

## Provincial Interest Regulation Consultation Paper

### INTRODUCTION

Student achievement has been the cornerstone of this government's education focus. In the past five years, the government, in partnership with school boards<sup>1</sup>, teachers and education support workers, have made great strides towards reaching our goal of having 75% of elementary students reach the provincial standard (equivalent to a B) in reading, writing and mathematics, and, by 2010-11 to see 85% of our secondary students graduating.

The proportion of students at level one or lower on EQAO results has already dropped by more than half. Across the province 13,500 more students graduated last year compared to 2003-04. And the number of very low-achieving schools has also dropped by 75%. These achievements, along with much less tangible factors, such as school safety and healthy students, all contribute to public confidence in publicly funded schools. This year, despite a severe downturn in the economy and declining enrolment across the province, funding for Ontario's publicly funded school boards increased for the seventh consecutive year. To reach our student achievement goals, we as a government have relied on the expertise of school boards, the vast majority of whom work hard at improving student achievement and maintaining the confidence of the public.

But we still have much to do. Some students face difficulties due to circumstances beyond their control. Boards of trustees become distracted by day-to-day issues which take their focus off the long term. And parents continue to have high expectations regarding their ability to have input into what happens in their local schools.

As a next step to reaching its goals in student achievement, the government introduced the *Student Achievement and School Board Governance Act* (Bill 177). The purpose of the Act is to strengthen school board governance and to emphasize that school boards are responsible for the level of achievement of their students. The preamble in the Bill clearly articulates this goal:

*A strong public education system is the foundation of a prosperous, caring and cohesive society. The purpose of education is to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to their society. All partners in the education sector have a role to play in enhancing student achievement and well-being, closing gaps in student achievement and maintaining confidence in the province's publicly funded education system.*

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<sup>1</sup> The term "school board" is used to refer to the board as a corporate entity; the term "board of trustees" refers to the body of elected and appointed members.

Following from this preamble, the Bill sets out the specific role that school boards play in enhancing student achievement and well-being through new provisions on the duties and powers of school boards (see Appendix A). These new provisions, if passed, would address school boards' responsibilities for student achievement and effective stewardship of their resources and require boards to develop multi-year plans aimed at achieving these goals.

School boards would be required to specify in the multi-year plan how they would set and monitor student outcomes as defined in the provincial interest regulation which is currently under development. The development of this regulation is authorized under Section 11.1 of the *Education Act* (see Appendix B).

The purpose of these consultations is to seek the views of those who could be impacted by its provisions: boards of trustees, senior administrative staff, teachers, parents, students, and education support workers. As partners in the education sector, we need to share a common understanding of what we mean by terms such as "student outcomes," "effective stewardship," and "student well-being."

This consultation paper sets out the proposed content of the provincial interest regulation and the process to support the implementation of the regulation. In accordance with Sections 11.1 (2) of the *Education Act*, the Ministry is consulting with the four provincial trustee associations. Furthermore, in the spirit of collaboration and in the context of our shared interests in student achievement, the Ministry is also consulting with other education partners including the Council of Ontario Directors of Education (CODE), the Council of School Board Business Officials (COSBO), supervisory officer associations, the Ontario Student Trustees' Association (OSTA), and members of the Minister's Partnership Table.

At the Minister's request, the Governance Review Committee (GRC) made recommendations on the content and format of the provincial interest regulations relating to student achievement. Although the regulation is now broader in scope, the GRC recommendations very much shaped the content of this consultation paper. The purpose of the proposed regulation is to address those rare instances where a board is struggling and, despite supports from the Ministry, is failing to make progress or is declining in student achievement. In the development of this consultation paper, we have been guided by the following principles:

- boards that have demonstrated, over a period of time, significant and persistent problems relating to student achievement, effective stewardship, and good governance would warrant a Ministry response
- the Ministry's response should be based on a staged intervention process beginning with supportive assistance and direction
- indicators of the need for Ministry response to a school board should include, but not be limited to, results of provincial assessments
- attention should be placed to a school board's progress as well as its actual results

We want to ensure that any approach taken by the government is a supportive one. If a school board is struggling, despite ongoing Ministry supports, what is the next step? Ignoring low achievement is not an option. We need to discuss the barriers and what more the Ministry and school boards can do to support improvement.

All parties agree that the government should only supervise school boards as a last resort. At the same time, the government must and will take action if a school board, over time, has significant and persistent problems relating to student achievement, effective stewardship, and good governance. We need your advice on what those indicators should be. We need a clear understanding as to what happens when a school board is in trouble, what indicators show this difficulty, and what steps would occur prior to the supervision of a school board by the Ministry.

The consultation paper proposes that the regulation have two kinds of indicators:

- (i) Those for which a board is responsible to the public, as outlined in its annual report; and
- (ii) Those for which the government will hold boards responsible and which could, after all other efforts and supports have been exhausted, “trigger” a process that could result in the supervision of a board.

The Ministry will continue to provide supports to boards to improve student outcomes, reduce gaps and enhance public confidence in public education. However, there is a legal requirement that any indicator included in the regulation as a “trigger”—that is, an action or inaction that could ultimately result in the supervision of a board—must be concrete and measurable. For example, one of the proposed “triggers” in the paper is a situation where a board “has 40% or more of its schools in the bottom 20% of the schools in the province, based on EQAO Grades 3 and 6 scores in reading, writing, and math.” (Also note that no trigger automatically results in a Ministry response. The regulation provides that the Minister “may” intervene if any of the triggers are present.)

Our dilemma is that, while we do not want to limit the “triggers” to EQAO results and credit accumulation, the more we expand the scope of the “triggers”—to include, for example, those subjects required in the annual report—the more prescriptive we become and the less flexibility boards have to address these issues in a manner that meets their local needs.

For example, if we added student well being or parent involvement to those “triggers” which could ultimately result in the supervision of a board, we could require “triggers” such as the following:

“The Ministry of Education *may* respond if a board:

- (i) Fails to reduce its rate of suspensions by 10% over a three year period;
- (ii) Fails to meet with its Parent Involvement Committee at least eight times a year and respond to its recommendations within four weeks of receiving them;

- (iii) Does not increase the levels of enrolment in specialized programs such as co-op and dual credit programs by 5% a year over a three year period.

With this in mind we seek your advice on both the regulation's content and scope. The greater the number of "triggers," the more prescriptive the government becomes. The fewer the "triggers," the more the regulation is forced to rely on EQAO results and credit accumulation.

## I. ANNUAL REPORTS

**The following provisions would require every school board to make annual public reports that address its goals and strategies in key areas set out in Bill 177 - *Student Achievement and Governance Act*. The reports would also provide an assessment of current status and use indicators of success set out in this regulation.**

1. School boards would be required to develop and make public annual reports that address the implementation of the duties of boards set out in section 169.1 of the Act (see Appendix A).
2. The annual report would address:
  - i) the current status of the board's progress in fulfilling each of the duties of school boards set out in section 169.1 of the Act;
  - ii) the achievements made by the board in the previous year; and
  - iii) the challenges faced by the board in the previous year
3. The annual report would use the following indicators in its assessment of its progress in the meeting the following goals:
  - i) **student outcomes:** grade 3, 6 and 9 EQAO results; credit accumulation in grades 9 and 10; and beginning in 2011, graduation rates
  - ii) **student well-being:** rate of suspensions, truancy, serious incidents of bullying; evidence of student engagement (active student councils, student groups, etc); results of school climate surveys; student volunteerism; community engagement
  - iii) **effective stewardship:** balanced budget; appropriate resource allocation to support student achievement goals set out in the board's multi-year plan;

good governance practices (compliance with trustee provincial code of conduct; board agendas inclusion of items specific to student achievement; professional and effective board meetings, etc); whether it has met the targets in its capital plan and plans for the disposition of surplus properties; collaborative relationship with coterminous boards (i.e. joint agreements with coterminous boards and local municipalities; participation in consortia for the purchase of services); staff turnover and absenteeism

- iv) **effective and appropriate education programs:** specialized programs (e.g. specialized high-school majors; co-op programs, dual credit programs), their availability (i.e. throughout the board or only in selected schools) and levels of enrolment in such programs, success rates in special education and ESL
- v) **encouragement of students to pursue their educational goals:** a description of educational supports (e.g. guidance and career counselling), and the level of usage of those supports over the past school year compared to previous years; participation in post-secondary education
- vi) **communication:** evidence that the board has circulated its multi-year plan to employees, board supporters and the public and has reported on the progress in implementing the multi-year plan; evidence that the board has met with its Parent Involvement Committee to receive updates on the Committee's activities; relations with staff groups; grievances
- vii) **encourage parent involvement:** communications with school councils, parents and the public; board response to recommendations of school councils and Parent Involvement Committee activities
- viii) **promote the health of students:** policies and practices on healthy schools (e.g. anaphylactic policy, daily physical activity in elementary schools, compliance with trans-fat standards regulation)
- ix) **promote the safety of board students and staff.** rate of suspensions, truancy, serious incidents of bullying; compliance with the *Occupational Health & Safety Act*

The Ministry recognizes that directors of education will need some time to collect the information that will be required to compile the annual report being proposed under the provincial interest regulation. Accordingly, it is anticipated that the annual report, set out below as a proposed requirement under the provincial interest regulation, will provide a more comprehensive assessment with each successive year after the first report in 2010. These proposed annual reports will likely replace Director of Education's annual reports.

## Discussion Questions

- A. Should the annual report address any other issues in addition to those proposed in this consultation document?
- B. Are the indicators identified sufficient for a comprehensive assessment of each of goals (i.e. student outcomes, effective stewardship, parent involvement)?
- C. Should boards be required to report on all indicators in each annual report or:
  - a. report on some indicators one year, other indicators in a second year, and the last set of indicators in a third year?
  - b. If 'a' above is preferred, should all boards have to report on the same indicators for the first, second and third years, or should this be at the discretion of the board?

## II. PROPOSED TRIGGERS FOR MINISTRY RESPONSE

**The following provisions set out the conditions under which a Ministry response would be triggered. The Ministry would respond when a board, over time, fails to meet several of its own success indicators, or measures prescribed by the provincial interest regulation, or when a board gives evidence, over time, of failure to meet one or more of the requirements set out under section 169.1 of the *Education Act* – Duties and Powers of Boards.**

- 1. The Ministry of Education may respond if a board:
  - i) fails to meet its goals for improving student success as set out in its multi-year plan made under section 169.1 of the Act for three consecutive years;
  - ii) fails to develop and make public the annual report prescribed in the provincial interest regulation;
  - iii) has 40% or more of its schools in the bottom 20% of the schools in the province based on EQAO Grades 3 and 6 scores in reading, writing, and math
  - iv) has 40% or more of schools with 35% or more students that earned less than 8 credits in Grade 9, and 40% or more of schools with 35% or more students that earned less than 8 credits in Grade 10

## Discussion Questions

- A. Are the proposed triggers appropriate/reasonable?
- B. Are there any other triggers that could be used to identify boards that have significant and persistent problems over a period of time?
- C. How do we balance specific measures of academic achievement with broader indicators of board improvement?
- D. If we used other "triggers" to for broader indicators such as parent involvement or student well being, what should those triggers be?

## III. PROPOSED PROCESS

**Once triggered, the process for Ministry response would be one of supportive and directive intervention. The staged response would begin with supports, and if progress is not made following the various steps, supervision could result.**

### Stages of Ministry Response:

- i. Ministry writes to the board outlining the specific concerns
- ii. The Ministry meets with the board to discuss the concerns and the board's view of them
- iii. The Ministry recommends to the Minister course of action which may include:
  - a) a belief that the concerns are being addressed and no further action is required
  - b) a recommendation for a new multi-year plan from the board to respond to the issues
  - c) a recommendation for an external review of the board to provide an independent view of the issues and the board's capacity to respond to them
  - d) appointment of an assistance team or provision of other supports to help the board respond to the issues
  - e) appointment of an investigator under the Act to provide the Minister with an independent opinion on the board's capacity to address the issues
  - f) supervision of the board

## **Discussion Questions**

- A. Is the proposed graduated mechanism of interventions reasonable and appropriate?
- B. Are there any other steps that should be considered in the proposed stages of supportive intervention?

## **CONCLUSION**

The provincial interest regulation is intended to further strengthen school boards' accountability for student achievement and well-being. Following from the provisions in the *Student Achievement and School Board Governance Act* (Bill 177), the provincial interest regulation sets out reasonable measures that boards are expected to take and reasonable standards that they are expected to meet as they fulfil their role in enhancing student achievement and well-being, closing gaps in student achievement and maintaining confidence in the province's publicly funded education system.

You are invited to submit your responses to the Ministry of Education by August 31, 2009. Submissions may be sent electronically to [Margot.Trevelyan@ontario.ca](mailto:Margot.Trevelyan@ontario.ca), or by mail at the following address:

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**APPENDIX A:  
BILL 177 - DUTIES AND POWERS OF SCHOOL BOARDS**

**Board responsibility for student achievement and effective stewardship of resources**

**169.1** (1) Every board shall,

- (a) promote student outcomes specified in regulations made under section 11.1;
- (b) ensure effective stewardship of the board's resources;
- (c) deliver effective and appropriate education programs to its pupils;
- (d) develop and maintain policies and organizational structures that,
  - (i) promote the goals referred to in clauses (a) to (c),
  - (ii) promote the well-being of the boards' pupils, and
  - (iii) encourage pupils to pursue their educational goals;
- (e) develop multi-year plans aimed at achieving the goals referred to in clauses (a) to (c);
- (f) monitor the performance of the board's Director of Education, or the supervisory officer acting as the board's Director of Education, in meeting his or her obligations under the plans referred to in clause (e); and
- (g) annually review the plans referred to in clause (e) with the board's director of education or the supervisory officer acting as the board's Director of Education.

**Multi-year plans**

(2) A multi-year plan is a plan for three or more school years.

**Measures in plans**

(3) Every board shall ensure that the plans referred to in clause (1) (e) include measures respecting the allocation of resources to improve student outcomes that fall below the outcomes specified in regulations made under section 11.1.

**Communication**

(4) Every board shall take steps to,

- (a) bring the plans referred to in clause (1) (e) to the attention of supporters and employees of the board; and

(b) report to supporters and employees of the board about progress in implementing the plans referred to in clause (1) (e).

**Effective stewardship**

(5) Every board shall,

(a) effectively use the resources entrusted to it;

(b) use the resources entrusted to it for the purposes of delivering effective and appropriate education; and

(c) manage the resources entrusted to it in a manner that upholds public confidence.

**APPENDIX B:  
EDUCATION ACT - SECTION 11.1 (PROVINCIAL INTEREST REGULATIONS)**

**Regulations re provincial interest**

**11.1 (1)** The Lieutenant Governor in Council may make regulations prescribing, respecting and governing the duties of boards, so as to further and promote the provincial interest in education. 2006, c. 10, s. 4.

**Consultation**

(2) Before the Lieutenant Governor in Council makes a regulation under subsection (1), the Minister shall consult with,

- (a) the Ontario Public School Boards' Association;
- (b) the Ontario Catholic School Trustees' Association;
- (c) l'Association des conseillères et des conseillers des écoles publiques de l'Ontario;
- (d) l'Association franco-ontarienne des conseils scolaires catholiques; and
- (e) any other persons and entities that, in the Minister's opinion, have an interest in the proposed regulation. 2006, c. 10, s. 4.

**Notice**

(3) The Minister shall give the persons and entities listed in subsection (2) and members of the public notice of the proposed regulation, in the manner he or she considers appropriate, at least 60 days before the regulation is filed with the Registrar of Regulations. 2006, c. 10, s. 4.

**Same**

(4) The notice need not contain a draft of the proposed regulation, but shall summarize its content and intended effect. 2006, c. 10, s. 4.

**Exception**

- (5) Subsections (2), (3) and (4) do not apply if the regulation, in the Minister's opinion,
- (a) is needed to deal with an urgent situation;
  - (b) is needed only to clarify the intent or operation of this Act or the regulations; or
  - (c) is of a minor or technical nature. 2006, c. 10, s. 4.

## **Same**

(6) A regulation made under subsection (1) may require a board to,

(a) adopt and implement measures specified in the regulation to ensure that the board's funds and other resources are applied,

(i) effectively, and

(ii) in compliance with this Act, the regulations and the policies and guidelines made under this Act;

(b) adopt and implement measures specified in the regulation to ensure that the board achieves student outcomes specified in the regulation;

(c) adopt and implement measures specified in the regulation to encourage involvement by parents of pupils of the board in education matters specified in the regulation;

(d) adopt and implement measures specified in the regulation with respect to the provision of special education services by the board;

(e) adopt and implement measures specified in the regulation to promote the health of the board's pupils;

(f) adopt and implement measures specified in the regulation to promote the safety of the board's pupils and staff;

(g) publish reports respecting the board's compliance with regulations made under this section, in accordance with such rules about form, frequency and content as may be specified in the regulation. 2006, c. 10, s. 4.

## **Same**

(7) Without limiting the generality of clause (6) (b), a regulation may,

(a) specify outcomes for elementary school pupils relating to improved literacy and numeracy; and

(b) specify outcomes for secondary school pupils relating to improved graduation rates. 2006, c. 10, s. 4.

## **General or particular**

(8) A regulation made under subsection (1) may be general or particular. 2006, c. 10, s. 4.