

**A Submission to the Municipal Legislation Review**

**November 20, 2015**



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.

---

The Ontario Catholic School Trustees' Association (OCSTA) appreciates the opportunity to provide input into this municipal legislation review. The three acts of legislation addressed through this review impact on the effective governance and operations of school boards in Ontario. We have responded where appropriate to the topics raised and hope that there will be more consultation on these issues going forward.

## **ACCOUNTABILITY AND TRANSPARENCY**

### **Code of Conduct**

- *Should there be a greater range of penalties for violating a code of conduct?*
- *Should codes of conduct be mandatory for all school boards in Ontario?*

Many school boards currently have in place a 'code of conduct' for trustees. This is reflective of the deep sense of responsibility and public accountability with which trustees regard the trust that has been placed in them by the electorate. Generally, boards make every effort to deal with and resolve issues of conduct that arise within normal board processes, without formal investigation of action. OCSTA does not support mandated codes of conduct but does promote responsible trustee leadership through work that is driven by our Association's mandate.

As representatives of the Catholic community, Catholic school trustees (and the boards they serve on) are distinct and have their own unique charism. This distinctive role and responsibility is recognized in the OCSTA document "*Witnesses to Faith*":

“Catholic Schools in Ontario originated and continue in existence because of the desire of Roman Catholic parents to have their children educated in a learning environment which reflects the vision of life, the values and the faith of their families. These parents entrust to duly elected trustees the responsibilities for making and implementing policies which will assure such learning environments in Catholic Schools. To trustees falls the ultimate responsibility for the direction and governance of Catholic Schools. In governing these institutions, they effectively exercise a ministry within the church with all of the expectations that follow from this ministerial role.”

Given these added expectations beyond those of the *Education Act* and other legislation, Catholic school boards require the flexibility and the autonomy to develop local approaches for addressing conduct.

With respect to penalties, as stipulated under S. 218 of the *Education Act*, we do not recommend additional sanctions. It is essential for local boards to retain the autonomy to adopt or add to the provincial template for sanctions, as appropriate in order to address their distinctive mandates

---

and local circumstances and to decide on appropriate sanctions should the code of conduct be breached.

Local School Board trustees should be held to the same standard and legal requirements (including conflict of interest) as any other democratically elected position in the province/country.

## **Integrity Officers**

*Are there gaps in the current school board accountability and transparency system?  
What kind of tools would support greater accountability and transparency in school boards?*

When the oversight of the Ontario Ombudsman was extended to the education sector under Bill 8, *Public Sector and MPP Accountability and Transparency Act*, OCSTA invited the Ombudsman to discuss the impact of this change at the spring 2015 professional development seminar for OCSTA member boards.

We have continued to participate in meetings with the Ombudsman to better inform the Ombudsman's Office on the complaint and service protocols within Catholic school boards and to gain a deeper understanding of the steps being taken by the Ombudsman's office to adapt to this wider mandate.

We look forward to working with our education partners to develop a common, transparent process for addressing the complaints and issues of our constituents and to working with the Ontario Ombudsman to ensure a streamlined, non-duplicative process for our constituents.  
NOTE: *The complaint process must be fully exhausted at the local board level before the Ombudsman's Office acts upon a constituent's complaint.*

## **Conflicts of Interest**

- *How might conflict of interest rules be made clearer for school board trustees and the public?*
- *Do you think the current rules prevent school board trustees from participating in board decision making too often?*
- *Do you think school board trustees need more support to comply with conflict of interest rules? For example, having a school board make expert or legal advice available to them.*
- *How could public access to the decision-making process about conflicts of interest be improved?*
- *What do you think are the appropriate penalties for violating conflict of interest rules?*
- *Who should enforce municipal conflict of interest rules?*

---

The general principle behind the Conflict of Interest legislation is to protect the public interest by ensuring that public officials do not benefit financially from their position and do not place their own interests above that of the municipal body (or school board) they represent. The pecuniary interests that can create conflicts for publicly elected officials are defined in the Act as being “direct”, “indirect” and “deemed” and it is these distinct areas of interest that can create confusion. In fact, legal interpretations can make conflict of interest rules so restrictive that it prevents school board trustees from participating in board decisions.

Although not a technical pecuniary interest, trustees should be better informed about and be held accountable for decisions they may have with respect to “apprehension of bias”. The current penalties for contravening conflict of interest rules are appropriate, and that the courts should enforce them. Ultimately, trustees, like other locally elected representatives have the responsibility for determining if they are in a “conflict of interest” on a particular matter. The challenges/responsibilities in this regard need to be considered and/or weighed against the significant cost of a ratepayer filing a complaint.

To help the electorate better understand conflict of interest as it relates to the representatives they elect, the government is encouraged to create more accessible public education resources on this topic. Not only should the public understand the meaning of conflict of interest, but also how to report occurrences. The issue could perhaps be effectively addressed by forming a central reporting system for **ALL** levels of government so that the financial onus would not be placed on the individual taxpayer. This central reporting area could serve as an initial review of suspected contraventions of the Act, advising concerned taxpayers if the reported issue is legitimate and how they could proceed.

Given that the people who are often most aware of contraventions are colleagues, it may be more effective to allow for some anonymity in the reporting process (at least initially).

As recent as January, 2015, OCSTA hosted a session for trustees entitled “A Primer on the Municipal Conflict of Interest Act”, presented by lawyer, Peter D. Lauwers. Sessions like this have been included in OCSTA’s seminar and conference programming consistently over the years. We take seriously our role in educating our members and in ensuring that they clearly understand their obligations and requirements under Conflict of Interest legislation.

---

## Open Meetings

- *Do you think there should be more options for school boards to use technology in holding meetings? (e.g., internet video conferences?) Please provide examples.*
- *Do you think that the public has appropriate access to board meetings? How could board meetings be more transparent?*
- *Does the Education Act accurately reflect under what circumstances it is appropriate for a board to have closed meetings?*

Many Catholic school boards currently use technology to allow greater segments of a board's constituency to access board meetings via live video conferences and/or video recorded sessions that are uploaded to the board website for audiences to view at their convenience.

School boards need to have the flexibility to have fulsome discussions when planning the change, deletion or addition of programs. Such changes could result in the elimination of specific staff and even facility changes. In many of these instances, discussions must be held in closed meetings. To do otherwise could create undue stress both among staff and more widely throughout the community. Once closed discussions on such issues are completed, final board decisions can be made public. Public announcements or reports could include the rationale for decisions and the expected outcomes.

Much like closed caucus meetings at other levels of government, where information is shared and constructive planning takes place, school boards also need closed meetings to ensure all school board leaders are fully informed and equipped to make effective, fact-based decisions. We encourage the government to take into consideration any current research being conducted within the province to provide guidance to school boards on the interpretation of the Education Act with regards to public and private meetings.

## GENERAL

- *Overall, what do you see as the province's role in supporting school board accountability and transparency? What do you see as the school board's role?*
- *How effective are the accountability and transparency requirements in the Municipal Act, the City of Toronto Act, the Municipal Conflict of Interest Act and the Education Act?*
- *How might accountability and transparency rules be made clearer for school board officials, board members and the public?*

School boards send many reports to the Ministry of Education on the delivery of various programs, accounting and expenses, capital projects, results of student success initiatives, etc.

---

These reports are posted online by the Ministry of Education and serve to demonstrate system-wide accountability.

The work of school boards is impacted by numerous acts of legislation and regulations arising out of provincially directed goals around accountability and transparency. Ultimately these initiatives shape school board policy development and guide the creation of procedures that must be implemented to meet provincial requirements.

With each new provincial directive and regulation, the task of meeting ministry requirements becomes greater and greater. In light of this reality, we would encourage the government to ensure that school boards are adequately equipped with the resources and funding to meet new administrative and procedural processes set by the government, while maintaining and respecting the local autonomy and responsibility of elected trustees.

**The province must not provide any greater or less oversight of school boards than other elected bodies.**

All organizations affected by this legislation should be treated similarly. This is not the current situation.

It should be noted that transparency and accountability in the education sector has been enhanced by purchasing and procurement regulations and audit committees that were established for municipalities, school boards and hospitals. But as more school board functions become centralized, the impact of provincial strategies can produce undue hardship for one or more school boards. This highlights a need for a central/provincial body mandated with the responsibility for hearing these cases and recommending solutions to cabinet and the Premier.

In closing, we would like to reiterate our appreciation for the opportunity to be consulted during this review. Please contact us if we can be of any further assistance in this very important Municipal Legislation Review.

Ontario Catholic School Trustees' Association  
BOARD OF DIRECTORS

2015-2016

---

Kathy Burtnik, President	Niagara Catholic District School Board
Bob Schreader, Vice President	Renfrew County CDSB
Marino Gazzola, Past President	Wellington Catholic District School Board
Michelle Griepsma	Peterborough Victoria Northumberland & Clarington CDSB
Mark Mullan	Ottawa Catholic School Board
Todd Lalonde	CDSB of Eastern Ontario
Carol Cotton	York Catholic District School Board
Patrick Daly	Hamilton-Wentworth CDSB
Anna da Silva	Dufferin-Peel Catholic District School Board
Beverley Eckensweiler	Bruce-Grey Catholic District School Board
Anne-Marie Fitzgerald	The Northwest Catholic District School Board
Arlene Iantomasi	Halton Catholic District School Board
Colleen Landers	Northeastern Catholic District School Board
Paul Landry	Kenora Catholic District School Board
Patrizia Bottoni	Toronto Catholic District School Board
Frank D'Amico	Toronto Catholic District School Board
Thomas Thomas	Dufferin-Peel Catholic District School Board
Linda Ward	St. Clair Catholic District School Board
Bishop John Boissonneau	ACBO Liaison to OCSTA
Fr. Patrick Fitzpatrick	Chaplain
Nick Milanetti	Executive Director









Ontario Catholic School  
Trustees' Association