

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

**Official Report
of Debates
(Hansard)**

SP-7

**Journal
des débats
(Hansard)**

SP-7

**Standing Committee on
Social Policy**

Strengthening Post-secondary
Institutions and Students Act,
2022

1st Session
43rd Parliament

Tuesday 29 November 2022

**Comité permanent de
la politique sociale**

Loi de 2022 sur le renforcement
des établissements
postsecondaires et les étudiants

1^{re} session
43^e législature

Mardi 29 novembre 2022

Chair: Goldie Ghamari
Clerk: Vanessa Kattar

Présidente : Goldie Ghamari
Greffière : Vanessa Kattar

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<https://www.ola.org/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7400.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7400.

House Publications and Language Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400
Published by the Legislative Assembly of Ontario



Service linguistique et des publications parlementaires
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400
Publié par l'Assemblée législative de l'Ontario

ISSN 1710-9477

CONTENTS

Tuesday 29 November 2022

Strengthening Post-secondary Institutions and Students Act, 2022, Bill 26, Ms. Dunlop / Loi de 2022 sur le renforcement des établissements postsecondaires et les étudiants, projet de loi 26, Mme Dunlop.....	SP-135
--	--------

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 29 November 2022

Mardi 29 novembre 2022

The committee met at 0901 in committee room 2.

**STRENGTHENING POST-SECONDARY
INSTITUTIONS AND STUDENTS
ACT, 2022**

**LOI DE 2022 SUR LE RENFORCEMENT
DES ÉTABLISSEMENTS
POSTSECONDAIRES ET LES ÉTUDIANTS**

Consideration of the following bill:

Bill 26, An Act to amend various Acts in respect of post-secondary education / Projet de loi 26, Loi modifiant diverses lois en ce qui concerne l'éducation postsecondaire.

The Chair (Ms. Goldie Ghamari): Good morning, everyone. The Standing Committee on Social Policy will now come to order. We are here for clause-by-clause consideration of Bill 26, An Act to amend various Acts in respect of post-secondary education. We are also joined by Catherine Oh from the office of legislative counsel.

The Clerk has distributed the amendment package to all members and staff. The amendments are numbered in the order in which the sections and schedules appear in the bill.

I would like to note that there are two administrative changes to the amendment package that need to be made: Amendment 24 shall be considered before amendment 21.1. Additionally, amendment 28 shall be considered before amendment 27. The changes proposed by amendment 24 appear in Bill 26 before amendment 21.1. Likewise, the changes proposed in amendment 28 occur before amendment 27. These changes are made so that the amendments appear in the order they appear in the bill. I'll repeat the changes closer to consideration of those amendments.

Are there any questions before we begin? I will now allow each party to make some brief comments on the bill as a whole. Afterwards, debate shall be limited to the section or amendment under consideration. Are there any comments? MPP Gélinas.

M^{me} France Gélinas: Do we both get to make a comment?

The Chair (Ms. Goldie Ghamari): Yes.

M^{me} France Gélinas: Okay. First of all, I want to thank the persons who did the summary: Sandra Lopes and Amanda Boyce, the research officers. They did a really nice job of summarizing everything that we had heard.

Some of the deputations made it clear that we need to do some changes to the bill. I think everybody has the same goal. We're all on the same page for this bill. We want to make it as effective as possible, and we have this opportunity this morning to make some tweaking and some changes to the bill, so that it achieves the end goal that we all want: to protect people from sexual abuse, as well as to make sure that when sexual harassment does take place, the consequences are the way we had wanted them to be. That's it.

The Chair (Ms. Goldie Ghamari): Any further debate? MPP Pasma.

Ms. Chandra Pasma: I just want to echo my colleague's comments. What we heard from all the witnesses last week, whether they were administrators, faculty, staff or students, was that they are happy to see measures in this area, but they want to see it done right. They were also unanimous that the bill needs to do more and do better in certain areas. There was certainly a lot of good content put forward by the witnesses last week, and I hope that we can work together today to make sure that that input is reflected in the bill, so that at the end of the day we have the strongest possible bill that actually takes steps to protect students, faculty and staff on university and college campuses across Ontario, because I think that's everybody's goal here.

The Chair (Ms. Goldie Ghamari): Further debate or comment? MPP Martin.

Mrs. Robin Martin: Chair, is this an appropriate time to move a motion about scheduling, before we get started?

The Chair (Ms. Goldie Ghamari): We could—

Interjection.

The Chair (Ms. Goldie Ghamari): Sorry, no. We've already started clause-by-clause, so we can't move a motion right now, because we're talking about clause-by-clause.

Mrs. Robin Martin: Okay.

Interjection.

The Chair (Ms. Goldie Ghamari): We just can't. But we can move motions and things that are unrelated after we're done clause-by-clause.

Mrs. Robin Martin: It's about scheduling the afternoon.

The Chair (Ms. Goldie Ghamari): If there's consent to—

Interjections.

The Chair (Ms. Goldie Ghamari): Okay. Yes, all right.

Mrs. Robin Martin: Sorry; it's just because of the way it was set up.

I move that the afternoon meeting of the committee commence at 3 p.m. instead of 1 p.m.

The Chair (Ms. Goldie Ghamari): Would members like the motion to be put up? No? Any debate? All agreed? Okay. Motion carried.

Mrs. Robin Martin: Thank you. Sorry about that. I should have said it earlier.

The Chair (Ms. Goldie Ghamari): Any further debate or comments on the entire bill as a whole? No? All right.

As you will notice, Bill 26 is comprised of three sections and three schedules. In order to deal with the bill in an orderly fashion, I suggest that we postpone consideration of the first three sections in order to dispose of the schedules first. This allows the committee to consider the contents of the schedules before dealing with sections on the commencement and short title of the bill. We would return to the three sections after completing consideration of the schedules. Is there agreement to stand down the three sections and deal with the schedules first? Thank you.

We'll now turn to schedule 1, section 1. There are no amendments to sections 1 and 2 of schedule 1. I therefore propose that we bundle these sections. Is there agreement? Yes. Is there any debate? Are members prepared to vote? Shall schedule 1, sections 1 and 2, carry?

M^{me} France G  linas: All recorded votes, please.

The Chair (Ms. Goldie Ghamari): All recorded votes for—

M^{me} France G  linas: Everything; the whole day.

The Chair (Ms. Goldie Ghamari): MPP G  linas has requested recorded votes for every vote.

Shall schedule 1, sections 1 and 2, carry?

Ayes

Barnes, Dowie, G  linas, Jordan, Martin, Pasma, Pierre, Quinn, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): All those opposed? I declare schedule 1, sections 1 and 2, carried.

We'll now turn to schedule 1, section 3. I have NDP motion number 1. Who would like to move that? MPP Pasma.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by striking out "publicly assisted" before "university" in the definition of "institution" in subsection 16.1(1) of the Ministry of Training, Colleges and Universities Act.

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: What we have right now is a bill that covers students at publicly funded universities and colleges and private colleges, but there's a gap for students who are attending private universities. I think that we all agree that students who attend private universities are no less deserving of protection and support in cases of sexual violence and harassment.

When I asked the minister about it last week, there didn't seem to be a rationale for why private universities were excluded from the bill. The minister mentioned the committee should consider amendments in this area, so I hope that we can support this amendment to include private universities in the scope of the bill.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: While we appreciate this friendly amendment, we recommend voting against this amendment. Publicly assisted colleges and universities are distinct from the private colleges and universities, as the former receive government funding for their operations and have a regular process with the ministry that is unique due to the funding model. Therefore, this change is not necessary.

The Chair (Ms. Goldie Ghamari): Further debate? MPP G  linas.

M^{me} France G  linas: We know how colleges and universities are funded in Ontario. This is not what this amendment is about. The amendment is not about how we go about funding them; it's about protecting the students who are at risk of sexual harassment. If we don't name them and they are not publicly assisted, that means that we're leaving all of the students without the protection that we all want to put forward.

The minister has brought this bill forward because we have a problem in Ontario. We have a role to play to fix this problem and to help protect people, and a bill is not something that comes forward very often. Let's not let that opportunity go by. Let's make sure that every university student in Ontario, no matter which university they attend, has the same protection.

0910

The Chair (Ms. Goldie Ghamari): MPP Pasma?

Ms. Chandra Pasma: Chair, we heard last week from some of the witnesses about the serious impacts, the trauma and lifelong consequences, that can result when people experience sexual violence or sexual harassment. For students who are experiencing that, their experience is no less severe simply because their university is privately funded rather than publicly funded. At the end of the day, I think it's the outcomes for the students that we should be focused on, not the government's funding to the institutions. We want to protect all students regardless of where the funding comes from.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion number 1 carry?

Ayes

G  linas, Pasma, Shamji.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

We have NDP motion number 2. Who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: I move that section 3 of schedule 1 to the bill be amended by striking out the definition of “sexual abuse” in subsection 16.1(1) of the Ministry of Training, Colleges and Universities Act and substituting the following:

“sexual violence” means, in relation to a student of an institution, any sexual act or act targeting a student’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a student without the student’s consent, including sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, sexual exploitation, degrading sexual imagery, distribution of sexual images or video of the student without their consent and cyber harassment or cyber stalking of a sexual nature.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Gélinas.

M^{me} France Gélinas: I would say this is one of the topics that we have heard the most about, whether we talk about Courage to Act, Possibility Seeds, the PEARS Project, York University graduate students, Dr. Ana Safavi, OPSEU or OSSTF. They all asked for a change in the definition.

The change in the definition from “sexual abuse” to “sexual harassment” and “sexual violence,” to use terms that are more broad than what we are using in the bill right now in the definitions—we know that some people who do wrong will try to skate away from being recognized as having done wrong. It is upon us to make sure that we make the definition as inclusive as possible, in order to achieve our aim, our end goal. When so many knowledgeable people come and all speak with one voice that we need to change the definition of “sexual violence,” then I say we listen.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pasma.

Ms. Chandra Pasma: One thing we heard from the students last week is that they can’t claim their rights if they don’t know what their rights are and that using terminology that is already being used on university and college campuses is really important so that students understand what this act covers and what it applies to. What we heard very loud and clear from both the students and the gender-based violence experts last week is that the commonly used terms are “sexual violence” and “sexual harassment.”

We also heard concerns about the quality of the definition that is in the act but that there are several gold-standard definitions that already exist, and so this amendment put forward by my colleague uses one of those gold-standard definitions and makes sure that that’s the definition that will now apply on all university and college campuses across the province.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Shamji.

Mr. Adil Shamji: I’ve actually proposed a similar amendment, for the reason that, number one, the definition is, if anything, more inclusive than the current one in the legislation. I think it’s entirely within the spirit of what this bill intends to accomplish.

We’ve heard from many different experts, also, that words really matter and that it makes a difference whether it’s called “sexual abuse,” which is not really a term that is—well, which is a term that is antiquated now and is not in alignment with the words that are currently used to describe these kinds of practices. Certainly, for those reasons, I would advocate for the speech change.

The final comment I would make is I have seen in future amendments that there will come a proposal to use the word “sexual misconduct.” That is not a word that is appreciated on university campuses. It is not a phrase that has been asked for by the experts and by the people who will be protected under this legislation.

So what I would ask is very much in the spirit of what we are all trying to accomplish here. We listened to what the experts have told us in terms of the words that they want to use, the definitions and the practices that they want to be protected about: to use this language, which isn’t any sort of partisan language, but has been proposed by the people who we heard from last week.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: I recommend voting against this motion, because this motion looks to achieve the same ends as a future government amendment to be discussed and voted on today. We’ll both seek to change the definition and name of “sexual abuse.” Motion 2 will be narrower than the other proposed amendment, as the definition will contain matters of sexual misconduct including and beyond what is contained in motion 2. We therefore recommend voting against this motion.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: Can you point us to any student bodies who work closely in this field who recommended that we use “sexual misconduct”? That’s not the language that they used. We are doing this for them, and in order to be effective, they have to understand that those laws are there, that they have protection. To use language that they don’t use is not as effective as listening to what they have told us.

They already told us the language that they use: “sexual violence” and “sexual harassment.” They understand that language. This is what they use. These are the definitions that exist in Toronto Metropolitan University. It is there; it is effective. Coming forward with “sexual misconduct”—who asked for that?

The Chair (Ms. Goldie Ghamari): MPP Shamji.

Mr. Adil Shamji: Number one, I want to acknowledge and appreciate the ambition that the members opposite have shown in being willing to look at another definition and another term for what we’re all here to talk about. Again, I want to reiterate my concern that the term “sexual misconduct” has not been echoed by any of the survivors

or experts that we spoke to last week. I'm not sure, truly, what it adds over and above the definition that the members to my side have proposed.

I think this is appropriate; it is sensitive to what people are asking for. The definition is adequately inclusive, entirely within the spirit of you're asking for. And if there is a better reason to consider "sexual misconduct," I would be open to hearing it. I have reviewed the amendment to come and I'm not sure that it adds anything to what we're doing, except taking away from what the people that we heard from last week have asked for.

The Chair (Ms. Goldie Ghamari): If there's no further debate, are the members ready to vote? Shall motion number 2 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to government motion number 3. Who would like to move this? MPP Pierre.

0920

Ms. Natalie Pierre: I move that section 3 of schedule 1 be amended by striking out the definition of "sexual abuse" in subsection 16.1(1) of the MTCU Act and substituting it with a definition of "sexual misconduct."

The Chair (Ms. Goldie Ghamari): You have to read the entire thing.

Ms. Natalie Pierre: Oh, okay.

The Chair (Ms. Goldie Ghamari): We're on government motion number 3. Can you please just start from the beginning?

Ms. Natalie Pierre: Sure. I move that section 3 of schedule 1 to the bill be amended by striking out the definition of "sexual abuse" in subsection 16.1(1) of the Ministry of Training, Colleges and Universities Act and substituting the following:

"sexual misconduct" means, in relation to a student of an institution,

"(a) physical sexual relations with the student, touching of a sexual nature of the student or behaviour or remarks of a sexual nature toward the student by an employee of the institution where,

"(i) the act constitutes an offence under the Criminal Code (Canada),

"(ii) the act infringes the right of the student under clause 7(3)(a) of the Human Rights Code to be free from a sexual solicitation or advance, or

"(iii) the act constitutes sexual misconduct as defined in the institution's employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the institution respecting sexual relations between employees and students, or

"(b) any conduct by an employee of the institution that infringes the right of the student under clause 7(3)(b) of the Human Rights Code to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance. ('mauvais traitements d'ordre sexuel')

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: We've already heard the concerns that "sexual misconduct" is not a term that is used by students. It's not a term that's used by gender-based violence experts. It's not a term that was requested by any of the witnesses last week, whether it was administration, faculty, staff or students.

But we also heard a number of concerns with the definition, which is left intact in the act here, and particularly point 3: that it allows each individual institution to define what constitutes sexual misconduct, and that that creates concerns that there's no requirement for the institution to consult with anyone on what the definition of "sexual misconduct" is for their campus, but also that there will be varying definitions of sexual misconduct from institution to institution. What constitutes sexual misconduct at Toronto Metropolitan University will not necessarily constitute sexual misconduct at the University of Toronto or York University, which is why our witnesses last week were asking for a stronger, better definition—the gold standard.

I'm concerned about the fact that while "sexual misconduct" may be an improvement on "sexual abuse"—which we heard is an obsolete term that does not mean anything in this context—it still doesn't necessarily mean anything to students. But this amendment also leaves the problematic definition of sexual misconduct untouched.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: I recommend voting for this motion, because this amendment looks to achieve the same ends as a future government amendment to be discussed and voted on. While both seek to change the definition and name of sexual abuse, motion 3 encompasses more actual facts of sexual and gender-based violence, harassment and other forms of inappropriate behaviour contained in a variety of legislation, policies and codes outlined in Bill 26.

While we recognize there are a variety of terms used in the disclosure around sexual violence and harassment, "sexual misconduct" is being proposed for two reasons. The first is that the term in this legislation is used as an umbrella term in which offences like sexual violence, gender-based violence, sexual assault and others can be contained without giving one term or offence prominence over another. With a term like "misconduct," we are able to contain all of these offences in the definition, to allow for a better understanding of the application of the legislation.

The second is that we want to be mindful of all the recommendations that came forward for the various replacements of the definition. Motion 3 will introduce an amendment that will improve the terminology without

using language that is triggering and offensive, and allows for the broadest possible understanding and inclusion of various forms of offences.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: We had a lot of groups who asked to come and talk to us. This is one point where there was a whole lot of agreement that the language needed to be changed. There was also a whole lot of agreement as to what those changes should be. The language that the university family uses is “sexual violence” and “sexual harassment,” and it is up to us to make sure that the definitions in the bill capture everything that we have heard when Possibility Seeds came to talk to us, when Courage to Act came to talk to us, when the PEARS Project came and talked to us. The York University Graduate Students’ Association, the Canadian Association of University Teachers, the Ontario Public Sector Employees Union, the Ontario Secondary School Teachers’ Federation—they all ask for the same thing: They ask that we use “sexual violence” and “sexual harassment.” Not one of them uses “sexual misconduct.”

We are getting further away from our goal when we do things like this. I understand that your intentions are good. You want to be as inclusive as possible. But I think we can achieve your good intention by using some of the knowledge that we’ve learned from the people who live this on the ground day in and day out. They came and talked to us and made it clear that language matters and this is not the language that they use.

I would respectfully ask that we change “sexual misconduct” to “sexual violence and sexual harassment.” That would at least be a step in the right direction so that our end goal is better understood by the people who live it day in and day out.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Shamji?

Mr. Adil Shamji: I just wanted to ask the member across: I understand from the remarks you just presented that a future amendment will further expand on some of the comments that you made. Would you be able to let me know which future amendment that is just so I can understand whether I can support that or not?

The Chair (Ms. Goldie Ghamari): Is there any further debate? No? All right—

Mr. Adil Shamji: It’s an objective, factual question. Just tell me the amendment.

The Chair (Ms. Goldie Ghamari): Is there any further debate? Seeing none, are members prepared to vote?

Ayes

Barnes, Dowie, Gélinas, Jordan, Martin, Pasma, Pierre, Quinn, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): All those opposed? I declare government motion 3 carried.

Turning now to independent motion number 3.1: Who would like to move this motion? MPP Shamji.

Mr. Adil Shamji: Perhaps it’s one last kick at the can as to whether we might all consider—we’ve certainly made an improvement in moving from “sexual abuse” to “sexual misconduct,” and I wonder if we could take one last kick at the can at considering whether we would like to—

The Chair (Ms. Goldie Ghamari): You have to move your motion before you can debate on it.

Mr. Adil Shamji: Right. Thank you.

I move that section 3 of schedule 1 to the bill be amended by striking out the definition of “sexual abuse” in subsection 16.1(1) of the Ministry of Training, Colleges and Universities Act and substituting the following:

“sexual violence’ means, in relation to a student of an institution, any sexual act or act targeting a student’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a student without their consent. It includes but is not limited to sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, sexual exploitation, degrading sexual imagery, distribution of sexual images or video of the student without their consent and cyber harassment or cyber stalking of a sexual nature.”

The Chair (Ms. Goldie Ghamari): Thank you.

Committee members, I am unfortunately ruling this amendment out of order, as it is consistent with a previous decision the committee made on this section of the bill.

0930

Turning now to NDP motion number 4: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I’d like to withdraw motion 4 and move motion 4.1 instead.

The Chair (Ms. Goldie Ghamari): Okay.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection to section 16.1 of the Ministry of Training, Colleges and Universities Act:

“Same

“(1.1) For greater certainty, conduct described in the definition of ‘sexual misconduct’ in subsection (1) constitutes sexual misconduct regardless of whether it occurs on the institution’s campus, off-campus, online or in experiential learning settings.”

The Chair (Ms. Goldie Ghamari): Is there any further debate? MPP Martin?

Mrs. Robin Martin: That happened a little quickly. I don’t think I’ve seen a copy of 4.1, but I guess what she has done is substituted “misconduct” for “abuse.” Is that correct?

The Chair (Ms. Goldie Ghamari): Amendment 4 was withdrawn. We are on amendment 4.1.

Mrs. Robin Martin: Which I don’t have a copy of.

The Chair (Ms. Goldie Ghamari): You don’t have a copy of that?

Ms. Chandra Pasma: That is correct, though. That is the difference.

Mrs. Robin Martin: Okay.

The Chair (Ms. Goldie Ghamari): There we go. Is there any debate? MPP Pasma.

Ms. Chandra Pasma: One of the things that we heard from the witnesses last week, especially from the student witnesses, was concern about a lack of clarity as to where the bill applied. We know that post-secondary education is not limited to the classroom—

Interjections.

The Chair (Ms. Goldie Ghamari): Sorry to interrupt. If I could just remind committee members to keep their voices down when they are speaking, because I can't hear.

Mrs. Robin Martin: Sorry.

The Chair (Ms. Goldie Ghamari): Thank you.

Ms. Chandra Pasma: We know that post-secondary education is not limited to the classroom. Many students live on campus. There are all kinds of activities that take place on campus outside of the classroom, but also off-campus, that are still university or college events, or events where a majority of attendees are students, staff and faculty of the institutions.

Increasingly, sexual violence and harassment takes place in online spaces. Also, as experiential learning opportunities expand, this is an area that especially needs to be addressed, because students who are in these spaces face a power imbalance. Their education depends on them successfully completing the experiential learning activities, so there's a lot of pressure to remain silent and accept behaviours that are taking place around them, but they're not covered by the rights of an employee because they're a student.

And so, this amendment makes it clear that the protections against sexual misconduct apply regardless of where the activities take place, whether it's on campus, off-campus, online or in an experiential learning setting.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Pierre.

Ms. Natalie Pierre: I recommend voting against this motion because, while we appreciate the intent of the motion, it is an unnecessary change. As we have stated, as has the minister, Bill 26 would apply beyond the confines of a campus boundary. We therefore recommend voting against this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pasma?

Ms. Chandra Pasma: One of the things we heard loud and clear from the students last week is that students can only claim their rights if they know what their rights are. While it may be great that the minister has provided an assurance that the bill will apply everywhere, the bill doesn't actually state that, and I'm not sure that there are very many students who read committee transcripts. This would be some certainty provided right in the text of the bill to students that, regardless of where activities take place, they will have protection.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas?

M^{me} France Gélinas: We know from people who work in the field that these types of defences have been used before to say, "Oh, he was not my student. I happened to

see him/her in a bar." We know that this has happened before. To put it in the bill, so that every student can see, so that we make things clear, only brings us closer to the end goal that we all share.

The idea does not come from us. It comes from the deputations we've heard from people who have tried to defend students who have been victims of sexual violence and sexual harassment, now called "sexual misconduct." They are asking for those clarifications to be there. It will help us achieve our goal.

It's fine for the minister to say that she wants this to be so, but it makes no difference. If it's not written in the bill, I guarantee you, there are some people who will be doing sexual violence, sexual harassment, sexual misconduct, who will use the fact that they were not on campus—that it's not specified in the bill—to get away with it.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Shamji.

Mr. Adil Shamji: I understand from the members across that, apparently, this amendment may be redundant on the basis of the verbal assurances of the minister. That being said, I do think that there's value in seeing this in writing, both for the victims as well as for potential perpetrators or potential faculty. I'm not sure that I understand or perceive any disadvantages to including this in the legislation, but if there are any actual disadvantages to this appearing in the legislation, I wouldn't be against voting for it if any of those were articulated.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to government motion number 5. Who would like to move this motion? MPP Pierre.

Ms. Natalie Pierre: I move that section 3 of schedule 1 to the bill be amended by striking out "sexual abuse of" wherever it occurs in subsections 16.1(2) and (3) of the Ministry of Training, Colleges and Universities Act and substituting in each case "sexual misconduct toward".

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pierre.

Ms. Natalie Pierre: I recommend voting for this motion. This is a change related to the passing of motion 3. If passed, motion 5 must also pass; otherwise, Bill 26 would have a continuity concern.

The Chair (Ms. Goldie Ghamari): Is there any further debate? MPP Gélinas.

M^{me} France Gélinas: I like the fact that we have listened to some of the deputations we heard and changed

the word “to” to “toward”—“sexual misconduct toward.” I think this is a step in the right direction.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall government motion number 5 carry?

Ayes

Barnes, Dowie, Gélinas, Jordan, Martin, Pasma, Pierre, Quinn, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion carried.

Turning now to independent motion number 5.1. Who would like to move this motion? MPP Shamji, would you like to move this motion?

Mr. Adil Shamji: I move that section 3 of schedule 1 to the bill be amended,

(a) by striking out “sexual abuse of a student” [inaudible] the Ministry of Training, Colleges and Universities Act and substituting in each case—

Failure of sound system.

Ms. Goldie Ghamari: So I’m going to rule the amendment out of order as it’s inconsistent with a previous decision that the committee made on this section of the bill, and we’re going to recess for maybe two minutes since [inaudible] having technical difficulties.

The committee recessed from 0939 to 0945.

The Chair (Ms. Goldie Ghamari): We’ll now resume. We’ll now turn to NDP motion 6. Who would like to move this motion?

Mrs. Robin Martin: Did we finish with 5.1?

The Chair (Ms. Goldie Ghamari): Yes, it was ruled out of order.

Mrs. Robin Martin: Oh, out of order? Okay.

The Chair (Ms. Goldie Ghamari): MPP Gélinas?

M^{me} France Gélinas: I move that section 3 of schedule 1 to the bill be amended by adding “and” at the end of clause 16.1(2)(a) of the Ministry of Training, Colleges and Universities Act, by striking out “and” at the end of clause 16.1(2)(b) of that act and by striking out clause 16.2(c) of that act.

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: This amendment deletes the override of collective agreements and right of appeal. As we heard from witnesses last week, there’s serious concern that this act sets out a harsher standard than the Criminal Code, because the Criminal Code protects due process and protects the right of appeal, and what this clause does is basically take that right away from people who have been accused of sexual misconduct on university and college campuses. It does that despite the fact that collective agreements and right of appeal actually allow for the discipline and termination of employees and, in fact, set out the standards that must be followed to ensure that due process is protected, that the rights of everyone are respected, that there’s an actual process with standards that

is followed to arrive at a determination that somebody has broken the policy and should be disciplined or terminated.

So this clause is absolutely unnecessary to accomplish the goal of making sure that there is accountability, that there are consequences when someone commits acts of sexual violence or sexual harassment—or “misconduct,” as the act now says. There is no need for this to be in the bill, and there are concerns, given that it sets out a harsher standard than the Criminal Code and that there is no respect for due process and the right of appeal, that this is not a part of the act that will stand if it is reviewed by courts.

That could put a survivor down the road in the awful position of experiencing further trauma and harm when the person who has been found guilty of misconduct towards them appeals to a court and draws out this process. It’s not necessary, so I don’t know why we would risk creating that further harm and trauma to survivors down the road when there are already provisions within collective agreements and within the rights of institutions, as employers, to discipline and terminate employees.

The Chair (Ms. Goldie Ghamari): Thank you. Is there further debate? MPP Pierre.

Ms. Natalie Pierre: I recommend voting against this motion, because—we will be voting against these motions, as a future motion deals with the proposed changes in a more fulsome and stronger form. Government motion 10 will deal with each of these changes and, if passed, will provide the recommended change that NDAs will be prohibited throughout the process, from the moment of reporting of the incident, as well as give survivors the opportunity to request an NDA, so long as they are not coerced; an opportunity to receive advice about the implications of an NDA; and an opportunity to waive confidentiality in the future, and that the NDA has a sunset clause.

The Chair (Ms. Goldie Ghamari): MPP Pasma?

Ms. Chandra Pasma: Sorry, but there seems to be some confusion on the government side about what this amendment actually does, because the clause that’s being amended does not actually address non-disclosure agreements. What it says is that the Labour Relations Act is set aside, the collective agreement is set aside; no arbitrator or adjudicator has any right to review the discharge or disciplinary measure imposed by the institution. This has nothing to do with a non-disclosure agreement, but I think it problematically sweeps away decades of developments in labour relations. It definitely sets aside decades of collective bargaining between employers and workers.

I know we’ve seen earlier this fall that the government is not the greatest supporter of collective bargaining and labour rights, but nonetheless, I don’t think we should be too cavalier in sweeping those aside. And it’s all unnecessary, because collective agreements and the rights of employers already allow for institutions to discipline and terminate employees. They don’t need to do that while taking away due-process rights from those employees. They don’t need to do that while taking away the rights of appeal from an employee.

0950

As the act is set out now, it allows the institution to do that without any standards at all for how that decision is arrived at, so an investigator with no qualifications could undertake an investigation and decide that someone is guilty. They could be disciplined or terminated on the basis of that investigation, and they have no right of appeal. They have no right to say, “This investigation didn’t follow proper procedure. I didn’t have the opportunity to fully share my story. There was information that you didn’t have.” Those are all crucial elements of our criminal justice system. They should also be elements of a decision that is being made at a university or a college, particularly since the standard is lower on balance of probabilities, and there’s no need for it, because at the end of the day that employee could still be disciplined or terminated, even if labour relations and collective agreements are still respected.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Martin.

Mrs. Robin Martin: We think the changes are necessary as we have laid them out. The reason is clear today; there’s a story in the paper about a U of T professor who continues to work and will teach two courses next semester despite being found guilty in a 72-page report. We really do think that we’ve got the right amendments the way we have it.

The Chair (Ms. Goldie Ghamari): MPP Gélinas.

M^{me} France Gélinas: Sexual violence, sexual harassment and now sexual misconduct are serious issues that carry with them pretty serious consequences, and we want to make sure we get this right. As much as we want to protect, we also want to have due process to the perpetrators, and this amendment will help us make sure that we do have due process, and that is to give them a right of appeal.

The Association of Professors of the University of Ottawa told us so. The Canadian Association of University Teachers told us so. The Canadian Union of Public Employees told us so. The Ontario Confederation of University Faculty Associations told us. The Ontario Federation of Labour said the same thing. The Ontario Public Service Employees Union said the same thing. The Ontario Secondary School Teachers’ Federation and the Toronto Metropolitan Faculty Association all told us the same thing.

We need to respect the collective agreements, and we need to make sure that the perpetrators are held to account. To receive so many warnings from so many associations who deal with this—all of them, unfortunately, have had to deal with perpetrators of sexual violence and sexual harassment before. We all know what that means. That means that our bill will be challenged in court. That takes—not forever, but that takes a very long time. During all that time, we are opening the door for perpetrators to use the fact that we were not organized enough and we missed our end goal.

I think this is a step that needs to be taken.

The Chair (Ms. Goldie Ghamari): MPP Pasma?

Ms. Chandra Pasma: I just want to address the case raised by MPP Martin. Obviously nobody wants to see a situation where students are forced to continue to take classes with or work with somebody who has committed acts of sexual misconduct, but I guarantee you that the University of Toronto Faculty Association agreement allows for the discipline and discharge of employees. Every collective agreement does. The Labour Relations Act does.

In this case, it is the University of Toronto administration that has chosen to respond to this situation in this way. I can’t provide an explanation as to why—I don’t know the details of the situation—but allowing for the override of collective agreements doesn’t change this situation, because at the end of the day, it comes down to decisions being made by university and college administrators. I think the fact that we’ve seen some problematic decisions from administrators across the province in recent years adds to the concern here that there needs to be protection for due process, that there needs to be protection of the right of appeal, because university administrators don’t always make great decisions. They are not always acting in the best interest of students, faculty and staff, and therefore there need to be processes in place that will protect the participants who are involved in these processes, whether they are on the survivor side or whether they are on the respondent side.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Shamji?

Mr. Adil Shamji: I have been in the unfortunate situation of seeing and treating victims of sexual violence. If anything, that just underscores and redoubles my commitment to doing anything possible to protect them.

That being said, I do want to caution about being overly zealous by skipping important legal steps in order to make sure that everyone’s rights are protected. I do worry that this bill, as written, will overstep important rights, and I do urge the members across to very seriously consider voting for this motion.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion number 6 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 7: Who would like to move this? MPP Pasma.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by adding “if all procedural steps were properly followed in the imposition of the discharge or disciplinary measure imposed by the”—that should

actually say “institution,” rather than “private career college”—“and all applicable appeal rights were respected” before “no arbitrator”—

The Chair (Ms. Goldie Ghamari): Sorry. Before you continue, then, would you maybe withdraw and do your next one?

Ms. Chandra Pasma: Yes, sorry. Okay. I withdraw 7 and move 7.1.

The Chair (Ms. Goldie Ghamari): All right. Motion number 7 has been withdrawn. MPP Pasma is going to move motion number 7.1.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by adding “if all procedural steps were properly followed in the imposition of the discharge or disciplinary measure imposed by the institution and all applicable appeal rights were respected” before “no arbitrator” in clause 16.1(2)(c) of the Ministry of Training, Colleges and Universities Act.

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma?

Ms. Chandra Pasma: Since the government seems determined to move ahead with this override of the Labour Relations Act and collective agreements, this at least ensures that that there is a standard set out, that procedural steps have to be followed in imposing discharge and discipline, and that the perpetrator has the right of appeal protected.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas?

M^{me} France Gélinas: We are trying to make sure that once the law is passed—“if the law is passed,” I’m supposed to say; if it gets there, and hopefully it will—we don’t give the people who will be defending the perpetrators legal ammunition to put this aside. As much as we all have feelings toward people who do acts of violence and harassment, we need to make sure that due process was served and that they have a right to appeal.

This is what the labour law says. This is how the legal system in Ontario works, and if we don’t include it, I guarantee you that there will be a lawyer out there who will make reference to it, who will say that the case doesn’t stand. I’m not a lawyer, but they are there to defend and they will use every tool at their disposal to defend a perpetrator, no matter the consequences for the survivor. This is making sure that we are taking away some of those legal arguments that are used by people who defend perpetrators of sexual violence and sexual harassment.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 7.1 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

1000

Turning now to NDP motion number 8: Who would like to move that motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by striking out subsection 16.1(5) of the Ministry of Training, Colleges and Universities Act.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pasma?

Ms. Chandra Pasma: This was another area where there was consensus among the witnesses and stakeholders who we heard from on the bill that the existing clause in the act does not get the issue of non-disclosure agreements right. It does not take a survivor-centric approach. The non-disclosure agreements only apply in cases where an adjudicator, arbitrator or court has already made a finding, whereas most non-disclosure agreements are actually imposed much earlier in the process, when somebody has made a complaint but it hasn’t reached a decision stage. In fact, non-disclosure agreements can be used to avoid a complaint actually ever reaching the decision stage.

But we also heard concerns that this is limited to universities and colleges, whereas what we really need is a province-wide ban on non-disclosure agreements that is survivor-specific and ensures that nobody is prevented from talking about their experience by a non-disclosure agreement or confidentiality agreement.

I am moving this motion today to delete this clause from the bill, to give the government a chance to get this right, to introduce legislation of the kind that was introduced in PEI that is across all sectors: not limited to one sector, not limited to people only at the end of a process, but that would apply throughout the process and allows for survivors to request a non-disclosure agreement in cases where they would like to have a non-disclosure agreement.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: We proposed a similar change in motion 10, so we will be voting against motion 8.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: This is an important other change that needs to happen in the bill. We heard from Courage to Act. We heard from the Canadian Centre for Legal Innovation in Sexual Assault Response. We heard from the Canadian Federation of Students—Ontario. We heard from the Ontario Undergraduate Student Alliance, the PEARS Project, Possibility Seeds, Dr. Ana Safavi, the University of Toronto Students’ Union, the York University Graduate Students’ Association. They all made reference to the non-disclosure agreements, and they all agree that it cannot only happen at the end of the process.

It is something that needs to be available to them, as in you cannot use a non-disclosure agreement the whole time. They have to be able to protect themselves from—I always phrase this backwards, eh? We don’t want the non-disclosure agreement to be used from the start and, right

now, we only give them that protection at the very end. They all spoke to it. It needs to start sooner. This is what this amendment does.

The Chair (Ms. Goldie Ghamari): MPP Shamji?

Mr. Adil Shamji: Just a request for clarification: If this amendment passes, is the intention that additional legislation will come in that is more comprehensive in addressing non-disclosure agreements?

The Chair (Ms. Goldie Ghamari): MPP Pasma?

Ms. Chandra Pasma: Yes, that's what we're calling for: for the government to introduce stand-alone legislation, like PEI has, that is comprehensive across all sectors, survivor-specific and trauma-informed.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Shamji.

Mr. Adil Shamji: Sorry; I just want to be clear. So the intention wouldn't be for another amendment or another clause, but separate legislation altogether?

Ms. Chandra Pasma: Yes, which would protect people in other sectors, not just university and college students. For instance, in the Hockey Canada situation, where we know non-disclosure agreements have played an incredibly contentious role—this does nothing to address scenarios like that. Sexual violence and harassment is a problem wherever it occurs in our society. Perpetrators should not be able to count on protection just because they don't work for a university or college.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote on NDP motion number 8?

Ayes

Gélinas, Pasma.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 9: Who would like to move that? MPP Gélinas.

M^{me} France Gélinas: I move that section 3 of schedule 1 to the bill be amended by striking out subsection 16.1(5) of the Ministry of Training, Colleges and Universities Act and substituting the following:

“Agreement

“(5) An agreement between an institution and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 3 of schedule 1 to the Strengthening Post-secondary Institutions and Students Act, 2022 comes into force, shall not contain any term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing the fact that an allegation of sexual abuse of a student of the institution has been made and the substance of that

allegation, and any such term that is included in the agreement or in any accompanying document is void. However, this prohibition does not apply with respect to the identity of the student and the amount of any financial settlement.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: This was an amendment that was proposed by someone named Julie Macfarlane of the Can't Buy My Silence campaign. It's really too bad that we were not allowed to have sufficient time to hear from all the witnesses who wanted to come to speak to this bill. Julie has an incredibly compelling story. She was a University of Windsor professor who was hearing from her students that they were being sexually harassed by another professor. I believe the member from Windsor—Tecumseh knows this story well.

The alleged perpetrator negotiated with the university and was allowed to leave voluntarily with a non-disclosure agreement, and a letter of support was provided to him for future employment. A prospective employer then reached out to Julie Macfarlane to understand why that person was leaving the university, and she told the honest truth. Professor Macfarlane ended up being the one who was disciplined in this scenario. So the perpetrator got away scot-free, and the person who actually tried to protect female students was disciplined.

The legislation, as it's currently drafted, does nothing to protect somebody like Julie Macfarlane, because there was no decision ever made in this case. The perpetrator successfully used negotiations with the university to avoid any consequences, used the non-disclosure agreement that he was able to negotiate to avoid any consequences, and the person who tried to speak up for students is the one who faced really punitive consequences.

Julie has a campaign now to support a ban on non-disclosure agreements that would reach beyond post-secondary campuses, which is something I've already stated I think the government should be looking at. But this is an amendment that Julie is proposing for this act that ensures that non-disclosure agreements are actually banned throughout the process, instead of only being banned at the moment that a decision is made. But it does ensure that the identity of students and financial settlements remain protected information. However, the fact that allegations have been made is not allowed to be protected under this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: I will add to this that the way that we have it now, we need to rebalance the power a bit. It gives a whole lot of power to the institutions themselves, and we all know that when a case comes out, often their reputation is at stake. So the institution themselves have a vested interest in keeping everything quiet, so that it does not affect the reputation of the institution, and that's always at the expense of the victim. So I would encourage that we look at this really seriously.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion number 9 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Dowie, Jordan, Martin, Pierre, Quinn, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

1010

Turning now to NDP motion 9.1: Who would like to move this motion?

Ms. Chandra Pasma: Withdraw, Chair.

The Chair (Ms. Goldie Ghamari): So 9.1 is withdrawn.

Turning now to government motion number 10: Who would like to move this motion? MPP Pierre.

Ms. Natalie Pierre: I move that section 3 of schedule 1 to the bill be amended by striking out subsections 16.1(5) and (6) of the Ministry of Training, Colleges and Universities Act and substituting the following:

“Agreement

“(5) Subject to subsection (5.1), an agreement between an institution and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 3 of schedule 1 to the Strengthening Post-secondary Institutions and Students Act, 2022 comes into force, shall not contain any term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing that an allegation or complaint has been made that an employee of the institution committed an act of sexual misconduct toward a student of the institution, and any such term that is included in an agreement is void.

“Exception

“(5.1) An institution may enter into an agreement that contains a term described in subsection (5) if the student requests that the institution do so, provided that,

“(a) the student has had a reasonable opportunity to receive independent legal advice;

“(b) there have been no undue attempts to influence the student with respect to the request;

“(c) the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and

“(d) the agreement is of a set and limited duration.

“Contrary term, rule, etc.

“(6) Subsections (2) to (5.1) apply despite any contrary term in an employment contract or collective agreement, or any” contract “rule or principle of common law or equity.”

The Chair (Ms. Goldie Ghamari): Can you please repeat the last phrase of that sentence, starting from “or any”?

Ms. Natalie Pierre: —“or any contrary rule or principle of common law or equity.”

The Chair (Ms. Goldie Ghamari): Thank you.

Is there any debate on government motion number 10? MPP Pasma.

Ms. Chandra Pasma: I’m glad to see that the government has put forward this amendment, which addresses many of the concerns that we heard about non-disclosure agreements and how the previous clause was just completely inadequate. I do have two concerns, though. One is that I hope that the government, as I have said previously, will consider doing so for sectors other than post-secondary, because people who are not university and college students still deserve the same protection. And the second is that I don’t support the inclusion of point (6), saying that “Subsections (2) to (5.1) apply despite any contrary term in an employment contract or collective agreement, or any contrary rule or principle of common law or equity.” I’m not sure why the government so loves to override contracts and collective agreements, especially when their goals can so easily be achieved while still respecting laws and collective agreements.

The Chair (Ms. Goldie Ghamari): Further debate? MPP—no? Okay. MPP Gélinas.

M^{me} France Gélinas: Sorry, go ahead.

The Chair (Ms. Goldie Ghamari): MPP Pierre.

Ms. Natalie Pierre: I recommend voting for this motion, because government motion 10, if passed, will provide the recommended change that NDAs will be prohibited throughout the process, from the moment of reporting of the incident, as well as give survivors the opportunity to request an NDA so long as they are not coerced, have an opportunity to receive advice about the implications of an NDA, have an opportunity to waive confidentiality in the future and that the NDA has a sunset clause.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: I think this amendment moves us in the right direction. I’m not in love with the last little paragraph, but the rest of it, we certainly heard. The Canadian Centre for Legal Innovation in Sexual Assault Response had made a very compelling stand against what we had and toward the change that you’ve implemented and so have many others. The Ontario Undergraduate Student Alliance, Possibility Seeds, Courage to Act, the Canadian Federation of Students—Ontario—many, many of the people who did deputations asked us to do this, so I think this is going in the direction they’ve asked us to go with and I’m happy with that.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote?

Ayes

Barnes, Dowie, Gélinas, Jordan, Martin, Pasma, Pierre, Quinn, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion carried.

Members, seeing as it is 10:15, the committee will now recess until 3 p.m. this afternoon to resume clause-by-clause consideration of Bill 26.

The committee recessed from 1015 to 1501.

The Chair (Ms. Goldie Ghamari): Good afternoon, everyone. The committee will now resume clause-by-clause consideration of Bill 26, An Act to amend various Acts in respect of post-secondary education.

We'll now turn to NDP motion number 11. Who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: I will withdraw 11 and table 11.1.

The Chair (Ms. Goldie Ghamari): Okay. Moving on to motion 11.1: MPP Gélinas.

M^{me} France Gélinas: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection to section 16.1 of the Ministry of Training, Colleges and Universities Act:

“Same

“(5.1) Despite subsection (5), at the request of a student who has experienced sexual misconduct, an agreement between an institution and a person settling existing or contemplated litigation may contain a term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing that an allegation of sexual misconduct has been made, that the student was involved or that a settlement has been reached.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Gélinas.

M^{me} France Gélinas: Just to make matters clear: Following what we have heard through deputations, there may be circumstances that are student-driven that would warrant those actions to be taken. So having them in the bill as something that is feasible, that is student-driven, could be something useful to some students.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 12: Who would like to move that motion? MPP Pasma.

Ms. Chandra Pasma: We withdraw 12.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Moving now to NDP motion number 13: Who would like to move that motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by striking out subsection 16.1(6) of the Ministry of Training, Colleges and Universities Act.

The Chair (Ms. Goldie Ghamari): Committee members, I'm ruling this amendment out of order, as it is

inconsistent with the previous decision the committee made on this section of the bill.

Turning now to NDP motion number 14: Who would like to move that motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 3 of schedule 1 to the bill be amended by striking out “an employee sexual misconduct policy” in the portion before clause 16.1(7)(a) of the Ministry of Training, Colleges and Universities Act and substituting “an employee sexual misconduct policy developed with input from a permanent committee of the institution composed of student, faculty and staff representatives.”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pasma.

Ms. Chandra Pasma: One thing that we heard a lot of concern about last week from the deputations was that the act as written leaves a lot of power and latitude in the hands of the institution to develop the sexual misconduct policy. There is no requirement whatsoever that the administrators developing this policy consult with anybody at the institution and a lot of concerns that if there's not consultation there will be gaps in the policies or problematic elements of the policies, that the policies will fail to address the lived reality of students, the overlap between many of the roles on university and college campuses, the fact that students are also workers and workers are also students, the fact that people can transition in and out of roles, the fact that there are different power imbalances and perspectives depending on what type of work faculty and staff are doing. So it's very important for universities and colleges to consult with faculty, staff and students as they develop these policies to make sure that they are as comprehensive as possible, as clear as possible and that they actually accomplish the goals that we are all trying to achieve this afternoon, to prevent and address sexual violence whenever it occurs on a campus.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: I would bring you back to some of the comments that Ontario university students' associations had made regarding policy that is trauma-informed, that is victim-centric. This is to make sure that the recommendations that we've heard from people who will be affected by that bill are actually put into the bill so that they do have a voice, so that if we leave it to the institutions to develop their sexual misconduct policy, we know that we will have dozens of different policies. This is to make sure that at least faculty, staff and students are consulted.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion number 14 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 15: Who would like to move that? MPP Gélinas.

M^{me} France Gélinas: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection to section 16.1 of the Ministry of Training, Colleges and Universities Act:

“Standards for policy

“(7.1) The policy must satisfy the minimum standards developed for the purposes of this section by a standards committee to be appointed by the minister consisting of representatives from the Council of Ontario Universities, the Canadian Federation of Students, the Ontario Undergraduate Student Alliance and associations and unions representing faculty and staff, including standards respecting,

“(a) the policy’s scope;

“(b) the locations where the policy applies;

“(c) data collection;

“(d) training for and expectations of persons conducting investigations under the policy; and

“(e) what constitutes meaningful consultation on changes to the policy.”

The Chair (Ms. Goldie Ghamari): Is there further debate? MPP Pasma.

Ms. Chandra Pasma: We heard a lot of concern from both student groups and the faculty groups last week that, currently, there’s no standard set out by this legislation or any existing legislation in Ontario. Each university and college is required to have a sexual violence policy; they will now be required to have a sexual misconduct policy, but every single one across the province could be different. So to use my hometown as an example, what will be considered sexual misconduct at the University of Ottawa could not be considered sexual misconduct at Carleton University or Algonquin College or La Cité collégiale.

So much work has been done across this sector in the past few years by students, faculty, staff unions, gender-based violence experts to come to a better understanding of what is needed and what is required, what constitutes a strong policy, what constitutes an adequate investigation, what kinds of qualifications an investigator should have, what kinds of data collection a university or college should be undertaking to understand whether or not the policy is effective, what kinds of training should be provided on campus, what kind of consultation needs to take place on an ongoing basis. We really need to not only require these policies across the province, but set out a standard that these policies must meet in order to ensure that we’re really doing our best to protect students, faculty and staff from sexual violence and harassment.

1510

And this is not something that any one group should undertake alone, which is why we are proposing—and why the Ontario Undergraduate Student Alliance and

other students groups proposed—that this particular list of stakeholders compose the committee that would develop this minimum standard representation from administrators, from multiple student groups, from faculty and staff unions: so that each major component of the university and college community is represented in developing these minimum standards, to ensure that at every university and college, we know that students are going to be protected.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: I recommend voting against this motion, because we will not create a committee through legislation that has not been evaluated by the ministry and minister as to the needs, scope and feasibility of the ask. Colleges and universities are autonomous, and therefore are the sole authority on all of their academic and administrative matters, including their own policies. A group like this would not complete work quickly enough to provide a sufficient timeline for schools to implement, if it was even binding, and risks significantly delaying the implementation of the legislation.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: I know that we all want this to be implemented as quickly as possible, and we support the government’s goal of getting this implemented as fast as we can. But there’s also the reality that people who deal in that field day in and day out came and told us that having dozens of different policies in the different colleges and universities, developed by different groups of people, without having minimum standards set out in legislation to make sure that it happens, will lead to some of them being really good and some of those policies being really bad. We want everybody to gain the same protection. It should not be dependent on how successful the different universities and colleges were at putting a policy together.

We listened to Possibility Seeds; they told us. Courage to Act told us the same. The PEARS Project told us the same. The Ontario Undergraduate Student Alliance told us the same. The Association of Professors of the University of Ottawa told us the same. The list goes on and on. This is something that they all addressed.

We all know that we want this to be there quickly, but with dozens of different ones, it’s not going to do what we want. Some of them will have very good policies, but we already know that some of them won’t be so good. This is in response to what we’ve heard.

At the end of the day, how victims of sexual violence and sexual harassment are able to gain closure, turn the page and rebuild their lives depends on how well those policies are written, and right now we are leaving a lot of risk around the writing of those policies. This amendment would take not all, but a big part, of those risks out.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion number 15 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to government motion number 16: Who would like to move this motion? MPP Pierre.

Ms. Natalie Pierre: I move that section 3 of schedule 1 to the bill be amended by striking out subsections 16.1(8) and (9) of the Ministry of Training, Colleges and Universities Act and substituting the following:

“Same

“(8) The employee sexual misconduct policy referred to in subsection (7) may specify acts that constitute sexual misconduct for the purposes of the definition of ‘sexual misconduct’.

“Same

“(9) The employee sexual misconduct policy referred to in subsection (7) may be included as part of another policy, including as part of the sexual violence policy required under subsection 17(3).”

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: Just to make it clear, is this just because we changed from “sexual abuse” to “sexual misconduct,” or is there anything new in this?

Ms. Natalie Pierre: It’s just housekeeping.

M^{me} France Gélinas: It’s just because we go from “sexual abuse” to “sexual misconduct”? Okay, that’s what I thought. I just wanted to make sure.

The Chair (Ms. Goldie Ghamari): Okay. Are members prepared to vote? Shall motion number 16 carry?

Ayes

Barnes, Coe, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): All those opposed? I declare the motion carried.

Turning now to motion number 17: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: We’ll withdraw, Chair.

The Chair (Ms. Goldie Ghamari): Withdrawn, okay.

Turning now to NDP motion 17.1: Who would like to move this motion? Oh, sorry, independent motion—yes, MPP Shamji.

Mr. Adil Shamji: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection to section 16.1 of the Ministry of Training, Colleges and Universities Act:

“Funding

“(10) The ministry shall provide funding to institutions with the goal of reducing acts of sexual violence.”

The Chair (Ms. Goldie Ghamari): Committee members, the proposed amendment is out of order. Bosc and Gagnon note on page 772 of the third edition of the House of Commons Procedure and Practice, a motion is out of

order if it infringes upon the financial initiative of the crown by imposing a charge on the public treasury. Additionally, standing order 60 states: “Any bill, resolution, motion or address, the passage of which would impose a tax or specifically direct the allocation of public funds, shall not be passed by the House unless recommended by a message from the Lieutenant Governor, and shall be proposed only by a minister of the crown.”

Turning now to NDP motion 17.2: MPP Pasma.

Ms. Chandra Pasma: I move to section 3 of schedule 1 to the bill be amended by adding the following subsection to section 16.1 of the Ministry of Training, Colleges and Universities Act:

“Mandatory sexual misconduct prevention course

“(10) Every institution shall provide a mandatory sexual misconduct prevention course for its students, faculty and staff.”

The Chair (Ms. Goldie Ghamari): Any debate? MPP Pasma.

Ms. Chandra Pasma: One of the things that we heard one of the things that we heard loud and clear from all stakeholders across the board was a desire to see the bill do more in terms of prevention rather than just responding to incidents of sexual violence and harassment when they arise. There was clear consensus from all stakeholders, including administrators, that training is an essential component of prevention and that it is really important to train all the members of the campus community—not just students but faculty and staff—on what constitutes sexual misconduct, what consent looks like, what to do when an incident occurs, what to do when somebody discloses an allegation of sexual violence or harassment to you. We heard a really great example taking place at Western University. This is the sort of thing that we would love to see taking place at all of our universities and colleges across the province. This ensures that that would take place by actually mandating that universities and colleges provide mandatory sexual misconduct prevention training.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: While we appreciate the intent of this amendment, legislation is not the appropriate mechanism for this. Ministerial directives can be applied in the future once an appropriate course is outlined and able to be applied more fulsomely.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: We all appreciate the goal of the bill. The bill is really focused on after the fact, on once there has been sexual violence, once there has been sexual harassment, here’s how you deal with the perpetrator and here’s how you deal with the victim. I think the bill will do some good. It would be important to us to think of not only what we do when it happens, but let’s try to prevent upfront. Some good strategies were presented to us as to what we could do to prevent, and I think it’s worth putting it into the bill that a sexual misconduct prevention course be provided to all students, faculty and staff. It works. We should put it into the bill so that the bill does not only focus

on what happens after the misconduct and the sexual violence and harassment, but how do we prevent it? It makes it more wholesome.

1520

The Chair (Ms. Goldie Ghamari): Further debate? MPP Shamji.

Mr. Adil Shamji: One factor that wasn't clear from the statement from the member across was why it would be inappropriate for this amendment to be in this legislation. Certainly, I worry that a ministerial directive is optional. It may or may not happen in the future. It doesn't allow us the opportunity to review what could possibly be a suitable program or a sexual misconduct prevention course.

This is an opportunity that we have right now that has been reiterated by so many of the people that we've heard from during our public hearings. They've all asked for this not to just be a reactive bill but to be something that is proactive, that can give survivors of sexual violence hope that it won't just be punished but that it will be prevented going forward in the future. We have this wonderful opportunity to incorporate an amendment like this that can be preventive, that can give that hope and that can be a reflection of the testimony that we heard from these public hearings, and I encourage the members across to very seriously consider voting for this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pasma.

Ms. Chandra Pasma: We also just heard from the government side, when they didn't want to support the amendment for minimum standards that it was due to the great urgency of the situation. So it's odd, on this amendment, that you want to vote against to delay in favour of future action that may or may not happen at some point. I wonder why there wouldn't be the same urgency around training to ensure that we are preventing incidents of sexual violence and harassment from taking place in the first place.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 17.2 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 18: Who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: I would like to withdraw.

The Chair (Ms. Goldie Ghamari): Withdrawn.

NDP motion 18.1: MPP Gélinas.

M^{me} France Gélinas: I move that section 3 of schedule 1 to the bill be amended by adding the following

subsection to section 16.1 of the Ministry of Training, Colleges and Universities Act:

“Advisory council

“(1) The minister shall establish an advisory council consisting of representatives from the Council of Ontario Universities, the Canadian Federation of Students, the Ontario Undergraduate Student Alliance and associations and unions representing faculty and staff, whose mandate includes the following:

“1. To work with the minister to develop amendments to this act that would ensure that the definition of ‘sexual misconduct’” of “this section of the definition of ‘sexual violence’ in section 17 reflect the experiences of survivors and the goal of protecting students in institutions. The minister shall introduce a bill containing these amendments within six months after the day section 3 of schedule 1 to the Strengthening Post-secondary Institutions and Students Act, 2022 comes into force.

“2. To provide advice on other matters relating to this section and section 17.”

The Chair (Ms. Goldie Ghamari): Further debate?

Interjection.

The Chair (Ms. Goldie Ghamari): Oh, sorry. MPP Gélinas, can you please repeat—item number 1 and then from the second line, where it says “sexual misconduct”—if you can start from there, and then go until “sexual violence.” If you just repeat that.

M^{me} France Gélinas: —“ensure that the definition of ‘sexual misconduct’” of “this section of the definition of ‘sexual violence’ in section 17”—

The Chair (Ms. Goldie Ghamari): You have to say, “in this section and the definition,” not “of.”

M^{me} France Gélinas: It's because I have the wrong pile of paper, sorry. Okay: “in this section and the definition of ‘sexual violence’”.

The Chair (Ms. Goldie Ghamari): Thank you very much.

Further debate? MPP Pasma.

Ms. Chandra Pasma: As has been covered already today, we heard a very strong desire from stakeholders, particularly the student groups last week, to use language that is familiar and in common use by student groups and gender-based violence experts on campuses, to see a stronger definition in the act that ensures that we are really capturing the kinds of behaviours that are so problematic, and ensuring a consistent definition on each campus across the province, regardless of where they're located and what kind of work has been done on that campus.

The government has chosen not to move in that direction this afternoon, but this is an amendment that allows for the government to revisit these definitions, moving forward with administrators, with students, with faculty and with staff in order to ensure that we really have the best definitions, the best terminology in this act to ensure that we are really making sure students are aware of their rights, that their rights are protected, that we are doing everything we can to prevent and address sexual violence.

This was an ask that came specifically from student groups, who suggested the participants who should make

up this advisory council, including representation from administrators, from the Canadian Federation of Students and Ontario Undergraduate Student Alliance, and representatives of faculty and staff.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: We have already outlined why we believe “sexual misconduct” should be the appropriate term for this legislation, despite other phrases being more common within the discourse.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: When Jessica Look, the president, and Octavia Andrade-Dixon, the research and policy analyst for the Ontario Undergraduate Student Alliance were here, as well as when Emma Biamonte, the policy projects lead, and Micah Kalisch, the founder and executive director of the PEARS Project, were here, they made a very compelling testimony as to why this work was important and why it needed to be done.

We want this to be successful. We have to learn from the people on the ground, who told us, “If you want this to work, we need to make some changes.” We want this to be as good as it comes. It will be years before we look at a bill like this again. Legislation is not something you can— if we don’t put it in legislation, it’s not going to happen. We have an opportunity right here, right now, to put this in legislation so that it does happen and our end goal of protecting and holding people to account, and making our campuses and every student safer, will become a reality.

The Chair (Ms. Goldie Ghamari): MPP Shamji?

Mr. Adil Shamji: In the testimony that we heard last week during the public hearings, two of the phrases that were uttered the most were “trauma-informed” and “survivor-centric.” Pursuing an approach like that begins with using the words that survivors and victims want us to use.

Now, I understand that the members across have elected to use the words “sexual misconduct” to address the urgency of passing this legislation as quickly as possible, and we may have some differences of opinion on that, but if we are, as a group, going to be trauma-informed and survivor-centric, then we should have that ambition to continue listening to survivors, listening to the experts and listening to the people who will be using this legislation and will, I hope, be benefiting from this legislation. This amendment accomplishes that, so if, truly, your intention is to be survivor-centric or victim-centric and trauma-informed, this should not be a difficult amendment to agree to.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare motion 18.1 lost.

Is there any further debate on schedule 1, section 3, as amended? Seeing none, are members prepared to vote? Shall schedule 1, section 3, as amended, carry?

Ayes

Barnes, Coe, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 1, section 3, as amended, carried.

1530

There are no amendments to sections 4 and 5 of schedule 1. Therefore, I propose that we bundle these sections. Is there agreement? Yes? Is there any debate on schedule 1, sections 4 and 5? Seeing none, are members prepared to vote? Shall schedule 1, sections 4 and 5, carry?

Ayes

Barnes, Coe, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 1, sections 4 and 5, carried.

Shall schedule 1, as amended, carry?

Ayes

Barnes, Coe, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 1, as amended, carried.

Turning now to schedule 2, we have NDP motion number 19. Who would like to move that motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by striking out the definition of “sexual abuse” in subsection 32.0.1(1) of the Private Career Colleges Act, 2005 and substituting the following:

“sexual violence” means, in relation to a student of an institution, any sexual act or act targeting a student’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a student without the student’s consent, including sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, sexual exploitation, degrading sexual imagery, distribution of sexual images or video of the student without their consent and cyber harassment or cyber stalking of a sexual nature.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: Once again, we heard loud and clear from witnesses last week that the language in the bill does not reflect the language that is actually being used by

students and gender-based violence experts on campuses, and that students can only access their rights if they know and understand their rights, and that means using the language that is familiar and in common usage.

We also heard many concerns about the definition of “sexual abuse” that is in the bill: first of all, that it leaves a lot of latitude to institutions to define themselves, but secondly, that the definition did not fully capture the types of behaviours that we want to address with this legislation, and recommendations that the definition in the bill should be changed to one of the gold-standard definitions, in this particular case the definition used by Toronto Metropolitan University.

This amendment changes the terminology to be consistent with what students and gender-based violence advocates themselves use, along with changing the definition to the gold standard.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: This amendment has already been deliberated and voted on with respect to motion 2, with respect to changes to the Ministry of Training, Colleges and Universities Act. In order for this legislation to be consistent in its applications and definitions between the Ministry of Training, Colleges and Universities Act and the Private Career Colleges Act, 2005, we recommend voting against this motion.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion number 19 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to government motion number 20, who would like to move this motion? MPP Pierre.

Ms. Natalie Pierre: I move that section 1 of schedule 2 to the bill be amended by striking out the definition of “sexual abuse” in subsection 32.0.1(1) of the Private Career Colleges Act, 2005 and substituting the following:

“sexual misconduct’ means, in relation to a student enrolled at a private career college,

“(a) physical sexual relations with the student, touching of a sexual nature of the student or behaviour or remarks of a sexual nature toward the student by an employee of the private career college where,

“(i) the act constitutes an offence under the Criminal Code (Canada),

“(ii) the act infringes the right of the student under clause 7(3)(a) of the Human Rights Code to be free from a sexual solicitation or advance, or

“(iii) the act constitutes sexual misconduct as defined in the private career college’s employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the private career college respecting sexual relations between employees and students or,

“(b) any conduct by an employee of the private career college that infringes the right of the student under clause 7(3)(b) of the Human Rights Code to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance. (‘mauvais traitements d’ordre sexuel’)”

The Chair (Ms. Goldie Ghamari): Is there any further debate? MPP Gélinas.

M^{me} France Gélinas: I know that this is what we’ve agreed to in the first part of the bill, which dealt with public colleges and universities. It is worth looking at the section that deals with the private career colleges seriously. The private career colleges have even more reasons to make sure that nobody ever knows that sexual violence and sexual harassment have taken place, because they depend on students coming to survive and to make a profit.

Given that we have the profit element within the private career colleges, it is our responsibility as legislators to make sure that we deal with this part of the bill with a view of how the number-one priority of a private career college is to make money, and everything else is not priority number one. Where would sexual violence and sexual harassment—how much of a priority would it be for some of the private career colleges that are struggling financially right now, that have a tough time generating enough revenues for their owners? All of that has to be taken into account when we look at how we are going to deal with making sure that the students who attend those private career colleges have the same protections as everybody else who attends a publicly funded institution. The money objective changes everything.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: This amendment has already been deliberated and voted on with respect to motion 3, with respect to changes to the Ministry of Training, Colleges and Universities Act. In order for this legislation to be consistent in its applications and definitions between the Ministry of Training, Colleges and Universities Act and the Private Career Colleges Act, 2005, we recommend voting in favour of this motion.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Ayes

Barnes, Coe, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion carried.

Turning now to independent motion 20.1—

Mr. Adil Shamji: I withdraw.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Turning now to NDP motion 21: Who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: Can I withdraw?

The Chair (Ms. Goldie Ghamari): Yes. Withdrawn.

Turning to NDP motion 21.0.1: Who would like to move this motion? MPP Gélinas?

M^{me} France Gélinas: I move that section 1 of schedule 2 to the bill be amended by adding the following subsection to section 32.0.1 of the Private Career Colleges Act, 2005:

“Same

“(1.1) For greater certainty, conduct described in the definition of ‘sexual misconduct’ in subsection (1) constitutes sexual misconduct regardless of whether it occurs on the institution’s campus, off-campus, online or in experiential learning settings.”

1540

The Chair (Ms. Goldie Ghamari): Any further debate? MPP Pasma.

Ms. Chandra Pasma: Thank you, Chair—

Interjection.

The Chair (Ms. Goldie Ghamari): Sorry. Before you continue: We are on motion 21.0.1.

Mrs. Robin Martin: I don’t see it anywhere.

The Chair (Ms. Goldie Ghamari): It’s in the package that was provided by the Clerk, no?

Interjection.

Mrs. Robin Martin: Okay. Thank you.

The Chair (Ms. Goldie Ghamari): MPP Pasma.

Ms. Chandra Pasma: Once again, students can only access their rights if they know what their rights are, which means clearly defining what their rights are. The learning at post-secondary institutions does not only take place in the classroom.

That’s especially the case for private career colleges, where often experiential learning or practicums are an important part of the program. Because of the nature of these programs, it can be an exceptionally important part, which means that there’s a lot of pressure on students to not report behaviour, to put up with problematic behaviours or to feel as if their entire career and future are at stake if they speak up about sexual violence or harassment that is taking place.

That is why it is so important to spell out to students, faculty and staff that all of these different locations—on campus, off campus, online or in experiential learning settings—are covered by the bill and students can count on protections in these different settings.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: Courses that are offered at private career colleges are often offered in a much shorter time frame, which means they’re much more intense. For students who are in those environments, where they have to learn an awful lot in a very short period of time and they have to prepare, the opportunities for sexual violence and sexual harassment, I would say, stay the same, but the time

for the people who are victims of that violence is also crunched a whole lot more.

The more precise the bill can be, the easier to understand for everybody who needs the protection, the better off we will be to make it clear that it’s on campus, it’s off campus, it’s online, it’s wherever your learning settings are. It would help students who are really, really busy trying to keep up with a very condensed learning time, but at the same time have faced sexual violence and sexual harassment. I think for private career colleges it is even more important that we clarify this, just because of the pressures that are on the students, who are taking important learnings but in a very condensed way.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion 21.0.1 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Committee members, changes proposed by amendment 24 appear in Bill 26 before amendment 21.1. As such, we will begin consideration of amendment 24 and then continue with amendment 21.1 and subsequent amendments.

Turning now to amendment 24, I look to the government to move amendment 24. MPP Pierre.

Ms. Natalie Pierre: I move that section 1 of schedule 2 to the bill be amended by striking out “sexual abuse of” wherever it occurs in subsections 32.0.1(2) and (3) of the Private Career Colleges Act, 2005 and substituting in each case “sexual misconduct toward”.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote?

Ayes

Barnes, Coe, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): All those opposed? I declare motion number 24 carried.

Turning now to independent motion 21.1—

Mr. Adil Shamji: I can withdraw that.

The Chair (Ms. Goldie Ghamari): Pardon me?

Mr. Adil Shamji: I can withdraw that.

The Chair (Ms. Goldie Ghamari): Okay, withdrawn.

Turning now to NDP motion number 22: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by adding “and” at the end of clause 32.0.1(2)(a) of the Private Career Colleges Act,

2005, by striking out “and” at the end of clause 32.0.1(2)(b) of that act and by striking out clause 32.0.1(2)(c) of that act.

Ms. Goldie Ghamari: Any debate? MPP Pasma.

Ms. Chandra Pasma: I just want to reiterate that I think we all agree that it’s important that there are consequences for people who commit acts of sexual violence and harassment and sometimes the appropriate consequences go as far as discipline. But it’s also a firm principle of our judicial system here in Canada that everyone who is accused of something has the right to due process and has the right to appeal a decision if they do not believe the decision has been made fairly.

We also have decades of work that has led to the current labour protections that we have in Canada; decades of negotiating that have resulted in our collective agreements. It’s often the collective agreements on campuses that lay out what due process looks like when it comes to terminating or disciplining an employee. It is therefore not necessary to override collective agreements in order to be able to discipline or terminate an employee. And what this looks like on the part of the government is that they just don’t like collective agreements and are looking for opportunities to override them.

Unfortunately, this will almost certainly be subject to a challenge and could put some survivor in the position in the future of experiencing even greater harm or trauma than they would otherwise experience because now someone who does not believe that they were given a fair process at their institution will appeal to a court, dragging this out for some time instead of having a quick resolution. I think we can all agree that what we want is a fair process and to have everyone’s rights respected in the process and to know that, when someone is disciplined or terminated, that that decision will stand so that can be the end of the road for the survivor instead of dragging them through years of court wrangling that were unnecessary because we had the tools all along.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 22 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 23: Who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: I move that section 1 of schedule 2 to the bill be amended by adding “if all procedural steps were properly followed in the imposition of the discharge or disciplinary measure imposed by the private career college and all applicable appeal rights were respected”

before “no arbitrator” in clause 32.0.1(2)(c) of the Private Career Colleges Act, 2005.

The Chair (Ms. Goldie Ghamari): Further debate?

M^{me} France Gélinas: Again, it’s about making absolutely sure that due process was followed, so we are adding the sentence “if all procedural steps were properly followed.” We certainly know that sexual violence and sexual harassment could and should lead to discharge and disciplinary measures by the private colleges, but we also want this to be done in a way that respects workers’ rights and respects the collective agreements that were there. We all know that if we don’t do this we will end up in front of the courts and what happened to Bill 124, which just got thrown out by the courts, will happen to that bill also. You have to respect the laws that have been there, that have served the public, and this is an opportunity for you to do this.

1550

We know that it’s going to get challenged. Some perpetrators of sexual violence and sexual harassment are people with a lot of power and a lot of money. They will push back against losing their job. They will push back against disciplinary measures. If we give them a reason to find flaws with the bill, it will go in front of the court and what happened to Bill 124 today when it was rejected by the court will happen to this bill also. Let’s prevent this from happening in voting in favour of this amendment.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pierre.

Ms. Natalie Pierre: This amendment has already been deliberated and voted on during a previous motion with respect to changes to the Ministry of Training, Colleges and Universities Act. In order for this legislation to be consistent in its applications and definitions between the Ministry of Training, Colleges and Universities Act and the Private Career Colleges Act, 2005, we recommend voting against this motion.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare motion 23 lost.

Turning now to NDP motion number 25: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by striking out subsection 32.0.1(5) of the Private Career Colleges Act, 2005.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Pasma.

Ms. Chandra Pasma: Again, this was one of the most problematic clauses of the bill that we heard a lot of

feedback about, from students, from gender-based violence experts, from faculty and staff unions, as well as many witnesses who wanted to appear before the committee but were unable to because of the very short time limit that was allowed for committee hearings.

What we heard from witnesses was real concern about the language as it's drafted but also a desire to see more comprehensive measures taken to address non-disclosure agreements, not only in the post-secondary sector but in all sectors of our province. We are recommending that this section be deleted so that the government can take the opportunity to table stand-alone legislation that gets non-disclosure agreements right.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: Also, at a minimum, we would make sure that the non-disclosure agreement does not only happen at the very end. A non-disclosure agreement is always—almost all of the time—to silence the victim. We know that in many cases of sexual violence and sexual harassment, there is a power imbalance between the perpetrator of the sexual violence or sexual harassment and the victim. Non-disclosure agreements, the vast majority of the time, are to protect the ones with power, the perpetrators. To make sure that a non-disclosure agreement cannot be used in every step of the process, from the time that the victim reports the sexual violence or sexual harassment to the time where repercussions are agreed upon, there should not be non-disclosure agreements.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 25 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Coe, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 26: Who would like to move this? MPP Gélinas.

M^{me} France Gélinas: I withdraw.

The Chair (Ms. Goldie Ghamari): Withdrawn.

NDP motion 26.1: MPP Gélinas.

M^{me} France Gélinas: I move that section 1 of schedule 2 to the bill be amended by striking out subsection 32.0.1(5) of the Private Career Colleges Act, 2005 and substituting the following:

“Agreement

“(5) An agreement between an institution and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 1 of schedule 2 to the Strengthening Post-secondary Institutions and Students

Act, 2022 comes into force, shall not contain any term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing the fact that an allegation of sexual misconduct toward a student of the institution has been made and the substance of that allegation, and any such term that is included in the agreement or in any accompanying document is void. However, this prohibition does not apply with respect to the identity of the student and the amount of any financial settlement.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: Once again, Chair, this amendment was proposed by a lawyer, Julie Macfarlane, who is one of the foremost experts in Ontario on non-disclosure agreements. Julie's own situation at the University of Windsor would not have been addressed by the current text of the legislation. It's very unfortunate that we did not have the opportunity to allow Professor Macfarlane to come and speak to the committee and to share with us her perspective on what needs to be done, but Professor Macfarlane did provide this proposed amendment, and I think we should be listening to people who have expertise in this field.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 26.1 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Committee members, changes proposed by amendment 28 appear in Bill 26 before amendment 27. As such, we will begin consideration of amendment 28, and then continue with amendment 27 and subsequent amendments.

I look to the government to move amendment 28. MPP Pierre.

Ms. Natalie Pierre: I move that section 1 of schedule 2 to the bill be amended by striking out subsections 32.0.1(5) and (6) of the Private Career Colleges Act, 2005 and substituting the following:

“Agreement

“(5) Subject to subsection (5.1), an agreement between a private career college and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 1 of schedule 2 to the Strengthening Post-secondary Institutions and Students Act, 2022 comes into force, shall not contain any term that, directly or indirectly, prohibits the private career college or any person related to the private career college from disclosing that an

allegation or complaint has been made that an employee of the private career college committed an act of sexual misconduct toward a student of the private career college, and any such term that is included in an agreement is void.

“Exception

“(5.1) A private career college may enter into an agreement that contains a term described in subsection (5) if the student requests that the private career college do so, provided that,

“(a) the student has had a reasonable opportunity to receive independent legal advice;

“(b) there have been no undue attempts to influence the student with respect to the request;

“(c) the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and

“(d) the agreement is of a set and limited duration.

“Contrary term, rule, etc.

“(6) Subsections (2) to (5.1) apply despite any contrary term in an employment contract or collective agreement, or any contrary rule or principle of common law or equity.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Gélinas.

M^{me} France Gélinas: I’m always a little bit hesitant to support an amendment that says, “We will override principles of common law, we will override principles of equity and we will override employment contracts and collective agreements.” We know that putting that in, there will be somebody who will go to court to say that this is not allowed. We are opening the door for wealthy, powerful aggressors and perpetrators of sexual violence and sexual harassment to drag this through the courts and to avoid consequences for their actions. It’s never a good idea to put that in a bill.

1600

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall government motion 28 carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion carried.

Turning now to motion number 27: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: Withdrawn, Chair.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Turning now to NDP motion 28.1: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by adding the following subsection to section 32.0.1 of the Private Career Colleges Act, 2005:

“Same

“(5.1) Despite subsection (5), at the request of a student who has experienced sexual misconduct, an agreement between an institution and a person settling existing or contemplated litigation may contain a term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing that an allegation of sexual misconduct has been made, that the student was involved or that a settlement has been reached.”

The Chair (Ms. Goldie Ghamari): Any debate? MPP Pasma.

Ms. Chandra Pasma: What we heard loud and clear from students last week was that they wanted a survivor-centric policy on non-disclosure agreements that ensured that it was the survivor who decided whether or not they wanted a non-disclosure agreement. This amendment makes absolutely clear in the text of the bill that a student has the right to request a non-disclosure agreement.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members—oh, MPP Gélinas.

M^{me} France Gélinas: We certainly support that non-disclosure agreements won’t be allowed. I think it is worth opening up this little parenthesis in the bill so that we are as survivor-centric as we can be in this legislation. We’ve heard this from people who know those files, who deal with it. There are very, very few instances where a non-disclosure agreement serves the victim, but let the victim decide, with the proper support.

The Chair (Ms. Goldie Ghamari): Is there further debate? Seeing none, are members prepared to vote? Shall motion 28.1 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 29: Who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: I would like to withdraw.

The Chair (Ms. Goldie Ghamari): Withdrawn.

NDP motion 30: Who like to move it? MPP Gélinas.

M^{me} France Gélinas: I move that section 1 of schedule 2 to the bill be amended by striking out subsection 32.0.1(6) of the Private Career Colleges Act, 2005.

The Chair (Ms. Goldie Ghamari): Committee members, I am ruling this amendment out of order, as it is consistent with the previous decision the committee made on this section of the bill.

NDP motion number 31: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by striking out “an employee sexual misconduct policy” in the portion before clause 32.0.1(7)(a) of the Private Career Colleges Act, 2005 and

substituting an employee sexual misconduct policy developed with input from a permanent committee of the institution composed of student, faculty and staff representatives”.

The Chair (Ms. Goldie Ghamari): Any debate? MPP Pasma.

Ms. Chandra Pasma: We’ve heard concerns already about the latitude that institutions have to develop employee sexual misconduct policies without consulting a single other person. My colleague MPP Gélinas has already highlighted that these concerns are even stronger with private career colleges, where there is a profit motive at stake. The career colleges have a very strong incentive to sweep problematic behaviours under the rug, where they are not seen or heard without addressing them so that they can keep enrolling students without any concerns about their safety.

I think it is incredibly incumbent upon us to make sure that these policies have to be developed in consultation with the people who will be affected by these policies—survivors, students, faculty and staff representatives—and that this input be not just one single time but ongoing, which is why there should be a permanent committee created. This was one of the strongest pieces of feedback that we heard from student groups like the Ontario Undergraduate Student Alliance. I think it is really important, when we are looking at legislation that is intended to protect students, that we listen to students on what they want to see in that legislation.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote?

Interjection.

The Chair (Ms. Goldie Ghamari): Oh, sorry, MPP Gélinas—my apologies.

M^{me} France Gélinas: I am afraid that, especially for the private colleges, if we don’t spell out that they need to consult with students, they need to consult with their staff and they need to consult with their faculty, it will be the shareholders who will decide what policy comes into play. The shareholders—there’s nothing wrong with making money, but this is what motivates them: making money. It is really hard to reconcile making money with protecting victims of sexual violence and sexual harassment. If we don’t spell it out, we all know that this is what’s going to happen. We have a chance to spell out that those policies that bring us to the end goal that we all want have to be in a committee that includes students, faculty and staff representatives.

In the public sector, I was not happy that you voted this down, but I have a bit of comfort that maybe they will do it anyway. In the private sector, I have zero confidence that they will put in place committees made up of students, faculty and representatives. It will be the shareholders who will make sure that the policies are written in a way that maximizes profit.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 31 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 32: Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by adding the following subsection to section 32.0.1 of the Private Career Colleges Act, 2005:

“Standards for policy

“(7.1) The policy must satisfy the minimum standards developed for the purposes of this section by a standards committee to be appointed by the minister consisting of representatives from the Council of Ontario Universities, the Canadian Federation of Students, the Ontario Undergraduate Student Alliance and associations and unions representing faculty and staff, including standards respecting,

“(a) the policy’s scope;

“(b) the locations where the policy applies;

“(c) data collection;

“(d) training for and expectations of persons conducting investigations under the policy; and

“(e) what constitutes meaningful consultation on changes to the policy.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: Once again, Chair, we heard a lot of concerns last week about the lack of any standards for these policies, the fact that each institution is allowed to develop its own policy without any kind of guidelines—complete latitude—and concerns that there will be incredibly different policies being created at institutions across the province. We also have serious concerns about the quality of these policies when it comes to private career colleges, that they will not be motivated by the best standard of protecting students but by the best standard of protecting shareholders.

1610

I think it’s really incumbent upon us therefore to make sure that we are setting in place, at the very least, minimum standards that these policies must be meeting and that these minimum standards are set out by the people who are affected by the policies, by groups representing students, groups representing faculty and staff, by representatives of the administration.

These policies are quite comprehensive, and it’s important to get all the aspects of them right, like the policy scope, who the policy applies to, all of the locations where the policy could potentially apply.

These institutions should be required to collect and report on data so that students and gender-based-violence

experts can actually monitor and track what kind of progress the institution is making on addressing and preventing sexual violence and harassment and hold their institution accountable and hold their government accountable, quite frankly, as well.

That there are standards for training—right now there’s no requirement at all for what standard someone needs to meet in order to be an investigator and actually making decisions on whether or not the policy has been breached. This is incredibly important, both to make sure that we’re not causing further harm to survivors, but also to make sure that we’re respecting due process and the rights of the respondent under the policy.

This should be a deeply meaningful and ongoing kind of consultation. We’ve heard concerns from many students that the sexual violence policies that are in place at their institutions have paid lip service to consultation at best, that they don’t actually take seriously the concerns of students and other members of the community. We can’t truly protect students and prevent incidents of sexual violence and harassment unless we’re actually listening to students on what they need and want. This would ensure that there’s consultation with students and other affected groups to set a standard that all of these private career colleges would need to meet in creating their policies.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Gélinas.

M^{me} France Gélinas: We listened to very many different groups: the Canadian Federation of Students—Ontario, the Ontario Undergraduate Student Alliance, the University of Toronto Students’ Union, the York University Graduate Students’ Association. But did you notice that none of the private career colleges showed any interest in this topic? Did you notice that no private career college wrote to us, asked to be heard or came to talk to us?

The level of interest in this topic within the public universities and public colleges was really high. A lot of people wanted to be heard; a lot of people came and talked to us very passionately about how important this bill was. This bill is important. This bill will change victims’ lives for the better. But yet it was complete radio silence when it came to the private career colleges.

The lack of interest in there from the private colleges tells us that we will have to work harder to get the private colleges to take this issue seriously, to not sweep it under the rug, to not do the absolute minimum that needs to be done so they never have to deal with it again because it will affect their bottom line.

We have an opportunity in this amendment to make them accountable. I know they have no interest in this. There’s no money to be made in having a policy on sexual violence and sexual harassment, but it is the right thing to do. By passing this amendment, we make sure that the right thing to do is taken seriously and has some teeth when it comes to the private colleges of Ontario.

Otherwise, remember, we will have dozens of different policies, some really good. We’ve already seen what the—what’s the name of the new Toronto university?

Ms. Chandra Pasma: Toronto Metropolitan University.

M^{me} France Gélinas: Toronto Metropolitan University. Sorry, I was going to call it by its old name. We’ve already seen what the policy has done when they do things right, but we already know that there are some pretty weak policies out there and they would meet all of the requirements of this act if we don’t pass some amendments.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Pierre.

Ms. Natalie Pierre: For the record, we have full endorsement from the CEO of the private career colleges, and they will be implementing a standard.

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? Are members prepared to vote? Shall motion 32 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to government motion 33, who would like to move this motion? MPP Pierre.

Ms. Natalie Pierre: I move that section 1 of schedule 2 to the bill be amended by striking out subsections 32.0.1(8) and (9) of the Private Career Colleges Act, 2005 and substituting the following:

“Same

“(8) The employee sexual misconduct policy referred to in subsection (7) may specify acts that constitute sexual misconduct for the purposes of the definition of ‘sexual misconduct’.

“Same

“(9) The employee sexual misconduct policy referred to in subsection (7) may be included as part of another policy, including as part of the sexual violence policy required under subsection 32.1(2).”

The Chair (Ms. Goldie Ghamari): Thank you. Is there any debate? MPP Gélinas.

M^{me} France Gélinas: I just wanted to make sure it’s the same. We’re changing “sexual abuse” to “sexual misconduct”?

Ms. Natalie Pierre: Yes.

M^{me} France Gélinas: Okay. Thank you.

The Chair (Ms. Goldie Ghamari): Okay. Shall government motion 33 carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pasma, Pierre, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion carried.

Turning now to NDP motion 34, who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: I wish to withdraw.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Turning now to independent motion 34.1. MPP Shamji, would you like to move this motion?

Mr. Adil Shamji: I understand it will be ruled out of order, so I withdraw.

The Chair (Ms. Goldie Ghamari): Okay. Withdrawn.

Turning to NDP motion 34.2, who would like to move this motion? MPP Gélinas.

M^{me} France Gélinas: Merci. I move that section 1 of schedule 2 to the bill be amended by adding the following subsection to section 32.0.1 of the Private Career Colleges Act, 2005:

“Mandatory sexual misconduct prevention course

“(10) It is a condition of every registration that a private career college provide a mandatory sexual misconduct prevention course for its students, faculty and staff.”

The Chair (Ms. Goldie Ghamari): Thank you. Further debate? MPP Pasma.

Ms. Chandra Pasma: We heard a lot of concern from students and gender-based violence experts last week that this bill is punitive in its approach but doesn’t actually take any steps to prevent incidents of sexual violence and harassment. Obviously, given the life-changing repercussions of incidents of sexual violence and harassment—which we heard about from students last week—I think we want to take every step in our power to prevent these incidents from actually taking place, rather than just responding once they have actually occurred.

A key component of prevention that was identified by all stakeholders is mandatory training, not just for students but for faculty and staff—training on what sexual violence and harassment is and how to respond when it takes place, but also training on issues like consent and bystander intervention to make sure that we are preventing incidents from taking place and intervening as quickly as possible, and what to do when you receive a disclosure of sexual violence or harassment. It’s incredibly important that we equip all of our students, faculty and staff with the tools that they need to prevent this from taking place in the first place. Mandatory training is a key component of that prevention.

1620

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: If you offer a course on sexual misconduct prevention, some people are interested in that topic and will come, but that’s not enough. You have to make it mandatory. We all need to learn: We all need to learn what it does to the people who face sexual violence and sexual harassment. We need to learn what survivor-centric policies, action and behaviour look like. We have to learn what trauma-informed language and actions look like. This is an opportunity for us as legislators to make sure that every student, as they grow up, as they enter college and university, will have that knowledge. Just think of how life-changing it would be if, in our society,

we would all have learned more about what survivor-centric action looks like, what trauma-informed language looks like.

I can tell you that it’s not an area that I know a whole lot about. I learned a tremendous amount listening to the people who came and made deputations to us. I wish I knew some of the stuff that they talked to us about beforehand, but I didn’t.

What we are trying to do right now will be generation-changing. By making it mandatory for every student, every faculty, every staff to take that training, you will give them the knowledge, the skills to change things for the better, to see a situation where sexual harassment and sexual violence could take place, to learn the language, to see the nonverbal communication that takes place when you have this power imbalance that is based on sexuality.

All of this makes for a better community. All of this leads us to prevention. Don’t let that go by. We have an opportunity to do good for all of society. Don’t let it go by.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 34.2 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 35. Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: Withdrawn, Chair.

The Chair (Ms. Goldie Ghamari): Withdrawn.

Turning now to NDP motion 35.1. Who would like to move this motion? MPP Pasma.

Ms. Chandra Pasma: I move that section 1 of schedule 2 to the bill be amended by adding the following subsection to section 32.0.1 of the Private Career Colleges Act, 2005:

“Advisory council

“(11) The minister shall establish an advisory council consisting of representatives from the Council of Ontario Universities, the Canadian Federation of Students, the Ontario Undergraduate Student Alliance and associations and unions representing faculty and staff, whose mandate includes the following:

“1. To work with the minister to develop amendments to this act that would ensure that the definition of ‘sexual misconduct’ in this section and the definition of ‘sexual violence’ in section 32.1 reflect the experiences of survivors and the goal of protecting students in private career colleges. The minister shall introduce a bill containing these amendments within six months after the day section 1 of schedule 2 to the Strengthening Post-secondary Institutions and Students Act, 2022 comes into force.

“2. To provide advice on other matters relating to this section and section 32.1.”

The Chair (Ms. Goldie Ghamari): Is there any debate? MPP Pasma.

Ms. Chandra Pasma: What we heard loud and clear from student delegations last week, and also from students in their press conference on Wednesday morning, is that while they want to see action on this important issue, they don't believe that this bill does enough, goes far enough and does it well enough. Some of their concerns had to do with the definitions: the use of terminology that is not the common terminology used by students and gender-based violence experts; the fact that if the terminology used is not the common terminology, students won't know what their rights are; that when the definition leaves so much up to the institution, there are going to be wide variations in what the definitions actually are; shortcomings in the definition.

What we really want to see is a very strong definition that is common across post-secondary institutions in the province and the strongest possible policies in place to protect students and to prevent incidents of sexual violence and harassment from taking place in the first place. These students asked us to please establish an advisory council for the minister, to advise on the issues of terminology and definition and on the policy.

I think that when we are introducing legislation that is intended primarily to protect students, it is incredibly important for us to listen to students and actually to respond to and acknowledge their demands of us. This amendment does that, ensuring that their feedback is reflected in the bill and that they will have ongoing opportunities to provide input to the minister on these definitions and on these policies, to ensure that, moving forward in Ontario, we are always doing our best to protect students and to prevent sexual violence and harassment from taking place.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Gélinas.

M^{me} France Gélinas: To establish an advisory council to the minister is really to show that we know that our end goal with the bill is good, but we also know that things will change and actions will need to be taken as we learn more and more about this issue. As the bill becomes enacted within our colleges and universities, to have an advisory council to the minister will make sure that the early learnings and the long-term learnings are shared with the minister, who did the right thing by bringing this bill forward.

The aim of the bill is good—we all support this—but the advisory council will make absolutely sure that if one university struggles, if one college learns something and says, “Hey, did you know we ran into that problem?”, you have a place to bring that. You have a place to develop best practices. You have a place to share knowledge and skills in this particular area of government responsibility. This is something that will pay off. An advisory council to the minister will protect more people from sexual harassment and sexual violence.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion 35.1 carry?

Ayes

Gélinas, Pasma, Shamji.

Nays

Barnes, Jordan, Martin, Pierre, Rae, Wai.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Is there any further debate on schedule 2, section 1, as amended? Are members prepared to vote? Shall schedule 2, section 1, as amended, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pasma, Pierre, Quinn, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 2, section 1, as amended, carried.

There are no amendments to sections 2 and 3 of schedule 2. I therefore propose that we bundle these sections. Is there agreement? Is there any debate? Are members prepared to vote? Shall schedule 2, sections 2 and 3, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pasma, Pierre, Quinn, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 2, sections 2 and 3, carried.

Is there any further debate on schedule 2, as amended? Seeing none, are members prepared to vote? Shall schedule 2, as amended, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 2, as amended, carried.

Turning now to schedule 3: There are no amendments to schedule 3. I therefore propose that we bundle sections 1 to 7. Is there agreement? Is there any further debate? Are members prepared to vote? Shall schedule 3, sections 1 to 7, inclusive, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 3, sections 1 to 7, carried.

Shall schedule 3, in its entirety, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare schedule 3 carried.

Are there any comments, questions or amendments to any section of the bill—

M^{me} France Gélinas: We just did that.

The Chair (Ms. Goldie Ghamari): Oh. Okay. There we go. We just did that.

Shall section 1 carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare section 1 carried.

Shall section 2 carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare section 2 carried.

Shall section 3, the short title, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare section 3 carried.

Shall the title of the bill carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): The title of the bill shall carry.

Shall Bill 26, as amended, carry?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare Bill 26, as amended, carried.

Shall I report the bill, as amended, to the House?

Ayes

Barnes, Gélinas, Jordan, Martin, Pierre, Quinn, Pasma, Rae, Shamji, Wai.

The Chair (Ms. Goldie Ghamari): I declare that I shall report Bill 26 to the House.

Thank you, everyone. That concludes our business for today. Are there any questions before we conclude? The committee is now adjourned. Have a great evening, everyone.

The committee adjourned at 1633.

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Présidente

Ms. Goldie Ghamari (Carleton PC)

Vice-Chair / Vice-Présidente

M^{me} France Gélinas (Nickel Belt ND)

Ms. Patrice Barnes (Ajax PC)

Mr. Wayne Gates (Niagara Falls ND)

M^{me} France Gélinas (Nickel Belt ND)

Ms. Goldie Ghamari (Carleton PC)

Mrs. Lisa Gretzky (Windsor West / Windsor-Ouest ND)

Mr. John Jordan (Lanark–Frontenac–Kingston PC)

Mrs. Robin Martin (Eglinton–Lawrence PC)

Ms. Natalie Pierre (Burlington PC)

Mr. Nolan Quinn (Stormont–Dundas–South Glengarry PC)

Mr. Matthew Rae (Perth–Wellington PC)

Mr. Adil Shamji (Don Valley East / Don Valley-Est L)

Mrs. Daisy Wai (Richmond Hill PC)

Substitutions / Membres remplaçants

Mr. Lorne Coe (Whitby PC)

Mr. Andrew Dowie (Windsor–Tecumseh PC)

Ms. Chandra Pasma (Ottawa West–Nepean / Ottawa-Ouest–Nepean ND)

Clerk / Greffière

Ms. Vanessa Kattar

Staff / Personnel

Ms. Catherine Oh, legislative counsel