

**OPSBA on
GOOD GOVERNANCE**

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INTRODUCTION

Historically, local autonomy and accountability have been the cornerstones of Ontario's publicly-funded education system. A school board is responsible for governing the school system on behalf of the community it serves, in the best interests of all students. Now, more than ever, boards are held accountable by their communities for the way they interpret and implement provincially-driven policy and allocate provincially-mandated funds.

Governance and accountability are inextricably linked. How governance is structured helps to determine who is accountable for what. Local school boards are responsible to the people who elect them for handling their finances well, providing sound educational opportunities for students and developing policies to measure and report on student learning.

The Ontario Public School Boards' Association finds the model of school board supervision currently in place in the *Education Act* to be problematic. OPSBA would expect that the government would consult with school boards and their organizations regarding a review of this legislation, and would ensure that the revised legislation would protect local democratic rights and processes, while enabling legislative compliance. OPSBA has been outspoken regarding the need to maintain and strengthen Ontario's locally-elected school boards.

In 2000, the Organization for Economic Cooperation and Development released statistics stating that Canada has the most educated population of all of its ten member countries. The excellent system of education in our province is due in large part to the active participation of elected representatives. Our system of governance is structurally sound. In this paper, OPSBA recommends improvements to our education system, that will allow for the continued participation of publicly elected trustees and school boards as key decision-makers in their communities.

Governance Review

In the recently released report, *Investing in Public Education: Advancing the Goal of Continuous Improvement in Student Learning and Achievement*, Dr. Mordechai Rozanski, recommended: "The Minister of Education review, in consultation with all education partners, the education governance structure and the role and responsibilities of each of the partners."

The Ministry of Education is striking a task force in the near future to review the issues of governance. The task force will be composed of all 'stakeholders' and OPSBA has been assured participation. It is expected that any changes in the governance structure will be made only after a thorough review, and after the next provincial election.

The ROLE OF THE TRUSTEE

Accessibility; Accountability; Advocacy

Trustees act as education advocates at various levels. First and foremost, school board trustees are advocates for the students in their school system. They work to ensure that the board's policies, programs and services **promote student achievement**. Trustees convey the needs of learners to the community, municipalities, the provincial and federal governments. They implement innovative and relevant programs and they respond to policy changes initiated by the Ministry of Education.

Because trustees are elected officials, they must be accountable and accessible to their constituency. As well, trustees must remain cognizant that their constituency includes people who do not have children in the school system. Therefore, trustees must be in tune to both the needs and the resources available to the jurisdiction they represent, and they must speak as the voice of the entire community at the board table. Trustees also play an important lead role in supporting community partnerships to enhance programs and services that benefit all.

School board trustees are advocates for a strong system of public education. The power of Canadian public schools is demonstrated by the fact that they are governed by local community members and open to **all children regardless of faith, economic circumstance, ability, parental support or country of origin**.

The role of trustee is extremely complex because of the difficulties of balancing provincially set funding and government legislation with community expectations. Professional development is essential and should be ongoing. To support trustees, OPSBA provides workshops, seminars and on-line learning resources to assist them with the duties and responsibilities their roles demand.

Legislative Requirements

A trustee's role is largely determined by the legislated and regulatory requirements set forth in provincial and federal legislation. The *Education Act* is, by definition, the primary statute governing elementary and secondary education in Ontario. However, trustees must ensure that the policies of the school board support the board's operations under many different provincial and federal acts, including but not restricted to:

Child and Family Services Act

Labour Relations Act

Employment Standards Act

Local Government Disclosure of Interest Act

Municipal Conflict of Interest Act
Municipal Elections Act
Municipal Act
Municipal Freedom of Information and Protection of Privacy Act
Occupational Health and Safety Act
Pay Equity Act
Provincial Offences Act
Public Inquiries Act (Part II)
Youth Criminal Justice Act
Copyright Act
Human Rights Code
Tobacco Control Act

Many of these Acts and their accompanying regulations place additional duties and obligations on members of a school board. For example, trustees are required to participate in expulsion hearings, senior administration recruitment committees, Special Education Advisory Committees (SEAC), and Supervised Alternative Learning for Excused Pupils (SALEP) committees, to list a few regulatory obligations.

The workload involved in these types of duties can vary from board to board and from year to year. For example, some boards experience as many as six expulsion hearings in a month, while other boards may hear less than six in a three-year term. Some boards may have a SEAC committee that meets and shares information, while other boards have SEAC committees that require significant policy development and follow-up for the trustee member.

Committee work is often conducted during the work day. Many trustees who are committed to and interested in fulfilling these obligations may have full-time employment. This makes it difficult to participate, without enduring some economic hardship through lost work hours or use of vacation time. This responsibility can also dissuade some candidates who would like to seek elected office as a trustee.

Just as each student is unique, so are boards. In addition to the number of pieces of legislation, different policies and by-laws of the board, other variables such as geographic distances, community expectations and the number of students and community members each trustee serves, all contribute to a trustee's workload. Even so, trustees are expected to keep within the budget provided by the provincially set funding formula and government legislation is the same for all boards.

Another issue which places significant burden on a trustee's workload is that of pupil accommodation. Recently, school boards have been dealing with proportionately higher incidences of accommodation-

related issues. Trustees who serve on boards where accommodation issues are contentious may find themselves spending considerable time and energy representing the community.

OPSBA requests that the Minister of Education examine Regulation 308 and Part XIII of the *Education Act* (Safe Schools), along with other Acts and Regulations, in light of the extensive commitment of trustees who are mandated by the legislation to serve as representatives to these various committees.

Why Are Elected School Boards Important?

Democratically-elected school boards are a level of local governance and must be accountable to their electorate. Recently, the question of why elected school boards are important has been raised in various forums. In the mid 1990's, the province of New Brunswick removed locally elected school boards as a level of local governance, in spite of a recommendation by the government's own commission that the role and responsibility of locally elected school boards be strengthened. This experiment in school governance was short-lived, as elected school governance has been reinstated in the province, albeit under the different name of "District School Councils". In Ontario, various bodies and individuals have questioned the need for elected school boards. Some advocate that municipal councils or the provincial government assume responsibility for education. Others advocate for appointed, rather than elected school boards.

The Institute on Governance claims that the process of selecting a board can greatly improve or worsen the way board members function together. When individuals become board members through different processes (e.g. some elected, some appointed), they begin their terms of office on unequal ground. Using different processes to elect or appoint board members can create an immediate climate of suspicion and distrust between the different groups. This can lead to a divided board. Energy is then expended on board infighting instead of working together for the good of the organization.

Elected school boards are crucial if Ontario's public education system is to continue growing as one of the best in the world. Elected trustees ensure that there is a public voice for public education. School boards provide citizen governance and community access to the decision-making process with respect to schools and students. Elected school boards are the community's watchdog, ensuring that all policies – financial policies and those which support the learning process, best meet the unique needs of the communities within their jurisdiction. For locally-elected school board trustees, education is not a line item in a budget – education *IS* the budget.

Candidates for the position of school board trustee have a keen interest in education. They are quite often active in their school and broader community, and most importantly, are interested in advocating for students and improving the education system. The strength of public school boards lies in their

representative nature. **Locally-elected trustees** are grassroots public representatives who are accessible to their constituents. They are members of the community in which they conduct their obligations. Locally-elected trustees are accessible to, and therefore accountable to those who have elected them. The balance they bring to the decisions of the board translates the public's dreams and hopes for education within the legislated requirements, namely, equity and fiscal reality. This balance keeps the public directly involved in public education. **Appointed** trustees are responsible to, and often reflect the needs of the appointee rather than the needs of the community. Public school board trustees are elected to represent the students in the system, and to make decisions that best suit their communities. OPSBA **strongly opposes** any change to education governance that would result in **appointed boards** of education.

THE ROLE OF THE SCHOOL BOARD

School boards are responsible for the provision of education to the students within their jurisdiction. Specifically, school boards do the following.

School boards set the standard for achievement in their district, taking the government's standard curricula which outlines what students should be able to do at each grade level, and incorporate the community's view of what students should be learning. School boards are also responsible for working with the board's leadership team to set the board's goals for student achievement and evaluating the board's outcomes in this area. When necessary, they shift resources and re-focus programs to ensure that the board's goals are achieved.

School boards provide a means to distribute resources equitably among the schools in their jurisdiction. They set the budget and allocate the resources accordingly.

School boards establish, implement and monitor policies relating to the operation of schools. This includes programs, services, facilities and equipment, etc.

School boards select and hire a Director of Education and a leadership team. They are the employer of teachers, principals, central office administration, school level administration, caretakers, and other professionals within the education system.

School boards are responsible for providing a standard of care for the pupils in their schools.

School boards communicate with their constituents regarding their vision for educational services and their plan for achieving that vision.

School boards report to the provincial government to demonstrate that they have fulfilled their legislated obligations.

School boards connect with school advisory councils, community groups, businesses, local government, provincial and federal representatives on issues related to the operation of schools and the provision of educational programming.

ACCOUNTABILITY

Accountability relies on a shared vision of goals and objectives, a clear division of responsibilities, reliable ways of evaluating how those responsibilities are being funded and met, and strategies for providing understandable, accurate information about performance. Accountability also involves taking responsibility for any differences between expected and actual performance results, and where results don't meet expectations, explaining the steps to be taken to improve the situation.

A common understanding of a school board's role and responsibilities is fundamental to any discussion about accountability. Candidates choosing to serve on a public body such as a school board must understand clearly the government's expectations and the responsibilities of the position, as conferred through legislation, regulation, agreements or any other mechanism. Prospective and incumbent trustees must understand fully the accountability relationship between the government and the school board when making the decision to serve (or continue to serve) as a school board member.

Commenting on accountability in his report, cited earlier, Dr. Mordechai Rozanski, emphasized the need for responsible use of resources:

“In the context of Ontario’s publicly funded education system, reciprocal accountability means that every demand by the public and the Province for improved performance involves a responsibility to provide appropriate resources to meet the demand, AND that every investment accepted requires school boards, principals, teachers, and other staff to demonstrate accountability for using those resources efficiently and effectively for the purpose intended.”

Developing an Accountability Framework

It is essential, in a democratic society, for the public to have a means by which they can hold their elected representatives accountable. Such a mechanism is referred to as an accountability framework. Accountability frameworks typically include information on:

- ▶ the organization's vision and mission;

- ▶ the organization's goals and objectives and the process by which these were determined;
- ▶ a correlation between how the vision/mission relates to and contributes to achieving the organization's goals and objectives;
- ▶ the strategies used to achieve these goals and objectives;
- ▶ the performance targets for these goals and objectives;
- ▶ the mechanism(s) by which the organization will measure its progress in meeting the performance targets for its goals and objectives; and,
- ▶ funding allocations and sources required to achieve the goals and objectives.

In the case of school boards, accountability flows in two directions, both from the government to the public and back. As they are public bodies 'created' by the provincial government, school boards must demonstrate that they are fulfilling the legislated expectations set out for them by government. As they are publicly-elected, school boards must also demonstrate to the public that they are fulfilling community expectations. Increasingly, school boards are finding that expectations from these two sources conflict. If the goal of accountability is to ensure that school boards exercise their responsibility toward the achievement of the board's goals and objectives, an accountability framework which clearly consigns the responsibilities both to the government and to the electorate can aid school boards in managing these potentially conflicting vested groups.

Accountability is important to the success of school boards because effective accountability practices can be constructive tools for **strategic planning, organizational development and renewal, and enhanced management practices**. Effective accountability practices allow school boards to compare achievement targets and performance, both internally and externally. While accountability has traditionally held a financial connotation (i.e. a measure of financial and operational efficiency), school boards have experienced a significant shift toward results and performance accountability, specifically in the area of student achievement. An effective accountability framework will establish a cycle of planning, reporting and feedback that aims to ensure that programs are not only **financially viable**, but also **relevant** and **meaningful** to the paramount goal of any school board: continuous improvement for student achievement and success.

EFFECTIVE SCHOOL BOARDS

Components of Effective Boards

An effective school board is one that has the capacity to identify the needs of schools and then helps them to improve. It also encourages and facilitates sharing and cooperation among boards.

In Ontario and most other provinces, legislation defines school boards as the organizations responsible for delivering education programs and holds trustees responsible for the following:

- articulating their board's vision for education;
- developing policies based on their board's vision and on provincial policies;
- setting budgets and goals, monitoring the implementation of board policies, monitoring student achievement; and,
- providing program equity for all students throughout their boards.

OPSBA believes that the public has the right to know how schools and school boards are performing and how they plan to improve. Similarly, the public has a right to know how the provincial education system is performing on key identified indicators and whether the resources provided by the province are appropriate.

In Ontario, the Ministry of Education is responsible for:

- articulating a vision for education;
- setting the province-wide direction;
- setting curriculum policy, including what students in each grade should know; and,
- providing sufficient and equitable funding to school boards.

In 1998, the Ministry of Education assumed complete responsibility for funding elementary and secondary education. Previously, school boards had the authority to raise some of their income from their local property tax bases. Since 1998, the ministry sets the spending parameters within which boards must operate. In OPSBA's view, an essential component of a comprehensive accountability framework must be the collection of information on the adequacy of boards' resources and on how boards are directing their resources to support student achievement.

In their research, Thomas P. Holland and Myra Backmon have identified four ways that boards can work effectively and be "value added".

1. **Support the Director of Education**, by determining what is most important, and assist in the setting of priorities.
2. **Serve as a Sounding Board**, by allowing opportunities for the Director of Education to think aloud about questions and concerns before it is necessary to come to a conclusion or make any recommendations. Boards must encourage candid discussion of embryonic ideas, ambiguous issues and potential unclear challenges.
3. **Encourage and Reward Expectations**, by encouraging experimentation. Effective boards try out new approaches and alternative ways of dealing with issues. By raising critical questions and challenging assumptions, they foster new ideas with creative alternatives for the future.

4. **Model Effective Behaviour**, by demonstrating behaviours they desire in others. Boards that call for accountability of staff have far greater credibility if the boards' actions are exemplary.

The Strategic Board

In his book *The Strategic Board*, author Mark Light states that rather than giving the right answers, the strategic board asks the right questions. It does not insist upon predetermined responses or specific prescriptions. It does build a dynamic, flexible, and durable framework for asking and then answering these questions. A strategic board produces a comprehensive plan containing four elements that answers the questions of great governance:

LEADERSHIP PLAN: *Where to go tomorrow?*

DELEGATION PLAN: *Who does what?*

MANAGEMENT PLAN: *What gets done today?*

VIGILANCE PLAN: *Did it happen?*

Board Policy

School boards have varying methods of policy development and implementation. It is critical that policy statements reflect the intent of the board, and that policy implementation is monitored to ensure the desired change has been accomplished.

Board/Director Relationship

The most important leadership relationship in the school system is the one that exists between the Board of Trustees and the Director of Education. While their roles are distinct and different, they must also be complementary for the system to operate effectively. Each board's success depends on the success of the Director of Education. Each Director of Education's job is greatly influenced by the successes and challenges of the board. Both parties need to be cognizant of their inter-dependence, and willing to work cooperatively for the successes of the system and the students in the schools.

A CODE OF ETHICS FOR TRUSTEES

Legislative Authority and the “Corporate Board”

The *Education Act* does not give individual trustees legislative authority in any way and refers only in a limited way to their responsibilities. Trustee power lies solely in membership on the corporate board of education. As members of the corporate board, trustees are legally accountable to the public and to the Minister of Education for the collective decisions of the board and for the delivery and quality of educational services. This means that once the Board of Education has voted, it is a trustee’s responsibility to act in a manner that promotes and supports the board’s decision by developing policy and approving procedures, and to communicate the board’s decision back to the constituency.

*Acceptance to serve on a public body, whether in a volunteer or paid capacity, assumes acceptance of Minister’s expectations and responsibilities conferred through legislation, agreements or any other mechanism. Prospective and sitting members of governing structures are encouraged to carefully consider stated relationships and responsibilities when making decisions to serve, or continue serving, on governing bodies.*¹

An Oath of Office for Trustee

OPSBA believes that school board trustees should strengthen the Oath of Office as their commitment to accountability and suggests the following as an example:

I, (trustee name), do accept the position of school board trustee for the X District School Board, recognize my role and responsibilities as a member of the board. I swear to perform my duties and obligations within the parameters set out by the Ontario Education Act, and the Trustee Code of Ethics established by the X District School Board.

Using Ethical Frameworks and Processes

An important role played in our society by public sector organizations is to increase the overall level of democratic participation. A strong democratic society relies on a strong civil society.

Public sector boards must be able to justify and not just explain their decisions to their constituents. To be accountable means to justify decisions and actions. Trustees are asked to deliberate about and justify

¹ Government of Newfoundland and Labrador: Treasury Board. *Achieving Excellence 2000: A Handbook for the Improved Governance of Public Bodies.*

either their judgements or the principles that underlie them. The principles that underlie one's judgements or deliberation must be explicit and must be defensible in terms of what is right and fair. Ethical frameworks and processes can be very helpful for boards to use both in making decisions and accounting for them to others.

Some decisions can be made quickly and easily. Others however, may require special attention to the decision-making process, if the cohesion of the group is to be maintained. Ultimately it is the board's responsibility to establish the culture and ethics that ensure the relationships are conducive to effective communication and decision-making, always with a focus on student achievement and success.

Most organizations are putting Codes of Conduct or Codes of Ethics in place. The need for these codes becomes obvious when observing municipal, provincial and federal governments, and corporate organizations. Depending on the culture and operations of an organization, a Code of Ethics and a Code of Conduct may be the same, distinguished by the level of specificity in the code.

This document will refer to a Code of Ethics. A Code of Ethics contains concise statements of shared moral values and statements around how these values are applied. A Code of Ethics is neither a mission statement, nor legally binding. It is intended to give school boards an official policy to guide the conduct of its members. OPSBA proposes the following example of a Code of Ethics to which school boards may wish to commit.

A Sample Code of Ethics for Public School Trustees

The commitment of each board member to high ethical standards is required to ensure that the school board can responsibly fulfil its obligations and discharge its duties.

As a member of my local school board, representing all the citizens of my community and responsible to the electorate through the democratic process, I recognize:

- ❖ That my fellow citizens have entrusted me, through the electoral process, with the educational development of the children and youth of the community.
- ❖ That trustees are the student's advocates and my first and greatest concern is the best interest of each and every one of these students without distinction as to who they are or what their background may be.
- ❖ That trustees are community leaders who realize that the future welfare of the community, of the Province, and of Canada depends in the largest measure upon the quality of education we provide in our public schools to fit the needs of every learner.

- ❖ That a strong and effective public education system, responsive to the needs of our students is the cornerstone of a democratic society.

As a school board member, I will:

1. Be motivated by an earnest desire to serve my school board to the best of my ability to meet the educational needs of all students.
2. Recognize that the expenditure of school funds is a public trust, and I will endeavour to see that the funds are expended efficiently, in the best interests of the student.
3. Not use my position for personal advantage or to the advantage of any other individual apart from the total interest of the school board, and I will resist outside pressure to so use my position.
4. Act with integrity, and do everything possible to maintain the dignity of the office of a school board member.
5. Carry out my duties objectively, and consider all information and opinions presented to the board in making my decisions, without bias.
6. Work with other board members in a spirit of respect, openness, courtesy, co-operation and proper decorum, in spite of differences of opinion that arise during debate.
7. Accept that authority rests with the board and that I have no individual authority outside the board, and I will abide by the majority decisions of the board once they are made, but I shall be free to repeat the opinion that I upheld when the decision was made.
8. Express any contrary opinion respectfully and honestly, and without making disparaging remarks, in or outside board meetings, about other board members or their opinions.
9. Accept the right of every board member to hold and express their individual opinions.
10. Communicate and conduct my relationship with staff, the community or other school boards and the media in a manner that focuses on all of the facts about their schools, and to that end provide the finest possible school program, school staff and school facilities.
11. Not divulge confidential information, which I obtain in my capacity as a board member, and I will not discuss those matters outside the meetings of the board or the board's committees.
12. Endeavour to participate in trustee development opportunities to enhance my ability to fulfil my obligations as a school board member.
13. Not conduct myself in a manner which is intended to be to the detriment of my own board or any other board.

Just as municipal councillors are expected to uphold the laws under the Municipal Act, or other Acts governing municipalities, trustees are expected to uphold the laws governing school boards, and find avenues to express concern and raise important issues. In Parliament, there is a code of conduct which describes behaviour expectations. If these are breached, the person experiences consequences. Our schools have codes of conduct and strict penalties for infractions including suspension and expulsion.

Therefore, it follows that a reasonable standard of civil behaviour could be anticipated from leaders and public figures in government, including the education community. Board by-laws, policies and the oath of office could be amended to reflect expectations regarding elected officials' behaviours and consequences for infractions. Given the high value that trustees place on their role as a position of trust, to protect the interests of students in the public education system, they are prepared to have a higher standard of accountability.

TRUSTEE ELECTIONS

Trustee candidates must follow election procedures as they are laid out in the *Municipal Elections Act*, and its regulations. Currently, the law states that trustee candidates cannot issue tax receipts to individuals who make financial contributions to their campaign. It has been argued that many potential candidates are discouraged from allowing their name to stand due to this restriction, as they cannot personally afford to run an effective campaign.

An additional concern that has been repeatedly raised is that of campaign donations coming from either school board service providers or from groups representing school board employees.

OPSBA believes that the government should review the rules and regulations surrounding the financing of trustee election campaigns. It would appear that the current rules provide a disincentive for individuals wishing to financially support a candidate, while providing no disincentive to groups and/or organizations who could potentially benefit from financially supporting a candidate. OPSBA believes that the rules need to ensure that trustee candidates are neither unduly discouraged, nor unduly influenced, due to financial campaign rules.

TRUSTEE REMUNERATION

The school board is the advocate for the community when decisions are made about children's education. The school board represents the public's voice in public education, providing citizen governance for what the public schools need and what the community wants. Trustees perform an important job in their communities - no less important than other elected officials do - and the role requires informed and capable decision-makers in an increasingly complex environment where public demand is increasing while support and funding are decreasing.

The low rate of remuneration contributes to the high turnover of trustees as well as to the difficulty of attracting and retaining good candidates. Trustees bring a range of skills, experience, knowledge and

values to their role. Their diversity ensures that board processes are truly democratic, and contribute to good decision-making. Trustees have a responsibility to learn about the school system and the many, often complex, issues that face publicly funded education. Legislative and regulatory obligations require trustees to participate in various committees, for example expulsion hearings, senior administration recruitment committees, Special Education Advisory Committees (SEAC), and Supervised Alternative Learning for Excused Pupils (SALEP). These meetings are often held during the work day. In order to devote the time necessary to these tasks, trustees deserve to be compensated appropriately for their time, including compensation for actual expenses and required professional development.

Section 191 of the Education Act specifically permits boards to pay their members *honoraria*. An honorarium is a fee paid “in recognition of a nominally free service and is often a token or gesture of thanks.” OPSBA asserts that school board trustees, like other elected officials, deserve to be compensated not by honoraria, but by a clearly-defined, simply administered and transparent system of allowance, determined by the community they serve.

The Royal Commission on Learning (1994) reviewed the role of the trustee and the issue of trustee remuneration, and recommended a maximum remuneration of \$20,000. The Education Act presently sets the maximum honorarium for elected trustees at \$5,000 with an additional maximum of \$5,000 available to the Chair and Vice-Chair of the Board. (Note that honoraria is lower for school authority trustees.) This provision has remained unchanged since 1997. A trustee’s workload and hours are determined by the expectations of parents and the communities they serve, in addition to legislated roles and obligations related to the board as a corporate entity. While trustees’ responsibilities may vary based on many factors, they are growing to address additional legislated and regulatory obligations, increasing constituent populations, and increased community interest in educational matters. An annual maximum honorarium of \$5,000 means that trustees are being compensated at **far below** the minimum wage in Ontario and does not reflect the complexity, the legislated obligations under a list of Acts, or the variables that affect a trustee’s workload.

The Ontario Public School Boards’ Association is concerned that the inadequacy of trustee compensation acts as a barrier, discouraging many qualified and capable candidates who hold full time jobs from pursuing the important role of trusteeship in the local democratic process for education. The number of acclaimed school board candidates increased substantially in the last local elections. This stifles healthy public policy debate on education and competition stimulated by a viable election. In addition, the current honorarium is not sufficient to help offset the cost of an election campaign, due to a drastic increase in the size of many amalgamated areas. This makes it difficult to have a community-based campaign without substantial fund-raising from outside groups.

The issue of compensation for provincial members of parliament was delegated to the provincial Commissioner of Integrity. At the federal level, a commission was struck to review allowances for

federal members of parliament. Both of these processes led to increases in compensation for federal and provincial members. OPSBA believes that Ontario's local politicians, including school board trustees, deserve the same independent review of compensation.

CONCLUSION

More and more, there are serious pressures to achieve greater results with fewer resources. School boards face the scrutiny of an increasingly demanding public. At the same time, they must also address complex issues relating to the provision of education services for students with widely divergent needs.

In order to cope with the volume of business, school boards are examining their function and their roles in relationship to the public they serve and to the senior employees of the board who are responsible for the day-to-day operation of the school board. Practices that may have worked in previous years must give way to new approaches as the size and complexity of board operations increases. Now, more than ever, effective governance has become critically important.

The law plays a significant role in defining the governance structures and processes for school boards. School boards' powers and accountability frameworks are often prescribed by provincial legislation. This legislation must be reviewed to ensure that local democratic processes are protected. Effective school board governance ensures a system that knows what it should be doing, when and how, and therefore, will reduce the risk of errors or omissions in the conduct of business, thus significantly reducing its legal liabilities.

RECOMMENDATIONS

OPSBA recommends that:

- 1. locally-elected school board members, crucial to preserving our democratic heritage and keeping the public directly involved in public education, be maintained.**
- 2. locally-elected school board members are preferable to appointed members;**
- 3. an effective accountability framework is essential in meeting the goals of a school board and especially the continuous improvement for student achievement;**
- 4. the provincial government consult with school boards and their organizations in order to review the current model of school board supervision, as set out in the *Education Act*;**
- 5. the government consider formal conciliatory dispute resolution models and consult with school boards on this issue ;**
- 6. the Oath of Office be strengthened to reflect the trustees' commitment to accountability and to the requirements set out by the Minister of Education;**
- 7. an independent provincial body review allowances and compensation for Ontario school board trustees.**

APPENDIX: REVIEW OF OTHER PROVINCES

(NOTE that the following information is based on the most up-to-date material publicly available as of October 2003.)

British Columbia

British Columbia's school boards are comprised of locally-elected trustees. The boards are funded entirely by the province, but do have limited access to the property grant through plebiscite (this has been rarely used). Collective bargaining for teachers is done at the provincial level. Non-teaching contracts can be locally negotiated but are subject to provincial ratification.

Early in 2002, the Legislative Assembly of British Columbia released the report of the Standing Committee on Education. This report contained significant discussion on the issue of school board governance, and included several recommendations in that area. The Committee's report, entitled "A Future for Learners" combined the issues of governance and management, and considered not just elementary and secondary education issues, but also early childhood education and post-secondary education.

The report raised the question as to whether the current structure of education governance (locally-elected school boards) adequately served as an effective means to reflect community priorities and desires about educational opportunities. However, clear recommendations on governance changes were not made. The recommendations that were made focussed on clearer role distinction, training, reporting, flexibility, accountability frameworks, and dispute resolution. As well, it was recommended that the province "consider effective and efficient provision of administrative functions".

In responding to the report, the British Columbia School Trustees Association very clearly stated upfront their opposition to a move away from locally-elected school board governance. They also repeatedly made a distinction between a school board's business purposes versus a school board's educational services purposes. BCSTA indicated that they support greater efficiency of business services and are eager to consider innovations that make sense. They strenuously opposed "government intrusion" to review board progress and to assist in the conduct of educational matters at the board's expense.

British Columbia clearly distinguishes the dual governance roles of school boards: the student performance role and the business role. This distinction is also made in the province's recently introduced accountability obligations for school boards. In order to reflect performance on student achievement, school districts in BC were subject to a legislated 'accountability framework' which is being phased in over several years, starting in the 2001/02 school year. The accountability framework

focuses school and district attention and resources on improving student achievement and includes mechanisms for consulting, reporting and government review.

Additionally, school boards are being held accountable financially through mandatory annual compliance audits conducted by the Ministry of Education. The purpose of these audits is to ensure the accuracy and the appropriateness of the student and school data reported to the Ministry by the district and to ensure that districts are in compliance with the Ministry's data collection instructions.

There are several scenarios where the Minister of Education can take punitive action against a school board with respect to issues related to governance. For example, if there is substantial non-compliance with the School Act, the Minister may "make orders" that he/she "considers advisable to effectively administer" the School Act and its regulations. If there is non-compliance with the performance of the board's duties, or if there is risk of serious financial jeopardy, or if there is a risk to student achievement, the Minister may assume "official trustee-ship" of the Board.

Other sanctions include the Minister's ability to make an appointment of a 'special advisor' to review the board's progress as laid out in its accountability contract or to assist the board in the conduct of financial, pedagogical or community affairs.

Additionally, the Minister may recommend that the Finance Minister withhold or reduce a school board's grant "if the board has not conducted its affairs in accordance" with the School Act and/or the Minister's orders.

Alberta

School boards continue to be comprised of locally-elected trustees. Alberta's public and Catholic schools, as well as charter schools and some private schools, receive provincial funding under a block grant system. The province continues to generate education revenues from levies to the property tax. School boards (not charter or private schools) do have the authority to levy up to 3% of their budget allocation but traditionally this amount has been reduced from the block grant, thus discouraging boards from taking this step. All collective bargaining is performed at the local level.

Legislation does permit the provincial government to take over governance of a locally elected school board where a board is in non-compliance with Ministerial orders and where the Minister may believe it is in "the public interest" to do so. In such circumstances, trustees cease to hold office.

Alberta has just released its first major government review of the education system since the early 1970's. The Province of Alberta appointed the Commission on Learning in June 2002, and the Panel held public consultations across the province. The Commission made recommendations on seven topic areas, one of which is the clarification of roles and responsibilities and system governance. Recognizing

that a successful education system is a 'shared responsibility', the Commission indicated that it would examine the roles of many stakeholders, including teachers, parents, school councils, school boards, government, students, superintendents, principals and community members.

In its written submission to the Commission, the Alberta School Boards' Association (ASBA) focussed on the following issues of governance: legislative and regulatory impediments to effective governance, limited school board authority; increased flexibility for local decision making (including the granting of *natural persons power* to school boards), the authorization for school boards to raise funding for local priorities from ratepayers (a special levy of up to 3% was recommended, with conditions); and, restrictions on issues subject to collective bargaining. (Note: "natural persons powers" is a term which means the conference of the legislated rights of an individual upon an institution, or: anything a person can legally do, the institution can also legally do.)

In Alberta, school boards follow a 3 year strategic planning process that is an expanded version of Ontario's budget consultation process. The school board, shortly after commencing its 3 year tenure, develops a 3 year strategic plan. The board then follows an annual strategic planning process which revisits the board's vision, mission, values and beliefs as determined in the Strategic Plan, and sets annual priorities and goals. The budget, obviously, forms a part of this annual process. Throughout the board's tenure, the board's policy processes (planning, developing, implementing and evaluating) must reflect the priorities identified in the Strategic Plan.

Saskatchewan

Saskatchewan's public and Catholic school boards are governed by locally elected trustees. Saskatchewan is the only Canadian province where the school boards raise the majority of education funds from unrestricted access to the property tax base. Currently only 40% of school board funding comes from the province. Collective bargaining with teachers is done via a joint local/provincial process with trustees and provincial representatives forming the bargaining committees. Non-teaching staff have their contracts fully negotiated at the local level.

There is no legislation in Saskatchewan that would give the provincial government authority to 'take over' a locally-elected school board.

Saskatchewan's drive towards governance reform seems to be coming from the school boards' themselves, rather than from the province. In 2002, the Saskatchewan School Trustee's Association released a discussion paper to its members entitled "A Pathway to Effective Board Policy Development". The paper was designed to "assist boards in moving from traditional policy models to a board policy model where the board governs strategically". The SSTA proposals include a "governance health check" (board self-evaluation); strategic plan development, board governance policies (developed centrally by all boards through SSTA), and various training and member support components.

Manitoba

Manitoba's public school boards are comprised of locally elected trustees and funds are predominantly from the province's general revenues. Less than one third of education funding is levied from the property tax base. Collective bargaining remains a local responsibility.

The Manitoba Schools Act does contain a provision which permits the provincial Cabinet (Lieutenant Governor in Council) to appoint an "official trustee" for "unsatisfactory management of school board affairs". Upon the appointment of an 'official trustee' elected trustees cease to hold office.

Currently, the province of Manitoba is going through yet another round of amalgamations, some of which are "voluntary". In July of 2002, the Public Schools Modernization Act received third and final reading, limiting school boards to a maximum of 9 trustees, limiting administrative budgets for school boards, and setting the transitional parameters for the merger of school boards and the creation of new board boundaries across the province. Additional changes to board governance will only be practical once the dust settles.

Ontario

Ontario's public and Catholic school boards are publicly elected. Funding for school boards is determined at the provincial level and distributed to school boards through a multiple grant process. Even though all funds come from the province, a portion of education spending continues to be raised from the property tax base, which is pooled provincially and distributed based on the formula. Collective bargaining with both teaching and non-teaching staff occurs at the local level.

Ontario's Education Act sets forth several circumstances whereby the Minister has the authority to 'direct an investigation' into the boards affairs, if the Minister has 'concerns' that a board may not be in compliance with certain legislative obligations, including program and financial obligations. Following the investigation, the Minister may make orders to the board to rectify any identified concerns on its own, or, the Minister may choose to send in a "supervisor" to address the concerns identified in the investigation. A supervisor may also be appointed in the case where a board chooses to defy an order from the Minister following an investigation. When a supervisor is appointed, the trustees of the board have no legislative authority, but continue to hold office.

Quebec

The province of Quebec's locally-elected school boards receive 85% of their funding from the province's general revenues, and 15% from the local property tax base. Collective bargaining is done at the provincial level, however school boards do get minimal representation on provincial bargaining committees. The contract will allow for some local arrangements on agreed-upon matters.

The Education Act in Quebec provides the provincial government with powers to suspend some or all of a school board's functions and appoint an "administrator" to exercise those functions for a period of six months.

New Brunswick

Perhaps the province most closely watched with respect to governance issues, the province of New Brunswick returned to locally-elected school board governance in July 2001, after a period of several years of provincially-controlled education.

New Brunswick's "new" system of education governance provides for the election and operation of "District Education Councils" (DECs). The distribution of authorities and responsibilities between the DECs and the provincial government is not substantially different than that which existed in the previous 'school board' scenario. Basically, the Minister establishes and monitors the educational and services standards and the policy framework, and the DECs are responsible for program implementation and school operations. Issues that are substantially different from other provinces include the ownership of school properties (the province owns all school property and selects any new school property, but the DECs 'initiate school establishment and closure'). As in the previous set-up, when New Brunswick had school boards, all funding comes from provincial revenues and collective bargaining occurs provincially. The Minister can 'intervene' if standards are not being met or if policies are not followed.

Like other provinces, New Brunswick's system includes a level of school based governance, but unlike other provinces, it is not an advisory role, but an official governance role. The legislation provides for "Parent School Support Committees" which are also elected to a three year term (rotating a proportion of membership annually). These PSSCs have a role in principal and vice-principal selection and evaluation, in school performance evaluation and in the development of school policies.

Nova Scotia

Nova Scotia's has 8 locally-elected school boards: 5 regional, 2 district and 1 Francophone. Funding comes predominantly from the province with a portion collected by municipalities from the property tax base, and transferred to the school board. Collective bargaining is a joint local/provincial process.

The newly revised Education Act does have a clause which permits the Minister to "appoint a person who shall carry out such responsibilities and exercise the same authority of the school board as the Minister determines..." The Minister may make this appointment when the health, safety or educational welfare of the students is endangered, or when the resources of a school board are not being used in a responsible manner AND the board has failed to comply with a request of the Minister to take corrective action in relation to the above.

Starting in the 2001/02 school year, the province agreed to “pilot” a new governance arrangement where the two district boards (which are neighbouring) joined together to form a sixth “regional board” which is responsible for the business aspects of the board (transportation, financial services, maintenance and secretarial), while the two districts continue to provide the educational services. Based on the results of this pilot project, the province will consider further consolidation of business services such as payroll and purchasing services.

Prince Edward Island

Prince Edward Island has only 3 school boards: 2 Anglophone and 1 Francophone. Funding comes from provincial revenues and bargaining occurs provincially, but with representation from school board administration on the bargaining committee. The Education Act contains a clause which permits the Minister to take ‘such action as considered necessary for the purpose of carrying out the Minister’s powers, responsibilities and functions’ under the Act.

Newfoundland

Locally elected school boards in Newfoundland are funded solely from provincial revenues. Collective bargaining for teachers occurs at the provincial level, with trustee representation. Collective bargaining for support staff is ‘lead’ by the provincial school board association and implemented locally.

While there is a clause in the Education Act which speaks to a process to dissolve school boards, it doesn’t appear to be connected to any punitive action on the school board’s part. Still, the authority for the Cabinet to dissolve a school board on a specified date does exist.

The entire provincial government in Newfoundland is subject to a “Government-Wide Accountability Framework.” In 2001/02, the Newfoundland Department of Education began the development of a three-year strategic plan under this framework. School Boards are being consulted prior to the strategic plan’s approval and, once approved, the plan will be distributed to school boards and other department-funded agencies.

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