

**ONTARIO SCHOOL BOARD GOVERNANCE
FOR THE 21ST CENTURY**

CONSULTATION PAPER

December 2008

Governance Review Committee

CONTENTS

- 1. INTRODUCTION** 2
- 2. BACKGROUND AND SCOPE** 3
- 3. DISCUSSION: PARTICIPANT GUIDES** 4
 - Modernizing the *Education Act*..... 5
 - Identifying Effective Governance Practices 6
 - Supporting School Board Leaders 7
 - Strengthening School Board Accountability 8
- 4. CONCLUSION: RESPONDING TO THIS PAPER** 9

1. INTRODUCTION

Locally elected school boards play a vital role in Ontario's publicly funded education system. The decisions made by boards across the province can have a significant and direct impact on teaching, learning and student achievement in our schools. Historically, local school boards have been responsible for determining the educational facilities, services and other resources that would be made available to the community's schools and students, as well as for raising the money through local taxes to pay for these resources. Since 1998, when school boards' authority to levy taxes was removed, boards have received their funding from the province through funding formulas.

Locally elected school boards remain responsible for allocating the resources they receive in support of provincial priorities – enhancing student achievement, closing the achievement gap among students who have not traditionally enjoyed equal benefits of education, and enhancing public confidence in public education. The province-wide focus on student achievement over the past several years, along with the changes to board funding, have profoundly affected the governance relationship between the province and school boards.

As our school system and our society evolve and become increasingly complex, there is a growing and widespread concern that we need to ensure that governance by school boards effectively responds to both provincial priorities and local contexts. Part of the evolving context includes an increased importance placed on equitable outcomes in education for all students, community engagement, accountability and transparency.

The concern regarding governance has been expressed in numerous reports. * In *Energizing Ontario Education*, the government formally recognized this need and, in October 2008, the Minister of Education, the Honourable Kathleen Wynne, called for the creation of a Governance Review Committee.

On November 4th, 2008 the Minister announced the establishment of a governance review committee comprised of trusted and experienced leaders in the education community to consult with their peers on this important initiative. As part of that consultation process, you are invited to provide input into the governance model of the 21st century.

“School board leadership (trustees, directors and supervisory officers) also needs ongoing development to improve the ability of board leaders to act together within the district to implement the core priorities and provide the supporting conditions required. In this respect, further efforts are needed to improve school board governance and the relationship between trustees and directors. Ten years after substantial changes to school board governance, it is time to clarify and modernize the role of trustees to ensure that they have the supports they need to make sound decisions essential to student success.”

Energizing Ontario Education, 2008

* The Royal Commission on Learning (1995); Ontario School Board Reduction Task Force (1996); The Road Ahead II: A Report on the Role of School Boards and Trustees (1997); Report of the Education Equality Task Force (2002); Report on the Feasibility of the Proposed Multi-Year Budget Management Plan and Possible Alternatives for the Toronto District School Board (2006); Report on the Feasibility of the Proposed Multi-Year Budget Management Plan and Possible Alternatives for the Ottawa Carleton District School Board (2007).

2. BACKGROUND AND SCOPE

Steps Taken

This governance review is the next step in a series of initiatives undertaken by the government to enhance board effectiveness. In 2006, the Ministry released the paper, “Respect for Ontario School Trustees,” where it affirmed “the standing of trustees as key decision makers,” acknowledged trustees’ valuable contribution to our education system and paved the way for increased trustee honoraria later that year. In the summer of 2007, the Ministry embarked upon a multi-year initiative to perform Operational Reviews of the 72 District School Boards (DSB) within the province to assess the efficiency and effectiveness of DSB operations, identify best practices, develop recommendations for improvement and provide the Ministry with important input on the on-going development of policy and funding mechanisms.

On October 31, 2008, the Minister announced her intention to develop guidelines on trustee expenditures and sought the advice of key education stakeholders. The Ministry is also working with the sector on a number of leadership initiatives aimed at strengthening the capacity of education leaders.

Unaddressed Issues

The Education Act and its regulations make up the legislative framework which, among other things, sets out the components of school board governance. Many of these provisions, however, are badly outdated. For example, while the public expects school boards and schools to be accountable for student achievement, the *Act* empowers boards to do such things as purchase milk for students, establish cadet corps, and erect fences. Nowhere does it identify educational outcomes as the core business of school boards. Other governance issues have been raised, often by trustees and by directors of education:

- Lack of clarity regarding their roles and responsibilities
- The importance of clarifying the relationship between trustees and the Director of Education
- Concerns that some board members may be insufficiently prepared to assume the duties of office
- The need for training in effective governance.

Terms of Reference of the Governance Review

The government maintains its commitment to the constitutional framework governing education in Ontario. In this context, the governance review will address:

1. Modernizing the *Education Act* to update and clarify the duties, powers and accountabilities of school boards, chairs, individual board members and directors of education, and reinforce the relationship between elected officials as a group and the director of education as the sole employee reporting to the board;
2. Identifying and recommending effective governance practices, including codes of conduct for board members enforceable at the provincial or board level, and audit committees with external members;
3. Proposing appropriate long-term professional development programs for board members to support them in their roles;
4. Recommending a format and content for eventual provincial interest regulations to strengthen the accountability of school boards with respect to student achievement.

3. DISCUSSION: PARTICIPANT GUIDES

The participant guides below and on the following pages provide key background information and highlight issues to explore.

Discussion Guide 1

Modernizing the *Education Act*

Discussion Guide 2

Identifying Effective Governance Practices

Discussion Guide 3

Supporting School Board Leaders

Discussion Guide 4

Strengthening School Board Accountability

Discussion Guide 1:

Modernizing the *Education Act*

Key considerations:

- Legislation is outdated in regard to the duties and powers of school boards and does not address expectations for educational outcomes.
- There is a lack of clarity with regard to the roles of school boards, chairs, individual board members, and directors of education.
- While the legislation identifies and gives powers to a school board as one entity, some individual board members deal directly with supervisory officers and/or other staff members.
- A number of other provinces and boards have recently modernized the governance of their elementary/secondary sector. British Columbia, for example, requires boards to submit an achievement contract annually to the Minister of Education. In Québec, school boards must adopt and make public a strategic plan that includes ways of assessing the achievement of objectives.
- The Director of Education has a significant impact on a board's performance. However, conflicts may arise for a Director from differences between the policy objectives of the board and directives from the Ministry.
- Some have suggested that Directors of Education should have a dual accountability—to the board and to the Minister, as was the case in the past in Ontario.

Discussion guide 1:

- 1) For what should school boards be accountable?
- 2) What are the appropriate roles and responsibilities of:
 - a) the board?
 - b) the Chair?
 - c) individual trustees?
 - d) the Director of Education?
- 3) Should Directors of Education have a dual reporting relationship - to the board and to the Minister as was the case not long ago in Ontario? If so, how should any conflicts between the mandates from the Minister and a school board be resolved?

Discussion Guide 2:

Identifying Effective Governance Practices

Key considerations:

- Effective governance is essential for school boards as public bodies responsible to their communities and to government.
- A number of boards have made significant changes in their governance models and practices in recent years, but there remains a need for sector-wide discussion about what constitutes effective governance and relevant indicators of effectiveness.
- Transparency, accountability and public confidence are enhanced by some boards through clear public communication (such as posting board meeting minutes on their websites in a timely fashion, communicating procedures and opportunities for public presentations, and communicating effectively with the broader community).
- Many jurisdictions have focussed on the need for an enforceable Code of Ethics and/or Code of Conduct for school board members. Boards in Québec, for example, are required under legislation to establish a Code of Ethics and to designate persons who will enforce the code. Legislation also requires boards to publish their code of ethics policy in their annual report, state the number of cases dealt with, the breaches of the policy and the penalties imposed. Nova Scotia has recently passed legislation that will require boards to adopt a standardized, enforceable code of ethics as well as procedural by-laws for the conduct of meetings. In August 2008, the Halifax Regional School Board released a discussion paper entitled “Good Governance” in order to gather public input and inform the next elected board about public expectations in this regard. Legislation in Newfoundland & Labrador, Saskatchewan, and Alberta includes provisions for the removal of individual board members for specified conduct or breaches of duty.
- A number of education experts propose that in order to be effective and function well, school boards must focus on student achievement and have few distractions from that primary focus.

Discussion guide 2:

- 1) What is effective governance by elected school boards?
- 2) What would enhance the ability of boards to address local needs within the context of provincially mandated priorities?
- 3) What governance practices have you seen that work well?
- 4) What practices and policies support effective governance?
- 5) Should there be a provincial code of conduct/ethics for school board members or should such a code be developed locally? How should codes of conduct/ethics be enforced?
- 6) Should boards be required to establish and implement specific policies and procedures to enhance good governance? What would these be?

Discussion Guide 3:

Supporting School Board Leaders

Key considerations:

- In *Energizing Ontario Education*, the government committed to ensuring that board members have the supports they need to make sound decisions to further student achievement, reduce gaps in achievement, and increase confidence in publicly funded education.
- Although trustee organizations and some individual school boards provide professional development for trustees, participation is generally voluntary. Some board members or chairs report that they feel ill-equipped to act effectively and are unclear about their roles and responsibilities.
- While supports are available to help board members develop their capacities there is no consistent, long-term graduated approach to board capacity-building.
- A number of U.S. states have mandatory training programs for school trustees (e.g. Kentucky, South Carolina, and New York). Other public sectors have modernized board capacity building; The Ontario Hospitals Association, for example, has established a Governance Centre of Excellence and offers certificate courses to board members appropriate to their level of experience.

Discussion guide 3:

- 1) What type of training might be offered to school board members?
- 2) Should training be mandatory?
- 3) What type of ongoing support can be offered to enable board members and Chairs to continue to build the capacity of elected boards? How could this support be delivered?
- 4) What supports should be offered to Directors of Education to assist them in providing effective leadership for governance functions?

Discussion Guide 4:

Strengthening School Board Accountability

Key considerations:

- The current legislative framework is not specific about school boards' mandate in relation to the government's three key priorities: improving student outcomes, closing gaps in achievement, and increasing confidence in our publicly funded education system.
- While the government has goals concerning student achievement, the "standards" to which boards should be held accountable have not been discussed. Legislation (Section 11.1 of the *Act*) provides the government with the ability to set standards by regulation, and the Minister with authority to intervene if there is evidence those standards are not being achieved. As yet, no regulations have been made regarding what those standards would be, what circumstances would trigger government intervention or in what stages.

Discussion guide 4:

- 1) To what standards should boards be held accountable in the areas of literacy and numeracy, and graduation rates?
- 2) What other student outcomes and implementation measures should be specified in regulation in order to ensure quality of education?
- 3) How should school boards demonstrate accountability for student outcomes?
- 4) Should the Minister intervene if a board is systematically underperforming and failing to meet a provincial standard? At what points and in what manner should intervention occur? What stages should be involved and what supports should be made available to a board in such a situation?
- 5) Are there mitigating factors that should be considered in contexts where standards are not met?

4. CONCLUSION: RESPONDING TO THIS PAPER

We value your contributions to this important consultation. If you wish to provide your comments and views on the four topics under review by the committee, please write to the following:

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This paper will also be available in January 2009 on the Ministry of Education website at www.edu.gov.on.ca/eng and responses may be submitted online.

**Please provide your response no later than
*February 28th, 2009***