

Submission to

The Standing Committee on the Legislative Assembly

**Bill 122, School Boards
Collective Bargaining Act, 2014**

February 26, 2014



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 represents all of the province's 29 English-language Catholic district school boards. On behalf of the Association, I'm pleased to say that we welcomed the opportunity to be integrally involved in the consultation process established to develop Bill 122, *School Boards Collective Bargaining Act, 2014*.

While Bill 122 includes many of our recommendations, there remain some important amendments that would address the concerns of Catholic school board employers and the needs of Ontario's education sector as a whole.

Section 12 – Central and Local Bargaining

OCSTA recommends that Section 12(1) of Bill 122 be amended to state that both local and central bargaining "will" take place. The current language says "may".

OCSTA recommends that Section 12(2) be amended to reflect the mandatory nature of the next central bargaining process by replacing the word "if" with the word "when".

Section 13 – Parties to Central Bargaining

It is unclear under what circumstances the Crown would not participate in central bargaining.

OCSTA recommends that Section 13(2) be amended to say: "The Crown will participate in central bargaining at each central table."

Section 16 (2) – Duty to Co-operate

Section 17 of the *Labour Relations Act* requires **both** parties to “bargain in good faith and make every reasonable effort to make a collective agreement.”

OCSTA therefore recommends that Section 16(2) of Bill 122 be amended such that all parties, the employer bargaining agency, the employee bargaining agency and the Crown, are obligated to co-operate in good faith in preparing for and conducting central bargaining. It currently applies only to the employer bargaining agency.

Section 21 (11) – Requirement to Pay Fees

To ensure adequate funding for the labour relations activities set out in Bill 122 and the necessary costs associated with expanding the role of trustee associations, OCSTA recommends that the legislation be amended to make reference to the provision of direct funding to school boards to specifically address costs associated with labour relations and the collective bargaining process.

Section 22 (1) – Substitution if Employer Bargaining Agency unable, etc., to act

This section allows for the employer bargaining agent to be substituted if, in the opinion of the Minister, the agency is unable or unwilling to perform its duties. OCSTA has concerns that the section does not clearly articulate the “test” to be applied in order for the Minister to relieve the OCSTA bargaining team of its duties to represent Catholic boards, nor is there any mechanism to receive notice or provide submissions on the Minister’s decision. The steps for establishing the committee are also unclear. The Minister is granted total discretion under Section 22.

OCSTA therefore recommends that this section be amended to:

- i. Explain the objective criteria to be applied by the Minister when deciding whether an employer bargaining agency is “unable or unwilling to exercise its rights and privileges or perform its duties” under Bill 122 and replace the employer bargaining agency with a substitution committee (the “substitution decision”);*
- ii. Require the Minister to give at least 30 days’ notice in writing to the affected employer bargaining agency setting out the grounds under which the Minister intends to make a substitution decision;*
- iii. Provide an opportunity for the affected employer bargaining agency to make written submissions to the Minister, which submissions shall be considered by the Minister prior to making a substitution decision;*

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- iv. *The Minister's decision and reasons must be provided to the affected employer bargaining agency in writing;*
 - v. *The Minister's decision would be subject to judicial review by application of the affected employer bargaining agency.*

Section 34 (4) – Consent for lock-out in respect of central bargaining

Pursuant to subsection 2(3) of Bill 122, the school board retains its status as the employer of its employees. Requiring consent of a non-party (i.e. the Crown) before a lockout is inconsistent with the status of school boards as a party to central bargaining, and as the employer.

OCSTA therefore recommends that subsection 34(4) be amended to delete the requirement for Crown consent to lock-outs in central bargaining.

Section 35 (2) – Definition of Strike

Subsection 35(2) defines strike. The definition is essentially identical to the current definition of strike in section 277.2 of the *Education Act*.

In our view, there is an opportunity to amend the definition of strike to expressly include co-instructional activities, and add a definition of co-instructional activities.

Our proposed amendment is indicated below in bold underlined font:

(2) For the purposes of this Act,

“strike”, in relation to a teachers’ bargaining unit, includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed or may reasonably be expected to have the effect of curtailing, restricting, limiting or interfering with,

- (a) the normal activities of a school board or its employees,
- (b) the operation or functioning of one or more of a school board’s schools or of one or more of the programs in one or more schools of a school board, or
- (c) the performance of the duties of teachers set out in the Education Act or the regulations under it, including **but not limited to programs involving co-instructional activities, or** any withdrawal of services or work to rule by teachers acting in combination or in concert or with a common understanding.

For the purposes of this Act, “co-instructional activities” means activities other than providing instruction that,

(a) support the operation of schools,

(b) enrich pupils’ school-related experience, whether within or beyond the instructional program, or

(c) advance pupils’ education and education-related goals, and includes but is not limited to activities having to do with school-related sports, arts and cultural activities, parent-teacher and pupil-teacher interviews, letters of support for pupils, staff meetings and school functions but does not include activities specified in a regulation made under subsection (1.2).

Ontario Catholic School Trustees' Association
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