

Submission to

The Standing Committee on Social Policy

**Bill 242 – Full Day Early Learning
Statute Law Amendment Act, 2010**

March 23, 2010



Ontario Catholic School
Trustees' Association



Ontario Catholic School
Trustees' Association

OUR MISSION

Inspired by the Gospel, we provide leadership, service and a provincial voice for Catholic School Boards in promoting and protecting Catholic education.

OUR VISION

In keeping with our Mission, the Ontario Catholic School Trustees' Association:

OPERATIONAL VALUES

- **Embodies** and promotes the values and traditions of our Catholic faith in all Association activities.
- **Respects** the principles of democratic and accountable governance.

POLITICAL ADVOCACY

- **Protects** the constitutional right of the Catholic community to govern, control and manage Catholic schools.
- **Promotes** education in our province that reflects the Catholic principles of social justice.
- **Advocates** for government recognition of the distinctive nature of Catholic education.
- **Advocates** for provincial policy, legislation and funding support that enable Catholic boards to provide quality Catholic education.
- **Influences** the strategic and political direction of the Ontario government and opposition parties regarding issues that impact Catholic education.

INFORMATION & SERVICES

- **Provides** faith formation and professional development resources and opportunities for its members.
- **Provides** to member boards information and services that recognize their diverse circumstances and needs.

COMMUNICATIONS & PUBLIC RELATIONS

- **Develops** effective structures that enhance communication and working relationships among OCSTA and its member boards.
- **Communicates** with member Boards and Catholic partners regarding relevant educational issues and OCSTA activities.
- **Promotes** public understanding of and support for Catholic education.
- **Celebrates** and **highlights** Catholic education's significant and continuing contribution to Ontario society.

PARTNERSHIPS

- **Stimulates** ongoing visioning of how Catholic education partners can collaborate to serve the interests of Catholic education.
- **Builds** significant partnerships within and beyond the Catholic community in support of Catholic education.

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Introduction

Founded in 1930, the Ontario Catholic School Trustees' Association (OCSTA) represents the province's 29 Catholic district school boards, which collectively educate approximately 600,000 students from Junior Kindergarten to Grade 12.

The mission of all Catholic school boards and their schools is to create a faith community where religious instruction, religious practice, value formation and faith development are integral to every area of the curriculum. This is in addition to providing a complete curriculum as defined by the Ministry of Education.

In the province of Ontario, Catholic school boards provide this education according to the constitutionally determined rights of Roman Catholic parents.

OCSTA appreciates the opportunity to present this submission on Bill 242, the Full Day Early Learning Statute Law Amendment Act, 2010.

OCSTA supports the government's decision to concentrate more time and resources in full day learning for our four and five year old students. Research has clearly shown that full day Junior Kindergarten/Kindergarten programs for early learners lead to a preparedness for Grade 1, and a better hope that students will achieve future academic and social success and make a positive contribution to society at large.

If passed, Bill 242 will require school boards to

- provide full day junior kindergarten and kindergarten in all schools
- provide extended day programs for junior kindergarten and kindergarten students
- appoint early childhood educators (ECE's) to positions in junior kindergarten, kindergarten and extended day programs.

The Bill also deals with charging of fees for the Extended Day Program and the provision of financial assistance for such programs.

The introduction of the Early Learning Program (ELP) and the Extended Day Program constitutes a major and complex structural change to elementary education in Ontario. It is essential that at every stage the implementation of the ELP be rolled out in a manner that fully respects and preserves the distinctive nature, mandate and rights of Ontario's four publicly funded school systems and supports their ongoing viability. This will require equitable distribution of resources, and careful determination of new site locations. It is essential that no aspect of the ELP implementation provide any one system with a competitive advantage over another.

OCSTA's submission on Bill 242 comments on sections of the Bill about which we have specific concerns and concludes with some more general comments regarding the impact of the Early Learning Program.

Availability of Qualified ECE's

Subsection 2(2), paragraph 10.1 of Bill 242 enables the Minister to grant a letter of permission to enable a person who is not an Early Childhood Educator to assume for one year a position designated by a board as requiring an ECE.

OCSTA is concerned that the phase-in timetable for full day learning may outpace the availability of well-trained ECE's. These individuals will be playing a central role in the education of our youngest children, in the earliest days of a new and as yet untested program. It is essential that ECE's, like all staff, come into our schools with appropriate professional qualifications. Catholic school boards will be seeking ECE's who share our faith and who can transmit to our students its teachings and model its values. Similarly, French-language schools will require ECE's fluent in French and knowledgeable about Francophone culture.

OCSTA recommends that the government take steps necessary to ensure a sufficient number of qualified ECE's at each stage of implementation.

Teachers' Assistants

Section 170.3 of the Bill deals with teachers' assistants. It enables Cabinet to make regulations governing duties and minimum qualifications of persons assigned to assist teachers and ECE's. OCSTA assumes that such regulations would significantly impact the role of educational assistants to be employed by school boards now and in the future to assist teachers. There is no doubt that it will take some time for teachers, teachers' assistants and ECE's to develop ways of working together most effectively.

OCSTA recommends that school boards be consulted in the drafting of regulations regarding teachers' assistants and that such drafting be delayed until at least a year after the ELP begins, in order to provide a better understanding of an optimal working relationship among these three groups.

Protection of Constitutional and Charter Rights

As is the case with all sections of the current Education Act, the major part of Bill 242 will be subject to the protections included in the existing subsections (4) and (4.1) of section 1 of the Act, which states:

Constitutional rights and privileges

1. (4) This Act does not adversely affect any right or privilege guaranteed by section 93 of the *Constitution Act, 1867* or by section 23 of the *Canadian Charter of Rights and Freedoms*.

Same

(4.1) Every authority given by this Act, including but not limited to every authority to make a regulation, decision or order and every authority to issue a directive or guideline, shall be exercised in a manner consistent with and respectful of the rights and privileges guaranteed by section 93 of the *Constitution Act, 1867* and by section 23 of the *Canadian Charter of Rights and Freedoms*.

Section 10 of Bill 242, which adds Part IX.I to the Act, however, introduces a new section regarding Transitional Regulations, (Section 260.8), which causes OCSTA significant concern regarding the protection of denominational rights. This section provides:

Transitional regulations

260.8 (1) The Lieutenant Governor in Council may make regulations respecting transitional matters related to the implementation of this Part.

Conflict with transitional regulations

(2) In the event of a conflict, a regulation made under subsection (1) prevails over provisions of an Act or regulation that are administered by the Minister.

An “Act or regulation administered by the Minister” clearly will include the *Education Act* itself. That a regulation would rank higher than a statute is contrary to normal legislative interpretation, as the Legislature usually prescribes that a statute prevails over a regulation.

If a regulation made under subsection 260.8(1) “prevails over provisions of an Act or regulation that are administered by the Minister,” this section contemplates that such a regulation *is intended to prevail* over the remainder of the *Education Act*, including those sections that preserve denominational rights protected by section 93 of the *Constitution Act*.

It is possible, of course, that this wording is an oversight on the part of the drafter of section 260.8. OCSTA assumes that the real intention of the Legislature is to have all matters in Bill 242 subject to the rights and privileges guaranteed by section 93 of the *Constitution Act* and by section 23 of the *Canadian Charter of Rights and Freedoms*. In our view, however, the plain meaning of the section conveys a legislative intention that the regulations should rank superior to such denominational and linguistic rights.

OCSTA strongly recommends that Section 260.8 of Bill 242 be eliminated, or, as an alternative, that the language of Section 260.8 of Bill 242 be amended to ensure that denominational and linguistic rights are respected in all cases.

Extended Day Programs

Section 259(1) of Bill 242 requires every school board to operate extended day programs for junior kindergarten and kindergarten students in every elementary school on every school day other than a professional activity day.

School boards have serious concerns about the provision and operation by school boards of the Extended Day component of the ELP. Extended Day Programs are not currently part of the core business of school boards, nor are they a current area of expertise of board staff. The implementation of board run Extended Day Programs will require new training, the creation of many new policies and procedures, as well as the development of new administrative support structures. Staffing, economic and liability consequences will also be significant, to say nothing of related costs.

Several school boards are currently involved in very successful partnerships with community organizations that operate Extended Day Programs in schools. Under the proposed legislation, these arrangements would not be allowed to continue, except on a limited basis during the first year of implementation. It would be most unfortunate to break these ties between schools and community resources that are currently serving students and their families so well.

It is also unlikely that school boards will be able to offer Extended Day Programs for fees as low as those currently offered by third party operators. Section 260.1 of the Bill prescribes that boards charge fees to parents of students enrolled in Extended Day Programs that will recover the operating costs incurred by the board. Administration, staffing, operations and program costs would all have to be incorporated into fees charged by school boards, in order to ensure that these programs do not take resources away from other education program areas. Community organizations already have in place the administrative infrastructure and expertise required to offer such programs and thus would be able to charge lower fees.

OCSTA recommends that Section 259(1) of Bill 242 be amended to permit school boards to contract with alternative community resources for the delivery of the extended day program provided those programs support the core principles of the ELP.

In addition, OCSTA recommends that Section 259(1) be amended to allow a school board that has determined to offer its own Extended Day Programs a period of up to three years for full implementation.

Administrative Burden

OCSTA and our member school boards are greatly concerned about the many additional responsibilities and accountabilities that all aspects of the Early Learning Program will place on school principals and other board administrators. There is no doubt that the major undertaking of fee determination and collection will create many additional tasks and stresses for these administrators who will also be responsible for things such as overseeing the creation of new policies and procedures related to the ELP, hiring, training and allocating new staff, siting new programs during phase-in, negotiating agreements with other boards or third-parties, preparing and disseminating reports and plans required by the draft legislation and reporting as required to the College of Early Childhood Educators.

All of these responsibilities are being added to the role of administrators in a year in which a reduction in funding for administration and governance is to occur and at a time when administrators are already stretched to the limit.

OCSTA recommends that the significant increase in administrative workload in connection with the implementation of the new ELP be recognized in the allocation for Administration in the 2010-11 GSN.

Teachers and Designated Early Childhood Educators

Many sections of Bill 242 make clear that the role of the ECE in junior kindergarten and kindergarten is to be closely aligned with that of teachers. The duties listed recognize ECE's as professionals co-delivering the program with teachers. Catholic school boards will assist in any way possible in the building of a positive and collaborative working relationship among not only teachers and ECE's but all those involved in the beginnings of this significant new program.

Conclusion

The Early Learning Program is a complex initiative that will impact every area of school board operations, including staffing, curriculum, facilities, community relations and funding. Each of the hundreds of details involved in the implementation of the ELP will absorb time, as well as financial and staff resources.

In addition to issues raised by Bill 242, school boards are concerned about whether Ministry allocations will be adequate to cover the actual costs of the ELP. School boards employing ECE's already are paying in excess of the stated provincial benchmark of \$19.48 an hour. Inevitable pay equity issues will also serve to drive up staffing costs. No provision has been made for start-up costs, yet few boards will have sufficient, appropriate furniture and equipment on hand for these new classes. The magnitude of the capital spending that will be necessary to guarantee appropriate space for classes in every elementary school in the province is as yet unknown but is undoubtedly substantial. Young students with special needs will require additional costly assistance, especially during the second half of each school day and during the Extended Day Program. It is essential that the Ministry allocate adequate funding to cover the actual costs borne by school boards in implementing the Early Learning Program.

Catholic school boards will make every effort to work with the Ministry and our education partners to ensure a smooth implementation of the ELP for our students, families and schools. We look forward to on-going opportunities to work with Ministry officials to address the many outstanding challenges still before us.

Thank you again for your time and attention.

Ontario Catholic School Trustees' Association
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