

## PUBLIC HEALTH LEGISLATION FAQ

There has been a lot of misinformation circulating on the internet and among members about the legal authority for the Chief Medical Officer's directions to the TDSB. This FAQ is designed to address those questions and correct any misunderstandings or misinformation about the relevant legislation.

### **1) *The CMOH Direction has the force of law***

Regulation 364/20 made under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* provides that all organizations are required to follow the recommendations, directions and instructions of the Chief Medical Officer of Health. Among other things, this means that a direction to establish a vaccination policy has the force of law:

#### Schedule 1

2. (2.1) The person responsible for a business or organization that is open shall operate the business or organization in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health, or by a medical officer of health after consultation with the Office of the Chief Medical Officer of Health,

- (a) requiring the business or organization to establish, implement and ensure compliance with a COVID-19 vaccination policy; or
- (b) setting out the precautions and procedures that the business or organization must include in its COVID-19 vaccination policy.

### **2) *The law imposes restrictions on businesses and personal freedoms during a pandemic***

Public health laws have imposed restrictions on individual freedoms for centuries. In modern times, public health laws address the spread of infectious diseases, including in a pandemic, and they empower government officials to restrict freedoms in order to prevent or contain widespread infection.

The *Health Protection and Promotion Act* empowers the Chief Medical Officer to make orders requiring people and businesses to take steps that he or she determines are necessary for public health. The *Emergency Management and Civil Protection Act* provides the government with extraordinary powers in an emergency, including a public health emergency. Both of these statutes place limits on personal rights and freedoms.

During the COVID-19 pandemic, numerous orders have been made under the *Health Protection and Promotion Act* and the *Emergency Management and Civil Protection Act*. When the Ontario government ended the state of emergency, it enacted the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, which kept in place many of those orders. Those orders remain in place and are binding on individuals and organizations, including the TDSB.