



ONTARIO PUBLIC
SCHOOL BOARDS'
ASSOCIATION

OPSBA Submission Regarding Bill 98, Better Schools and Student Outcomes Act, 2023





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May 9, 2023

To: Brian Riddell, Chair and Members of the Standing Committee on Social Policy

Re: OPSBA Submission to Bill 98, Better Schools and Student Outcomes Act, 2023

As the province's leading advocate for public education, the Ontario Public School Boards' Association (OPSBA) is compelled to address some of the proposed amendments being considered in Bill 98, *Better Schools and Student Outcomes Act, 2023*.

We have always been in support of any initiatives that improve student achievement and well-being, and that also lead to increasing public confidence in our world-class public education system. Our member boards agree that this legislation includes a wide range of potential impacts on Ontario's public education system and the government's process of drafting this impactful legislation would have benefitted from more collaborative and collegial consultation, involving all affected partners.

Local school boards play the most direct role in supporting students' achievement and well-being. Strong local governance, with students at the forefront, has been a key part of our 31 member boards' ongoing success. Local boards are always best equipped to make sound, sustainable, and fiscally responsible local decisions in service of students and the community. This is why we are concerned about the areas of the Bill that provide the Minister with powers that more appropriately belong at the local level. These areas, which OPSBA is advocating to remove include:

- **The power to set provincial priorities for students without input from school boards;**
- **The power for the Minister to direct the sale of school board property; and**
- **The power to intervene in the performance assessment of local Directors of Education.**

Other areas of Bill 98 that modernize the legislation to reflect practices that are already in place within our member boards are welcome and OPSBA is grateful to the Minister for acknowledging the innovation in our boards in areas such as joint use of schools, partnerships with municipalities in planning, and protocols for communications with parents and students.

OPSBA welcomes future consultations with the government on regulations, policies and guidelines, and has suggested a list of helpful amendments that we believe will ensure

successful implementation. As always, OPSBA and our member boards will provide meaningful, expert policy advice in service of better student outcomes.

Below are our comments on this proposed legislation relating to the *Education Act* and the five pillars put forward by the government.

ACCOUNTABILITY AND TRANSPARENCY

Provincial Priorities Framework – Proposed Amendments in force upon Royal Assent

- Establish authority for the province to set provincial education priorities on student achievement.
- Require school boards to publicly report on progress towards these priorities and offer at least two meetings with parents each year to discuss priorities and the progress towards them.
- Where school boards need support to advance provincial priorities, enable the deployment of support personnel, with corresponding obligations for boards to cooperate.

OPSBA Comments and Questions:

- We are supportive of education-related priorities that are focused on student achievement **and well-being** and that are education-related. As noted in the *Education Act*, the Duties and Powers of school boards are “to promote student achievement and well-being” and focus should go beyond graduation rates and EQAO scores.
- School boards must have the ability to set local priorities in addition to including the established provincial priorities.
- School boards should have the local flexibility to determine what, when, and how best to offer the two required meetings with parents (timing, location, format, etc.).
- Clarity is needed on whether the requirement to offer at least two meetings with parents can be satisfied by reporting through regularly scheduled meetings of a board of trustees.
- Clarity is needed with respect as to how support personnel are deployed and how the Board of Trustees is involved. A detailed process needs to be considered that includes, but is not limited to, notices to boards of deployment of support personnel, the length of the deployment, and the reporting structure.
- We request that support personnel are not deployed from the date of closing nominations during Municipal Council and School Board Elections, until the swearing in of the new board.
- To ensure that local accountability and public trust are maintained, support personnel should report jointly to the Board of Trustees and the ministry.
- We must be involved in the creation of regulations prescribing provincial priorities in education in the areas of student achievement and well-being.
- **If provincial priorities are set without consulting with school boards, there is a risk of overlooking the local knowledge that school boards and trustees bring to understanding of important issues that make learning the most relevant for students and parents.**

Transparent and Accountable Use of Resources – Proposed Amendments in force upon Royal Assent

- Require standardized reporting of funding received and how it was spent.
- Increase accountability over school board spending including setting limits on funding envelopes, prescribing activities relating to a school board’s business activities and

governing school board's participation in the activities, and expanding authorized financial investigators.

- Establish authority to set out financial policy and accountability matters for school board controlled entities.

OPSBA Comments and Questions:

- School boards are good stewards of resources, subject to various regular internal and external audits, ministry audits, and auditor general engagement.
- Standardized reporting mechanisms would be welcomed – these should be streamlined and attempt to ease administrative burden/red tape.
- **School boards need local flexibility for spending envelopes, especially northern, rural, and remote boards. Many boards have unique funding lines that may be overspent because of local needs, such as funding that supports students with disabilities, poverty and student transportation. This needs to be considered. There should not be a one-size-fits-all approach to many funding grants. Further, boards need flexibility to engage in business activities responsive to their local needs and this flexibility should not be curtailed.**
- The sector needs clarity regarding the definition of “business activities,” as well as a definition of "school board controlled entities" that aligns with public sector accounting standards to maintain consistency and transparency.

School Board-Municipality Cooperation in support of Child Care Programs – Proposed Amendments in force upon Royal Assent

- Formalize a requirement for school boards to cooperate with municipalities in child care planning for their communities.

OPSBA Comments and Questions:

- About 60% of child care centres are in public schools and the current *Child Care and Early Years Act, 2014*, already requires consultation and cooperation with Municipal Service System Managers.
- In most circumstances, member boards already work well with their municipal child care counterparts. This has been the case since the introduction of full day kindergarten and before-and-after school programs.
- This requirement should remain reciprocal and municipal partners should continue to work with school boards on all items and initiatives of mutual interest. School boards must not be forced to subsidize child care programs from other parts of their budgets at the expense of students.

Accelerated Apprenticeship Pathways – Proposed Amendments in force upon proclamation, pending consultations

- Enable an accelerated apprenticeship pathway starting in Grade 11 (pending consultations).

OPSBA Comments and Questions:

- Our public education system must ensure students have the critical literacy and numeracy skills needed to understand our increasingly complex world, including the Arts, in addition to the STEM disciplines.
- The skilled trades and apprenticeships need to be promoted as respected pathways in ways that do not undermine their value or the value of school-based education. Skilled trades ultimately require the competencies (cognitive and affective) that school boards/schools are currently providing for students. Potential fast-tracking could lead to on-the-job supervision

and safety concerns and not providing students with skill sets that will allow them to appropriately advance in their chosen field.

- We also have concerns about the amount of missed classroom time and the importance of peer socialization.
- We support encouraging more individuals, especially women, to pursue the skilled trades as a viable career path, by reducing stigma and providing early exposure.
- Much work has been done in the sector to avoid students determining pathways too early in their educational journey, especially those from racialized or under-served communities (e.g., de-streaming). Further study is needed to avoid unintended negative consequences of this direction.
- Publicly funded education systems strive to prepare students for the challenges and opportunities that await in an uncertain future. Schools should be caring, supportive, identity-affirming, and inspiring, inclusive and diverse learning environments that equip students with adaptable, future-ready competencies that foster resilience, agility and adaptability. They must prepare students to have a strong and positive sense of self, a clear sense of their strengths, aspirations, interests and needs, and to be accepting of others, with personal responsibility and self-efficacy, and a strong and positive sense of belonging. With this comes social and civic awareness and responsibility, and supportive social connections and engagement in community to help students have access to thrive and realize their full potential on chosen pathways, through education, work and life.
- We have concerns about additional mandated credits creating scheduling barriers for students, especially students in programs like French Immersion, who have little flexibility in their timetable. The challenges are even greater in smaller schools.
- **Much more consultation with school board associations is needed on this to ensure that boards have the necessary infrastructure, staff, and funding for this policy to be successfully implemented.**
- We recommend there be a targeted marketing and communications plan, specifically directed at parents, students, educators and employers, to further elevate skilled trades to a respected and desirable pathway.

GOVERNANCE AND LEADERSHIP

Training – Proposed Amendments in force upon Royal Assent

- Enable standardized training requirements for trustees, Directors of Education and other senior school board officials as set out by the Minister.

OPSBA Comments and Questions:

- We are pleased to see a value placed on consistent professional development for systems leaders, however, we maintain that – like any other industry/sector – the professional associations are best placed to provide the most meaningful and practical professional development.
- **We are concerned that the standard requirements would be determined solely by the Minister of Education. We strongly suggest the Ministry of Education co-develop professional development requirements with school board/trustee/Director of Education/Senior Officials associations.**
- The Ministry of Education should provide funding to the Ontario Education Services Corporation (OESC) to further develop and enhance already existing resources and opportunities for trustee professional development, in particular the [Good Governance for School Boards: Trustee Professional Development Program](#). These would be collaboratively determined by the school board/trustee associations and the Ministry of Education.

- We have concerns about the increased use of external parties providing governance training. School boards need to be involved in professional development offerings to ensure optimization of best practices, and that unique and niche subject matter expertise is addressed, and duplication is avoided.
- School board associations are best placed to deliver professional development to trustees as optimal training is timely, relevant, and contextualized to the unique role of trustees.
- If the ministry offers any direct professional development to trustees, it should align with existing offerings by trustees' associations. Further, the content, timing and frequency of any professional development needs to involve the school board/trustee associations, with their expert senior staff who have been responsible for developing these learning opportunities for years.

Trustee Conduct – Proposed Amendments in force upon proclamation

- Create an impartial Integrity Commissioner-led process for resolving code of conduct complaints and expand sanctions for breaches of conduct.

OPSBA Comments and Questions:

- We support the sections of the Bill that would require all boards to adopt a code of conduct, and that the Minister may make regulations governing these codes – we would request to be part of any discussion around that. To be clear, OPSBA supports mandatory Codes of Conduct for School Boards, as well as an Integrity Commissioner process in all boards to assist them in handling breaches of their Code.
- Trustees support boards having a Code of Conduct policy that includes a minimum set of requirements or principles. This would allow for some consistency across the province.
- We wholeheartedly agree that complaints should be brought by fellow board members only.
- **OPSBA, however, cannot support the proposed language regarding “Breach of Code of Conduct” and the investigation process as outlined. There is too much left to the creation of an Integrity Commissioner-led process and roster that has yet to be piloted or successfully tested in our system. This must be deleted from the Act.**
- **School board members need a process that ensures procedural fairness and includes a robust complaint intake mechanism to be led by a person/entity who can give undivided attention to the matter at hand.**
- Including the Director of Education in alleged breaches that concern the Chair is concerning. The OPSBA Template indicates that this be directed to the Vice-Chair. Operations and Governance issues must be separated, and this means the Director of Education should be removed from any breach investigation and process.
- Ten days for an informal/first review of any alleged breach is too short and does not account for the realities of a school year calendar. During the 10-day period, the role of the Chair and/or Director, in the current formulation, is unclear. Further consultation is required about how this could be properly implemented in boards. As written, there is concern that the Chair's time and attention could be drawn too much towards conduct matters.
- An initial alleged breach should not be brought to the entire board – this should be considered informally first to see if the breach has merit or not. It is not clear how this is even brought to the board – publicly or privately? Any first step must be done informally and privately.
- The process describes ICs involved in both determinations and decisions but is unclear on how these are done and conducted. Clarity is needed to understand this difference and how the ICs reports are given (privately, publicly etc.).
- The Board should be deciding if codes have been breached and what sanctions imposed.
- There is no reference as to who pays for an IC investigation purpose or the appeal process.

- It is also important to note that it considers how to approach sanctions imposed on Indigenous Trustees who are appointed by their First Nation Community. Our templates clearly outline an informal and formal process and the detailed steps for both. It can be found here: [School Board Code of Conduct Template \(revised January 2019\)](#).
- We note that school boards are to be consulted, as much more discussion needs to occur for any successful and practical implementation of this investigative process.
- Once fully consulted upon, we believe all boards should have equal access to a roster of Integrity Commissioners (ICs) and funding to cover their use, including the appeal process.
- The roster members must have a set of standard qualifications, consistent advice, and rules to follow. There would have to be some sort of oversight to ensure ICs retain independence and neutrality. (Currently ICs provide two services; education and advice and code of conduct investigations. There is often a conflict when an IC does both functions.)
- We suggest the Ministry of Education consider involving the OESC to maintain the roster of ICs – as it is governed/run by all four school board/trustee associations, as well as CODE.
- We have concerns about the powers of an IC. An IC could be tasked with preparing a report containing the findings of fact (and possibly give an opinion as to whether the code has been breached) but the Board of Trustees is the governing body that decides whether the code has been breached.
- The OPSBA Code of Conduct template includes a broader range of sanctions and has always stressed the use of remedial solutions and professional development as the best course of action. Tied to this is the concept of restorative justice and rehabilitation. This often delivers a much more productive and successful outcome.
- An IC should never have the power to impose a sanction that vacates a trustee's seat. Trustees are democratically and locally elected by their constituents.
- The role of the Chair of a board in the prescribed process needs further elucidation and funded training to ensure the proper implementation of this expanded role in the complaints process.

Directors of Education Performance Appraisals (DEPA) – Proposed Amendments in force upon proclamation

- Create the authority to standardize the process for Directors of education performance appraisals through regulation that would include mandatory elements and require school boards to engage the Minister in the Directors of education appraisal process, when requested by the Minister.

OPSBA Comments and Questions:

- The Director of Education is the chief executive officer and chief education officer of the school board and acts as secretary of the board. The director is the sole employee who reports directly to the board of trustees.
- OPSBA welcomes greater consistency in the form and process of the DEPA and is invested in Director of Education performance enabled by a strong and frequent appraisal process.
- Both OPSBA and the OESC have developed templates that consider standard components of a DEPA, and we also encouraged the sharing of best practices.
- **We have significant concerns about the Minister's involvement in this important human resource process between the board of trustees and their sole employee. This is an inappropriate overreach and OPSBA struggles to understand the rationale for such an intervention – particularly considering the new role of the "support person" that the Minister may send into a board.**
- Clarity is needed with respect to what format (and weight) "parental input" (as referenced in the compendium to Bill 98) would take. Parents already have the opportunity to communicate through trustees and there are numerous other ways to engage – Parent

Involvement Committees, School Councils, school board advisory committees and work groups, deputations to board and committee meetings, etc.

MAXIMIZING CAPITAL ASSETS

Leveraging Surplus School Board Property – Proposed Amendments in force upon proclamation

- Establish a regulatory framework for property not needed by school boards to meet current or future pupil accommodation needs.

OPSBA Comments and Questions:

- Our Association [continues to advocate](#) for lifting the moratorium on school closures and release the revised Pupil Accommodation Review Guidelines (PARG). Trustees want to maximize their assets and have been stymied by the province's moratorium for years that saw boards face undue/forced spending on outdated infrastructure. OPSBA is disappointed with the ministry's lack of consultation and cooperation on this important matter for our students.
- The moratorium has prevented school boards from undertaking critical processes that would not only benefit students and allow for a more efficient use of space but introduce opportunities for the disposition of land to support other public entities like school boards, while generating proceeds of disposition to support future capital initiatives.
- The ministerial authority to direct the sale, lease or otherwise dispose of a school site that is "not needed" is an overreach and OPSBA strongly opposes this. Locally elected trustees know their communities best and are uniquely placed to determine the surplus status of a property.
- School boards' program and accommodation strategies already reflect their schedules for reviewing non-operating school sites for potential disposition.
- It is unclear as to the circumstances where reports/information would be requested regarding operating or non-operating school sites. Will this add administrative burden and red tape to boards?
- What process/criteria/factors will be used by the province to determine if a site is not required?
- Will school boards be asked to provide a thorough analysis/business case that outlines the future requirement (or not) for a property?
- **We have serious concerns about the potential implications of this change, and further consultation with school boards is critical prior to enacting this section.**

Addressing High Growth Areas/Needs – Proposed Amendments in force upon proclamation

- Establish a regulatory framework that reduces barriers for school boards to facilitate agreements for schools in multi-use buildings.
- Aligns with corresponding policy in Ministry of Municipal Affairs and Housing's proposed new Provincial Planning Statement.

OPSBA Comments and Questions:

- We support changes that would reduce the barriers for school boards to developing schools in multi-use, high density buildings to alleviate accommodation pressures in urban, high-growth areas. Successful examples of this type of development have occurred in Ontario.
- A significant barrier to this model is access to suitable green space for school use. Urban format schools, especially those integrated into high density mixed-use developments, do not have large, exclusive use like a suburban or rural greenfield school would.

- This is a welcome update and modernization of the provincial policy framework and respects the needs of high density, vertical communities in urban areas.
- We need to ensure that any obligations with respect to municipalities are reciprocal rather than one-sided.
- We need to ensure students have access to specialized spaces that support education and are barrier free (AODA-compliant) including gymnasiums, libraries, greenspaces, playgrounds, etc.
- We are supportive of the new proposed provincial planning statement as it requires consultations with school boards.
- School boards need access to development funding that supports the acquisition of new space within multi use buildings and the building of the school and specialized spaces.

Early and Integrated Planning with Municipalities – *Proposed Amendments in force upon Royal Assent*

- Require school boards to collaborate with municipalities to facilitate early and integrated planning for schools to meet current and future needs.
- Aligns with corresponding policy in Ministry of Municipal Affairs and Housing’s proposed new Provincial Planning Statement.

OPSBA Comments and Questions:

- Early planning is critical – school sites need to be considered early on and need to be allotted reasonable land (desirable land is often given to residential developers, leaving school boards with sites that are difficult and costly to develop and service).
- School boards work collaboratively with municipal partners. The province must also play their part in accelerating approval timelines. One of the barriers to meaningful collaboration with municipalities is provincial control of the capital process and a school board’s inability to make local decisions and the long delays in provincial review/approval of plans.
- Residential construction is much quicker than school construction – the current capital approvals process does not appreciate the time lag, putting extended pressure on building schools and student transportation, which also adds to residential congestion.
- Any requirement for collaboration between school boards and municipalities must be reciprocal.
- We are supportive of the new proposed provincial planning statement as it requires consultations with school boards.

Joint Use of Schools – *Proposed Amendments in force no later than December 31, 2023*

- Provide authority to direct school boards to operate schools within joint-use facilities where appropriate.
- To come into force following consultations with school board/trustee associations.

OPSBA Comments and Questions:

- We support these amendments as they make sound fiscal and practical sense.
- We would support ongoing monitoring of the extent to which a Joint-Use arrangement is meeting the pupil accommodation needs of the respective school boards.
- We understand there will be consultation on this, and request that community facilities (i.e. (recreation centre, library, long term care homes, youth outreach, family support, community healthcare, all types of multi-generational facilities, etc.) are considered for joint use. More related commentary is [in our GSN submission](#).
- Capital funding concerns include a lack of dollars to relocate or consolidate buildings, geographic issues in rural and remote areas, and timelines – coterminous school boards

rarely need new facilities at the same time. If they did, which board would have the final decision on design, infrastructure, materials and finishes?

- The use of square footage is affected by differing programming and curriculum. In some instances, currently owned sites would not accommodate facilities large enough to support both boards' needs.
- The availability of space and the needs of the coterminous board do not always align, which makes sharing of space challenging – how would this be addressed?
- For existing shared use schools, we recommend a consistent framework that directs how space (e.g., classrooms) can be reallocated if enrolment at one board increases.

Enhancement of Design Standardization – *Proposed Amendments in force upon Royal Assent*

- Provide authority to direct school boards to use specific design standards for capital projects.

OPSBA Comments and Questions:

- We support strategies to reduce planning time and to expedite the approval process for capital projects.
- This will work best in those spaces and locations that have more freedom and flexibility of space to consider.
- This is an excellent opportunity to include a focus on reducing carbon footprint/investing in environmentally smart construction methods heating/cooling systems, such as geothermal.
- Designs need to reflect the diversity of our local communities, and this should be appropriately reflected. Schools must not be built as industrial places for learning, and designs must support AODA guidelines. High growth boards have moved to standard flexible designs that can be replicated in an accelerated way.
- Each building site is unique and design standards should take this into consideration.
- School boards must be involved in the determination and creation of any design specifications.

TEACHER TRAINING AND OVERSIGHT

Effective Teacher Disciplinary Processes and funding eligibility for children and student victims of sexual abuse – *Proposed Amendments in force upon Royal Assent: (except for clarifying inactive/non-practicing membership status, which would be upon proclamation)*

- Enable more efficient disciplinary processes (e.g., giving committees authority to deal with members convicted of Criminal Code offences in faster, more effective ways that protect students).
- Provide clarity on inactive/non-practicing membership status for teachers.
- Expand eligibility for funding for therapy and counselling to all children and student victims of alleged sexual abuse by members.

OPSBA Comments and Questions:

- We support initiatives that increase the safety of our learning and work environments.
- We welcome funding to support victims of abuse and initiatives that improve child protection.

CONSISTENT APPROACHES TO STUDENT LEARNING

Curriculum Review Process and Materials - Proposed Amendments upon Royal Assent

- Create authority to establish formal guidelines for a transparent and predictable curriculum review process that ensures curriculum is reviewed regularly and reflects labour market needs.
- Create authority to charge a fee to publishers to support the ministry's evaluation of textbooks for curriculum alignment.

OPSBA Comments and Questions:

- We support a regular curriculum review cycle that also allows the ability to add or delete if there is something that would require a change.
- OPSBA must be included in any ministry advisory groups that are involved in curriculum reviews.
- We are concerned that additional costs to publishers could be passed on to school boards.
- We expect that a regular review cycle would include appropriate time to develop resources and integrate changes. Curricular changes should include consultation.

Consistency in Student Mental Health supports and Special Education -

Consistency in Student Mental Health supports will be in force upon Royal Assent
Consistency in Special Education terminology will be in force upon proclamation

- Create authority to issue binding policies and guidelines relating to student mental health.
- Update the French-language terminology relating to special education in the French versions of the *Education Act* and *Ontarians with Disabilities Act, 2001*.

OPSBA Comments and Questions:

- OPSBA continues to support the implementation of a comprehensive and coordinated mental health and addictions strategy.
- The importance of caring, supportive adults in the lives of students cannot be overstated.
- We recommend the ministry commit to ongoing investment in policies and programs that increase access to culturally appropriate, identity-affirming, anti-oppressive, and inclusive mental health supports and services for children and youth across Ontario.
- We require clarification as to what is meant by “binding policies and guidelines.” More related commentary is [in our GSN submission](#) and the Ontario Coalition for Children and Youth Mental Health's November 2022 submission [Let's put our heads together](#).

Strengthening Parent Involvement - Proposed Amendments in force upon Royal Assent

- Require school boards to develop and provide parent-friendly information, including materials regarding matters such as special education, and set out minimum timing and subject matter of school board communication to parents.
- Require school boards to develop and make public a service standard protocol for responses to queries from parents/families.

OPSBA Comments and Questions:

- Clarification is needed to understand what is meant by minimum timing and subject matter.
- Clarification is needed as to whom this applies, as a service standard with timelines may not be tenable for trustees, many of whom work full time.
- The Minister and ministry should work collaboratively with school boards regarding “the form and content of the materials, and the frequency and manner” of communications of

provincial messaging to parents, families and their communities to ensure consistency and minimize confusion among parents and students of the board.

- **School boards have existing communications policies and procedures, with expert communications staff who know their local communities and student population best. Many boards also already have a parent concern protocol.**
- Parents already have the opportunity to communicate through trustees and there are numerous other ways to engage – Parent Involvement Committees, School Councils, school board advisory committees and work groups, deputations to board and committee meetings, etc. More support for these parent engagement groups would be welcomed.

Useful Links

- [2022-2026 Good Governance Guide for Trustees](#)
- [OESC Professional Development Modules](#)
- [OPSBA Code of Conduct Template](#)

Concluding Remarks:

Our Association and local school boards must be properly consulted on the details of important changes to the public education system and any direct or indirect costs that may arise from Bill 98, The Better Schools and Student Outcomes Act, and any regulations flowing from the Bill, must be fully funded.

We welcome the opportunity to work with the Ministry of Education on these changes as we play the most direct role in supporting student success within our local communities. Local governance, with students at the forefront, is a key part of our member boards' ongoing success. The importance of maintaining the autonomy of democratically elected local trustees cannot be overstated.

The Ontario Public School Boards' Association represents English public district school boards and public school authorities across Ontario, which together serve more than 1.3 million public elementary and secondary students. The Association advocates on behalf of the best interests and needs of the public school system in Ontario. OPSBA is seen as the expert voice of public education in Ontario and is routinely called on by the provincial government for input and advice on legislation and the impact of government policy directions.

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