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Trustees' Association

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February 13, 2018

MEMORANDUM

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Nick Milanetti, Executive Director

SUBJECT: Article in Globe and Mail – February 13, 2018

As you are aware, last August all 29 Catholic school boards and OCSTA received a Freedom of Information Request (FOI) from the Globe and Mail regarding admissions policies at our boards. For your information and reference, I have attached the story that appeared in today's Globe and Mail (Tuesday February 13, 2018 A1, A14). I would also like to draw your attention to part of Patrick Daly's response to the story that places this issue in its proper context:

“But the OCSTA’s Mr. Daly dismissed suggestions that Catholic districts are opening their doors because of declining enrollment. He said families may be choosing a Catholic education because of its quality and the faith-based values it teaches” (p. A14).

If you have any questions or concerns, please contact me at your convenience.

Attachment

GLOBE AND MAIL ARTICLE: Catholic Schools: Requirement to provide proof of faith has quietly changed.

In push for funding, Ontario's Catholic school boards enrolling more non-Catholics

With funding tied to student numbers, an analysis by The Globe and Mail raises questions about the provincial funding Catholic boards receive to maintain a system that was set up to protect a distinct religious identity



Andrew Bienhaus (right), who lives in the Hamilton area, put his two children in the separate system because he believed it was a better fit – even though his family is not Catholic.

GLENN LOWSON/THE GLOBE AND MAIL

CAROLINE ALPHONSO
EDUCATION REPORTER

PUBLISHED FEBRUARY 12, 2018UPDATED FEBRUARY 12, 2018

Catholic school boards in Ontario are increasingly enrolling non-Catholic children and siphoning elementary students from the public stream as the two systems vie for provincial funding, a Globe and Mail analysis has found.

According to figures obtained through Freedom of Information requests, last year the number of documented non-Catholic students reached almost 11,000, an 18-per-cent increase in the past four years. As a percentage of the total student population in the separate system, non-Catholics accounted for more than 8 per cent in 2016-17. The province's three largest boards in the Greater Toronto Area stand alone among 29 English Catholic school boards as the only ones with policies that deny enrolment to students without a Catholic baptismal certificate. In some boards, upwards of a quarter of elementary school students and their parents or guardians did not have a baptismal certificate.

The data, which are not monitored by the province, was collected for the first time for all English Catholic boards in Ontario. It sheds light on the extent to which publicly funded separate schools are admitting students regardless of faith and reveals vastly different entrance criteria among those boards.

STORY CONTINUES BELOW ADVERTISEMENT

And with funding tied to student numbers, The Globe's analysis raises questions about provincial funding Catholic boards receive to maintain a system that was set up to protect a distinct religious identity.

Three provinces – Saskatchewan, Ontario and Alberta – still constitutionally require funding for Catholic schools. Newfoundland and Labrador and Quebec obtained constitutional amendments to replace their faith-based school boards with linguistic, secular ones in the 1990s.

But concerns about the overlap of the public and Catholic school systems follow a Saskatchewan judge's ruling in April that the province does not have the right to fund non-denominational students at Catholic schools.

"Are the rules being followed? And if there are no rules and differences, then what's the difference between the school boards?" asked David Thompson, chair of the Near North District School Board in North Bay. "The taxpayer is going to question the difference between the school boards."

A spokesman for Ontario's new Education Minister, Indira Naidoo-Harris, said her office was unable to accommodate an interview. In an e-mailed statement, Ms. Naidoo-Harris said "school boards are ... able to establish their own policies regarding enrolment in their schools, within the bounds of the Education Act."

Catholic high schools have had to admit all students since the province began funding them in the late 1980s, but elementary schools can still turn non-Catholics away. On this matter, the Education Act is not straightforward: It states that students can qualify to attend an English-language elementary separate school if their parents or guardians are separate school supporters – ie., property owners who direct their taxes to the Catholic school system.

Traditionally, separate schools required evidence of a family's faith before a child was enrolled. This has quietly changed in recent years as school boards compete to maintain their student

populations. While counter to the separate board's founding principles, the shift is not a violation of the Education Act as the act is silent about extending rights to non-Catholics.

STORY CONTINUES BELOW ADVERTISEMENT

But the separate system is keenly aware that the shift could be viewed poorly and has sought legal advice to determine if it could prevent the release of data about the shifting demographics of Catholic schools.

In the minutes of a November, 2014, meeting of the Ontario Catholic School Trustees' Association – a copy of which was obtained by The Globe – the association said it was up to local boards to decide to accept non-Catholic students.

But, the minutes add, "emphasize caution in how this issue is communicated across the province."

(A spokeswoman for the OCSTA said in an e-mail that the committee meeting minutes "reflect the discussion of the committee and their direction to OCSTA to exercise caution in communicating to members so that the Association not only recognizes but also respects the local autonomy of boards and their differing approaches and policies on this matter.")

In an e-mail marked "Confidential" and sent to directors of education and chairs just days after The Globe sent its FOI requests to the 29 school boards, OCSTA president Patrick Dalysaid the association was in "the process of obtaining a legal opinion on the obligations of school boards to disclose this information to the media," he said in the letter, obtained through a subsequent FOI request.

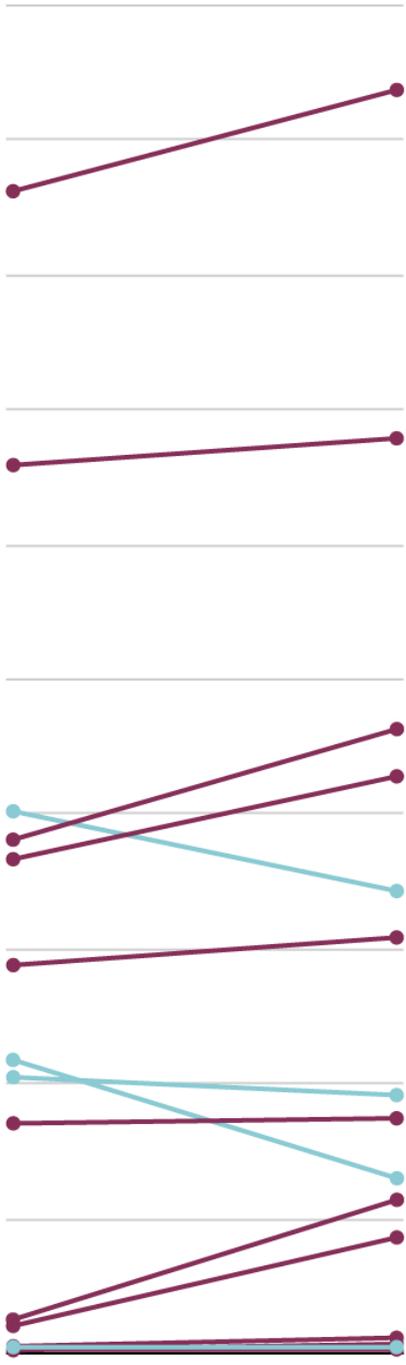
The Globe found that only three boards – the Toronto, York and Dufferin-Peel Catholic district school boards – maintain policies that require children or their parents or guardians to have a baptismal certificate in order to register with an elementary school. (Of those three, only the Toronto Catholic board saw its enrolment increase in recent years.)

STORY CONTINUES BELOW ADVERTISEMENT

In an e-mail, a spokesperson for the Dufferin-Peel Catholic board said: "DPCDSB's admission policy is rooted in the Education Act and is designed to admit eligible resident pupils. We have never extended admission to non-eligible students. Our policy is in alignment with our mission to educate Catholic students in our Catholic faith tradition.

Six districts said they did not collect or track data centrally on non-Catholic families in their schools.

But according to the analysis of the school districts which provided full data for the past four academic years, Catholic boards had a gradual increase year over year of students who were non-Catholic or of an unknown religious identity attending their schools.



London
Durham
Halton

Ontario's growing non-Catholic student population

Non-Catholic percentage increasing

Non-Catholic percentage decreasing

50%

Northeastern

45

40

35

Superior North

30

25

Niagara

Peterborough Victoria

Northumberland and

Clarington

20

Huron Perth

Northwest

15

10

Huron-Superior

Hamilton-Wentworth

Thunder Bay

Wellington

5

Waterloo

London

Durham

0

Halton

Nipissing-Parry Sound

Note: At the Northeastern Catholic School Board religion was either non-Catholic or not known.

THE GLOBE AND MAIL, SOURCE: SCHOOL BOARDS

At the Northeastern Catholic District School Board, where the religion of 47 per cent of its 1,813 elementary students was not known, the director said school staff were unable to reach parents or that parents were not willing to disclose their faith. The Catholic District School Board of Eastern Ontario, in Kemptville, said 27 per cent of its 7,669 elementary students were not Catholic in the 2016-17 school year, but it also indicated it did not know the religion of another 15 per cent of its students.

The Ottawa Catholic board says on its website that non-Catholic children "will be welcomed on a space availability basis" – but also noted that space is available in all its elementary schools. Data obtained by The Globe shows that 26 per cent of its students (7,382 out of 28,128) were "not flagged as Catholic" in the 2016-17 academic year.

The Windsor-Essex Catholic board changed its procedures in 2014 to allow non-Catholics. The data shows that 217 applications were received from non-Catholics and 203 registered in 2014-15. That number almost doubled to some 400 students in the last school year, even as the board with 13,055 elementary students has seen an overall decline in enrolment.

"We were getting a lot of requests and felt that it didn't make sense to turn people away who wanted faith-based education for their children," said spokesman Stephen Fields. "We are still very much a Catholic school system and we believe that allowing people who wanted to participate in our unique brand of education was more in keeping with the essential teachings of our faith."

Mr. Fields said the board still requires families to participate in all faith-based activities, which has been a subject of controversy in several districts. Some families of high-school students have been trying to get exemptions from religion classes, largely because they want their teens to spend more time on other subjects. A panel of three Ontario judges ruled in 2014 that students have a right to be exempted from religious programs. More recently, a settlement reached in a human rights tribunal complaint means that students at the Simcoe Muskoka Catholic District School Board have more flexibility to opt out of religious courses and programs.

Andrew Bienhaus, who lives in the Hamilton area, put his two children in the separate system because he believed it was a better fit – even though his family is not Catholic. He moved his older son from the public system around Grade 5 because he felt the boy wasn't being challenged.

"There's an overarching caring that seems to be [in the Catholic system], a sense of inclusion, a sense that everybody's important," Mr. Bienhaus said. "We don't care that it's Catholic school. We just embrace the fact that ... having a school that accepts faith and morals being a part of life is important."

Ontario has four publicly funded systems: francophone public, francophone Catholic, English Catholic and English public. About 27 per cent of elementary school-age children attend English Catholic schools. Faced with declining overall enrolment, all boards, not just the Catholic ones, are pouring millions of dollars into recruiting drives to lure more students. Each student enrolled in an English Catholic elementary school comes with about \$12,000 in annual government funding.

After learning of the data gathered by The Globe, Laurie French, president of the Ontario Public School Boards' Association, said she was concerned, noting that funding is largely tied to enrolment and that the viability of schools in small communities is at stake when both systems are jockeying for students.

"It's a government issue. We need clarity and we need consistency around how non-Catholic students are admitted or denied entry to Catholic schools across the province," she said.

Leonard Baak, a Stittsville father who heads the lobby group OneSchoolSystem.org, described it as a "parasitic advertising behaviour between all boards fighting for market share." He said the province would be better served by merging the systems.

"Without those non-Catholic kids, those schools would be seriously under-enrolled and under threat of closure," Mr. Baak said. "The only time non-Catholic kids are welcome is when they need a few more warm, grant-generating bodies to boost the enrolment of a school to make it more cost-effective so that it won't close. They do not do this out of the goodness of their heart."

But the OCSTA's Mr. Daly dismissed suggestions that Catholic districts are opening their doors because of declining enrolment. He said families may be choosing a Catholic education because of its quality and the faith-based values it teaches.

Mr. Daly is a trustee at the Hamilton-Wentworth Catholic board, where non-Catholics make up almost 10 per cent of the student population of 18,541. He said families without a baptismal certificate are interviewed by school staff and admitted subject to space availability at the school.

"If there was a keen interest on the part of the parent and a commitment and respect for the mission of our system, then in most cases they would be permitted," he said.

Many in Ontario and Alberta are closely watching a challenge to Saskatchewan's separate school boards. Justice Donald Layhof of the Saskatchewan Court of Queen's Bench ruled in April that the province does not have the right to fund non-Catholic students at Catholic schools.

A spokeswoman for the Alberta government said school choice is protected in Alberta, given there is sufficient space for students. The Public School Boards' Association of Alberta has applied for intervenor status in the court case. President Cathy Hogg said her association believes a single school system could avoid the costly duplication of services.

The Saskatchewan case has been playing out for about a decade. When a small elementary school in the village of Theodore closed because of declining enrolment, children were bused to another community. Then a Catholic school opened in Theodore, but only about a third of its students were Catholic.

A public board went to court to challenge the government's policy of funding non-Catholic students at Catholic schools, which resulted in Justice Layh's ruling. The Saskatchewan government has appealed the decision and has said it will override it using the Constitution's notwithstanding clause.

Eric Adams, an associate professor in constitutional law at the University of Alberta, said Justice Layh's decision caught many off guard and could become binding in Alberta and Ontario if the decision is ultimately upheld at the Supreme Court. It could also affect other provinces if similar litigation is launched by school districts.

Prof. Adams says the poaching of students from public schools has prompted grassroots campaigns and even some public school associations to openly question the need for a publicly funded separate school system. However, the political conditions are not "ripe," he said, pointing to former Ontario Progressive Conservative leader John Tory, who is now mayor of Toronto. His is a "cautionary tale" about tinkering with the status quo: Mr. Tory promised to extend public funding to all religious schools about a decade ago and was rejected by voters.

For now, politicians are looking to the courts, Prof. Adams said: "We're in the early days of this issue. A politician can simply say: There's a judicial process, let it play out."

Mr. Daly said: "Our hope is that [the Saskatchewan court case] would have no impact. But, obviously, we watch very, very closely any legal matter that could impact Catholic education throughout Canada."

Data analysis and graphic by Tom Cardoso

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