

Presentation to
The Standing Committee on Social Policy
Bill 115 –Putting Students First Act, 2012

September 5, 2012



Ontario Catholic School
Trustees' Association

I would like to begin by thanking the committee for allowing us the opportunity to present here today.

Before I comment on the legislation before the committee, I believe it is important to note that, as we sit here today, both the Sept. 1 rollover and the start of the school year have taken place, and the fear-filled prophesies about each of these dates have proven untrue.

There have been no strikes, no lockouts and school boards are doing their best to cope with the rollover of the previous collective agreement, despite the claims previously made about their inability to do so. The entire education sector, ranging from support staff, to teachers, to principals, to supervisory officers, to directors of education, and to trustees, are all doing what they have committed their lives to doing – putting students first.

It is on this note that I would like to discuss the proposed legislation that claims to do the same, but sadly falls short in its effort to address the needs of students.

OCSTA, in conjunction with the province's other 3 trustee associations and with our fellow management partners, has been vocal in its opposition to the process leading to the proposal of the *Putting Students First Act*, and some of the provisions included in the Bill. The most controversial element of this legislation is not a specific section or subsection, but rather, it is the government's effort to legislate an agreement without any approval of an employer group in the education sector.

The Memorandum of Understanding signed on July 5 was an agreement between one union representing English Catholic teachers and the Minister of Education. It was not supported or signed by any of the 29 boards who actually employ OECTA's members. Though four of our boards have subsequently exercised their rights to endorse the MoU, the overwhelming majority of our boards stand firmly opposed to the MoU being imposed without their desire or consent.

This point is very significant, in that it speaks to the government's interpretations of collective bargaining, the democratic rights and responsibilities of democratically elected trustees, and towards the education sector as a whole.

By signing this Memorandum of Understanding with our employee group, the Minister of Education usurped the legally proscribed steps in both the *Education Act* and the *Labour Relations Act*. The previous two rounds of labour discussions in 2005 and 2008 were an effort to bargain provincially, with the employee groups (being unions) and employer groups (represented by trustee associations) working to find mutually acceptable provincial agreements that would then be ratified locally, while the Ministry of Education acted only in a facilitating capacity. This process has come to be known as the Provincial Discussion Table (or PDT).

There was no legislation legitimizing the PDT process, despite the calls from trustee associations and unions on the matter. Instead, the parties came to the table in the spirit of good faith, and worked together in the instances of 2004 and 2008 to come to an agreement. It was also very clearly understood by all groups that if a provincial agreement could not be struck, the Labour

Relations Act necessitated that parties negotiate locally. That means local union units would bargain with individual school boards.

After 5 months of good faith bargaining between OCSTA and OECTA the process came to an end on July 4 after it was clear that a mutually acceptable agreement could not be reached. At this time, according to the *Labour Relations Act*, local bargaining should have begun to allow employee and employer groups to continue their discussions. Instead, on July 5, the Minister of Education without legal justification unilaterally usurped the rights of elected Catholic school boards by signing a Memorandum of Understanding with our employee group.

Since that time, Ontarians have been literally inundated with contentions about school boards trying to lockout employees, about employees trying to strike, and about a variety of other issues that have only served to create a climate of crisis.

Having a firm grasp of our legislative obligations, school boards felt it in their best interest to file for conciliation in order to protect themselves from the financial implications of a Sept. 1 rollover.

The justification for the Memorandum of Understanding, and now for the Putting Students First Act, has been the need for fiscal restraint in the education sector. From the outset of the PDT process in February, not one union group or trustees association expressed any opposition to the need for financial restraint. However, what is clear in both the MoU and Bill 115 is that the Ministry has gone well beyond implementing restraint measures in the education sector and intends to fundamentally restructure labour relations in the province of Ontario.

It is our position that no party in this province, including school boards, should be bound to an agreement that they did not voluntarily sign. School boards are legally recognized employers and have the right to determine what is best for the students in their schools under legitimate collective bargaining processes.

The MoU and this legislation seeks to implement a new reality, wherein the government can strip the legal bargaining rights of parties, if they are so inclined. School board trustees are democratically elected by taxpayers to oversee the education system at the local level, and to ensure the highest quality of education is being provided to our students. It makes no sense for the government to sing the praises of our education system in one breath and to dismiss those responsible for its success in the other.

Beyond the questionable actions and motives of the government that have led us here today, we remain steadfastly opposed to the inclusion of Section 19 Subsection 1 (e) in the proposed legislation. Hiring and assessment issues have absolutely nothing to do with fiscal restraint, but instead can only represent an incentive provided by the Ministry for unions to sign an agreement with a party other than their employer.

Students deserve the best teachers in the classroom, and historically boards have done an exceptional job of ensuring teachers meet the highest standards. This legislation will remove boards' ability to hire the best person for the job, and instead turns the hiring process over to a political agenda that has no place in our schools. This does not put students first.

Our most vulnerable students have traditionally received the best quality of education based on the multidisciplinary approach to diagnostic assessment, wherein a team including teachers, principals, social workers, educational assistants, and most importantly parents, work together to determine the ideal approach to assessment for a student's given needs. This legislation will eliminate that proven and successful team-based approach and will provide sole discretion and control to teachers. This also does not put students first.

Our recommendation to the committee is both clear and simple – remove Section 19 Subsection 1 (e) from this legislation because it has no place in a Bill focused on fiscal restraint and it does not put students first. To include hiring and assessment provisions in legislation simply because an employee group has signed a non-binding agreement with the Minister is a violation of elected school boards rights and responsibilities and sets a very dangerous precedent in educational labour relations. It is also noteworthy that the legislation as currently presented only erodes Catholic and French boards' rights on hiring and assessment. It is our position that unequal treatment among sectors is unconstitutional.

I previously stated that this Bill will fundamentally restructure how the education sector negotiates and functions if passed in its current form. Make no mistake ladies and gentlemen – this legislation will impact the classroom in most every way.

Changing the democratic rights of employer and employee groups will not improve education in Ontario; in fact, it does the very opposite. The historical and future success of our education system is based on one fundamental component – the relationships between the partners responsible for the quality of education in Ontario.

For over 10 years, we have had labour peace in the education sector because the government respected the rights of stakeholders to act in the best interests of students. The government's conduct throughout this process has in many cases negatively impacted these relationships and in the end it is not in the best interest of students.

The proposed legislation announced today attempts to over-ride several important pieces of legislation that have governed individual rights and protected citizens over many decades. The content of the proposed legislation does not, in our view, put students first, despite its title.

I pray and implore you to consider the gravity of this situation and the consequences this Bill will have on education in the near and distant future. By eliminating Sec. 19 Sub. 1 (e), the government would be able to achieve its fiscal targets without sacrificing the quality of education in this province or eliminating parents from the decision-making processes, while at the same time avoiding unconstitutional inequity among Catholic, French and public sectors of education.

As the representative for our province's Catholic school boards I want to state our strong commitment to working collaboratively with all of our partners in education so that our schools can continue to contribute to the success of a system that is considered one of the best in the world.

Thank you for your time and I am happy to answer any questions you may have.