this case, the school official was talking absolute nonsense. There is NO such law which requires a school board to cooperate with the CAS to allow CAS workers to interrogate children at school. When the principal of the school was contacted by the parent and a media spokesperson with Canada Court Watch, this principal was not able to quote the law nor what sections of the law were applicable to answer the objections of parents. Clearly this school official was very poorly informed about the rights and freedoms of her students.

This sort of uninformed response by the school official shows how easily school officials are easily fooled by CAS agencies and their workers into believing that CAS workers have the authority to do interrogate, detain and terrorize children at schools. Such a response could easily result in the Principal being the subject of a civil lawsuit and being compelled to testify in Court.