

Horizon School Division No. 67
Regular Board Meeting – Division Office
ERIC JOHNSON ROOM
Tuesday, June 21, 2016 – 1:00 p.m.

Regular Board Meeting Agenda

A – Action Items

A.1 Agenda A.2 Minutes of Regular Board Meeting held Tuesday, May 17, 2016 A.3 Minutes of Special Board Meeting held Wednesday, June 1, 2016 A.4 May/June 2016 Payment of Accounts Summary A.5 Budget 2016	ENCLOSURE 1 ENCLOSURE 2 ENCLOSURE 3
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D – Discussion Items

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I- Information Items

I.1 Financial Update – Jason Miller I.2 Municipal Government Act Consultations I.3 Superintendent’s Progress Report I.4 Trustee/Committee Reports <ul style="list-style-type: none">• 1.4.1 Zone 6 ASBA Report – Marie Logan• 1.4.2 ASBA Spring General Meeting Report – Marie Logan• 1.4.2 June 14, 2016 Admin. Meeting Report – Terry Michaelis• 1.4.3 Facilities Committee Report- Derek Baron I.5 Associate Superintendent of Finance and Operations Report – Phil Johansen I.6 Associate Superintendent of Programs and Services Report – Clark Bosch I.7 Associate Superintendent of Curriculum and Instruction Report – Amber Darroch	ENCLOSURE 4
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Correspondence

<ul style="list-style-type: none">• From Minister Eggen re Update on Education Legislation• News Article re AB Ed Aggressive Curriculum Review• News Article re Homeschooling Concerns• June Education Law Reporter• AB Ed Press Release re New Deputy Minister• HSD Press Release Erle Rivers High School Principal	ENCLOSURE 5
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Horizon School Division No. 67

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The Board of Trustees of Horizon School Division No. 67 held its Regular Board meeting on Tuesday, May 17, 2016 beginning at 1:00 p.m. in the Eric Johnson Room.

TRUSTEES PRESENT: Marie Logan, Board Chair
Bruce Francis, Board Vice-Chair
Blair Lowry, Jennifer Crowson, Rick Anderson, Derek Baron

ALSO PRESENT: Dr. Wilco Tymensen, Superintendent of Schools
Phil Johansen, Associate Superintendent of Finance & Operations
Clark Bosch, Associate Superintendent of Programs, Services & Human Resources
Nikki Jamieson, Taber Times
Barb McDonald, Recording Secretary

REGRETS: Terry Michaelis, Trustee
Amber Darroch, Associate Superintendent of Curriculum & Instruction

ACTION ITEMS

A.1 Moved by Jennifer Crowson that the Board approve the agenda as presented with the following additions:

Under Action Items:

A.4 – Motion to Send Letter to Commence CUPE Bargaining

A.5 – Barnwell Motion

A.6 – Motion to Purchase Warner Hockey School Bus

Carried

AGENDA APPROVED
67/16

A.2 Moved by Rick Anderson that the Board approve the [Minutes of the Regular Board Meeting held Tuesday, April 19, 2016](#), as provided in Enclosure 1 of the agenda.

Carried

BOARD MEETING
MINUTES APPROVED
68/16

A.3 Moved by Derek Baron that the Board approve the [April/May 2016 Payment of Accounts Report in the amount of \\$5,105,883.87](#) as provided in Enclosure 2 of the agenda.

Carried

PAYMENT OF
ACCOUNTS REPORT
APPROVED
69/16

A.4 Moved by Blair Lowry that the Board send a letter to the CUPE bargaining group indicating the Board's intent to commence bargaining prior to June 1, 2015

Carried

LETTER TO BE SENT TO
CUPE BARGAINING
GROUP APPROVED
70/16

A.5 Bruce Francis indicated that the Barnwell School modernization is well underway with the community actively involved in the enhancement portion of the school gymnasium, community library and fitness centre.

Moved by Bruce Francis that the Board approve the commitment of \$200,000.00 from Board reserves to go towards the Barnwell Community Enhancement group and as well, that any new commitments that the Community Enhancement group receives after June 1, 2016 until June 1, 2017 (not including government grants), that the Board agrees to match those dollars up to \$100,000.00 which will go towards the enhancement.

Carried

BOARD COMMITMENT
TO BARNWELL
COMMUNITY
ENHANCEMENT
APPROVED
71/16

- A.6 Moved by Jennifer Crowson that in the event that the Warner Hockey Society cannot secure financing for the outstanding amount left owing on the Warner Hockey Society Bus of approximately \$48,000.00, that the Board would be willing to purchase the Warner Hockey Society Bus for the said amount owing.

Trustee Derek Baron declared a conflict of interest and abstained from voting.

Carried

POTENTIAL PURCHASE
OF WARNER HOCKEY
SOCIETY BUS
APPROVED
72/16

INFORMATION ITEMS

I.1 Superintendent's Progress Report

Wilco Tymensen's April report to the Board was enclosed in the agenda and included the following information:

Educational Leadership and Student Welfare

- Dialogue between schools and division office are ongoing. Conversation topics are typically regarding processes that ensure student safety and well-being, financial management, instructional leadership, and off-campus activities.
- Attended the Division Wide Professional Learning Day

Fiscal Responsibility

- Preparation for the Jurisdiction's budget for 2016-17 is ongoing in response to the April 14 release of the provincial Budget and jurisdiction changes communicated previously to principals and Board members. Meetings with the Senior Administrative Leadership Team and the Board have occurred. The 2016-2017 budget is slated to be brought before the Board at the June Board meeting.

Personnel Management

- Recruitment for a new Principal of Erle Rivers High School was concluded. We are pleased to have Barb Arend as our successful applicant.
- Principal term evaluations have been concluded
- Meetings with regard to the evaluation of our new Associate Superintendents have occurred this month as have surveys of their performance.

Policy and Strategic Planning

- Senior Administrative Leadership Team meeting.
- Administrator Symposium

Organizational Leadership and Management

- Meetings regarding DAF/WRM modernization with Sahuri, Alberta Infrastructure and Alberta Education
- Meeting with Lethbridge College regarding green certificate
- Attended the Erle Rivers High School value-management session

Communications and Community Relations

- A number of other meetings and celebrations have taken place over the last month. These include but are not limited to:
 - Edwin Parr awards banquet
 - School Administrator's meeting
 - Council of School Council
 - L.T. Westlake culture day celebration
 - C.U.P.E. dinner

I.2 Trustee Committee Reports

I.2.1 Zone 6 ASBA Report – Marie Logan

Marie Logan, Zone 6 representative, provided an overview of the ASBA Zone 6 meeting that took place in Taber on May 11th which involved discussions and presentations on the following:

- Welcoming, Caring, Respectful and Safe Learning Environments: Alberta Education, ASBA, ASCA and CASS have joined with the ATA to form the Respectful School Collaborative Project Team. The team will release a Respectful Schools Toolkit during the 2016/17 school year
- Social Emotional Learning: All school communities strive to ensure student success and well-being. By understanding brain development, we recognize that social, emotional and cognitive skills are connected and that children must experience growth in all areas to achieve their full potential. Alberta Education has informative resources available to student growth. A new video and guide are accessible at: <https://education.alberta.ca/social-emotional-learning/overview>
- Early Childhood Certificate Program: A new university certificate in early childhood is anticipated to be introduced in the fall of 2016. Alberta Education has worked with the University of Alberta to create a series of online courses that will be available to teachers and other professionals who work with children from ECS to grade 3. Applicants to the program must have a three or four-year degree from an accredited post-secondary institution.
- Other items of information included: myPass, Comprehensive School Health, ASBA proposed budget, Zone 6 statement of operations, ASBA Board of Directors meeting, ASBA Zone Language Committee Report

I.2.2 Facilities Committee Report – Derek Baron

Derek Baron, Facilities Committee Chair, provided a report to the Board on the work undertaken during the past month within the Facilities Department including:

- Maintenance Projects including:
 - Painting projects
 - Grounds, Mowing, Irrigation
 - Carbon Tax
 - IMR
 - Capital Projects (Board Reserve Funded)
 - Barnwell School Modernization Update
 - Warner, DAF/WRM Modernization Projects
 - ERHS Value Management/Value Scoping Session

Please [click here](#) to review the entire May 2016 Facilities Committee Report.

I.2.3 – May Administrators’ Meeting Report – Blair Lowry

Blair Lowry reviewed the highlights of the May 3rd Administrators’ meeting. [Click Here](#) to review the entire May 4th Administrators’ meeting summary.

I.4. Associate Superintendent of Finance and Operations Report

Phil Johansen provided a May 2016 update to the Board as follows:

- The majority of the Associate Superintendent’s time the past month has been consumed with working on the budget and Facilities.
- In terms of budget, the MyBudget File is still in the development stages with the main focus of this process being in the area of Inclusive Education and PUF.
- There are no updates to the enrollment projections and revenue streams are expected to be about the same
- Attended the annual ASBOA conference

I.5 Associate Superintendent of Programs, Services and Human Resources Report

Clark Bosch's April report to the Board included the following information

- Welcomed Andra Johnson to Division Office as the new temporary Supervisor of Early Learning
- Have offered approximately 30 contracts or changes to contracts for existing teaching staff with currently 19 teaching jobs posted. It is anticipated that another 15 jobs will be posted prior to the end of the year
- Barbara Arend has been appointed as the new principal for Erle Rivers High School in Milk River
- The decentralized/inclusive education dollars have been distributed
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Correspondence

No items of discussion came forward from Correspondence as provided in Enclosure #4 of the agenda.

COMMITTEE ITEMS

Moved by Rick Anderson that the Board meet in Committee.

Carried Unanimously

COMMITTEE
73/16

Moved by Jennifer Crowson that the meeting reconvene.

Carried Unanimously

RECONVENE
74/16

Moved by Derek Baron that the meeting adjourn

Carried Unanimously

MEETING
ADJOURNED
75/16

Marie Logan, Chair

Barb McDonald, Secretary

HORIZON SCHOOL DIVISION No. 67

6302 – 56 Street Taber, Alberta T1G 1Z9
Phone: (403) 223-3547 1-800-215-2398 FAX: (403) 223-2999

The Board of Trustees of Horizon School Division No. 67 held a Special Board Meeting on Wednesday, June 1, 2016 beginning at 5:45 p.m.

PRESENT: Marie Logan, Board Chair
Bruce Francis, Board Vice Chair
Rick Anderson, Jennifer Crowson, Blair Lowry, Terry Michaelis,
Derek Baron
Philip Johansen, Recording Secretary

Waiver of Notice of Special Meeting and Special Meeting Agenda Attached

Moved by Blair Lowry that the Board approve the Special Meeting Agenda as contained in the Waiver of Notice of Special meeting.

Carried Unanimously

AGENDA
APPROVED
76/16

Moved by Derek Baron that the Board approve the recommendation from the Facilities Committee to award the low bidder, Nitro Construction Ltd., the contract for the modernization of Warner School for the base bid amount of \$3,845,000.00 + GST.

Carried Unanimously

LOW BIDDER FOR
WARNER SCHOOL
MODERNIZATION
APPROVED
77/16

Moved by Bruce Francis that the Board approve the list of items bid on as alternate pricing for owner supplied work for the Warner modernization project, to be managed in-house by Horizon School Division's maintenance department.

Carried Unanimously

ALTERNATE
PRICING FOR
OWNER-SUPPLIED
WORK TO BE
MANAGED IN-
HOUSE APPROVED
78/16

Moved by Jennifer Crowson that the board approve the recommendation from the Board to Alberta Infrastructure and Alberta Education that separate and alternate prices (S2, S4, S5 and S6) be included in the scope and funding of the Warner modernization project.

Carried Unanimously

RECOMMENDATION
TO AB
INFRASTRUCTURE
AND AB ED THAT
SEPARATE AND
ALTERNATE
PRICING APPROVED
79/16

Moved by Rick Anderson that the meeting Adjourn.

Carried Unanimously

Chair

Secretary

PAYMENT OF ACCOUNTS REPORT

Board Meeting - June 21, 2016

U.S. Funds	May 17/16		470.81
General	May 17/16		488503.37
U.S. Funds	May 18/16		33,195.58
U.S. Funds	May 24/16		8,911.00
General	May 25/16		1,567,425.33
General	May 31/16		145,208.32
General	June 7/16		220,733.59
General	June 8/16		9,240.00
General	June 13/16		1,013,162.90
U.S. Funds	June 14/16		93.87
"A" Payroll	May 2016	Teachers	1,680,733.41
	May 2016	Support	591,933.74
"B" Payroll	May 2016	Casual	24,120.85
	May 2016	Subs	69,669.78
Total Accounts			5,364,428.37
Board Chair	_____		
PJ:dd			
June 14/2016			

Superintendents Progress Report

June, 2016

Educational Leadership and Student Welfare

- Dialogue between schools and division office are ongoing. Conversation topics have included legal matters, policy, modernizations, processes that ensure student safety and well-being, financial management, instructional leadership, staffing issues, and off-campus activities.
- Hosted Horizon's portion of AB ED's International Education Familiarization Tour which included a tour of Vauxhall High School
- Met with AB ED regarding Teacher Quality Standard, School Leadership Quality Standard, System Leader Standard, and School Authority Leadership Quality Standard (See Appendix)

Fiscal Responsibility

- Associate Superintendent Phil Johansen will be bringing the 2016-17 Budget to the Board for approval. Phil has spent an inordinate amount of time restructuring the way the division creates and manages the budget.

Personnel Management

- Met with Barb Erand, new Principal of Erle Rivers High School regarding jurisdiction and school priorities
- The Human Resource department has been extremely busy this spring. Mr. Bosch will provide a more detailed update in his report.

Policy and Strategic Planning

- Senior Administrative Leadership Team meeting.
- Met with AB ED regarding the jurisdiction's Three Year Education Plan (See Accountability Pillar Appendix)

Organizational Leadership and Management

- Meet with Alberta Infrastructure, Alberta Education, Sahuri Architecture, Board representatives, School Administration, and Division Office Representatives regarding the DAF/WRM modernization
- Met with AB ED regarding TEBA and collective bargaining
- Attended the ASBA SGM
- Reviewed and approved a multitude of year end off-campus School Extra-Curricular fieldtrip requests
- Worked with Amber and Division Office staff to finalize school calendars

Communications and Community Relations

- Attended the ATA FNMI symposium
- Met with Pete Lovering, Southgrow Regional Initiative regarding Green Certificate
- Guest speaker at DA Ferguson (Gr. 6) regarding local government
- Attendance at a number of other meetings and celebrations have taken place over the last month. These include but are not limited to
 - VAB awards banquet
 - WRMyers Graduation
 - ATLitt Graduation
 - TMS Graduation
 - CASSIX
 - School Administrator's meeting

DEPARTMENT OF EDUCATION
DRAFT TEACHING QUALITY STANDARD

Draft: May 27, 2016

DRAFT

DRAFT

Teaching Quality Standard

WHEREAS Alberta’s teachers, students, parents, educational leaders, and members of the public have a strong will to ensure all Alberta students have access to quality learning experiences that enable their achievement of the learning outcomes and goals outlined in provincial legislation and programs of study.

WHEREAS Alberta teachers provide inclusive learning environments in which diversity is respected and members of the school community are welcomed, cared for, respected and safe.

WHEREAS Alberta teachers play a fundamental role in establishing the conditions under which the learning aspirations and the potential of First Nations, Métis and Inuit students will be realized.

WHEREAS quality teaching occurs best when teachers work together with other teachers in the common interest of helping all students succeed in diverse and complex learning environments.

WHEREAS the *Teaching Quality Standard* provides a framework for the preparation, professional growth and evaluation of all teachers.

WHEREAS students, parents and partners in education should be confident that Alberta teachers demonstrate the *Teaching Quality Standard* throughout their careers.

WHEREAS it is important to recognize the value of a consistent standard of practice for all teachers in the province.

1. In the context of this document:

- (a) “competency” means an interrelated set of knowledge, skills and attitudes, developed over time and drawn upon and applied to a particular teaching context in order to support optimum student learning as required by the *Teaching Quality Standard*;
- (b) “inclusive learning environment” means a classroom, school, on-line learning environment or other educational setting structured to anticipate, value and respond to the diverse strengths and needs of all learners;
- (c) “indicator” means an action that could lead to the achievement of a competency and which, together with the competency, is measureable and observable;

- (d) “local community” means community members who have an interest in education and the school, including neighbouring Métis settlements, First Nations and other members of the public;
- (e) “school authority” means a public school board, separate school board, Francophone regional authority, charter school operator or accredited private school operator;
- (f) “school community” means students, teachers and other school staff members, parents/guardians and school council members;
- (g) “school council” means a school council established under the *School Act*, or a parent advisory council established under the *Private Schools Regulation*;
- (h) “standard” (as summarized in the *Teaching Quality Standard*) means the clear expression of the outcome of competent practice;
- (i) “student” means, for the purpose of this standard, an individual enrolled in a school or required by law to attend, and includes a child younger than 6 years of age who is enrolled in an early childhood services program;
- (j) “teacher” means an individual who holds a certificate of qualification as a teacher issued under the *School Act*.

2. The *Teaching Quality Standard*:

Quality teaching occurs when the teacher’s ongoing analysis of the context, and the teacher’s decisions about which pedagogical knowledge and abilities to apply, result in optimum learning for all students.

- 3. All Alberta teachers are expected to meet the *Teaching Quality Standard*. In any given context, reasoned professional judgment must be used to determine whether the *Teaching Quality Standard* is being met.
- 4. The *Teaching Quality Standard* is described by the following competencies and indicators:

Engaging in Career-Long Learning

- (1) A teacher engages in career-long professional learning and ongoing critical reflection to improve teaching and learning.

Achievement of this competency is demonstrated by indicators such as:

- (a) collaborating with other teachers to build personal and collective professional capacities and expertise;
- (b) actively seeking out feedback to enhance teaching practice;
- (c) building capacity to support student success in inclusive, welcoming, caring, respectful and safe learning environments
- (d) seeking, critically reviewing and applying educational research to improve practice;
- (e) enhancing understanding of First Nations, Métis and Inuit worldviews, cultural beliefs, languages and values; and
- (f) maintaining an awareness of emerging technologies to enhance knowledge and inform practice.

Demonstrating a Professional Body of Knowledge

- (2) A teacher applies a current and comprehensive repertoire of effective planning, instruction, and assessment practices to meet the learning needs of every student.

Achievement of this competency is demonstrated by indicators such as:

- (a) planning and designing learning activities that:
 - address the learning outcomes and goals outlined in provincial legislation and programs of study;
 - reflect short, medium and long range planning;
 - incorporate a range of instructional strategies, including the appropriate use(s) of digital technology, according to the context, content, desired outcomes and the learning needs of students;
 - ensure that all students continuously develop skills in literacy and numeracy;
 - communicate high expectations for all students;
 - foster student understanding of the link between the activity and the intended learning outcomes;
 - consider relevant local, provincial, national and international contexts and issues;
 - are varied, engaging and relevant to students;
 - build student capacity for collaboration;
 - incorporate digital technology and resources, as appropriate, to build student capacity for:
 - acquiring, applying and creating new knowledge;
 - communicating and collaborating with others,
 - critical-thinking; and
 - accessing, interpreting and evaluating information from diverse sources;

- consider student variables, including:
 - demographics, e.g. age, gender, ethnicity, religion;
 - social and economic factors;
 - maturity;
 - relationships amongst students;
 - prior knowledge and learning;
 - cultural and linguistic background;
 - second language learning;
 - health and well-being;
 - emotional and mental health; and
 - physical, social and cognitive ability;
- (b) using instructional strategies to engage students in meaningful learning activities, based on:
 - specialized knowledge of the subject areas they teach;
 - an understanding of students' backgrounds, prior knowledge and experiences;
 - a knowledge of how students develop as learners;
- (c) applying student assessment and evaluation practices that:
 - accurately reflect the learner outcomes within the programs of study;
 - generate evidence of student learning to inform teaching practice through a balance of formative and summative assessment experiences;
 - provide a variety of methods through which students can demonstrate their achievement of the learning outcomes;
 - provide accurate, constructive and timely feedback on student learning; and
 - support the use of reasoned judgment about the evidence used to determine and report the level of student learning.

Fostering Effective Relationships

- (3) A teacher builds positive and productive relationships with students, parents/guardians, peers and others in the school and local community to support student learning.

Achievement of this competency is demonstrated by indicators such as:

- (a) acting consistently with fairness, respect and integrity;
- (b) demonstrating empathy and a genuine caring for others;
- (c) providing culturally appropriate and meaningful opportunities for students and for parents/guardians, as partners in education, to support student learning;
- (d) inviting First Nations, Métis and Inuit parents/guardians, Elders/knowledge keepers, cultural advisors and local community members into the school and classroom;
- (e) collaborating with community service professionals, including mental health, social services, justice, health and law enforcement; and
- (f) honouring cultural diversity and promoting intercultural understanding.

Establishing Inclusive Learning Environments

- (4) A teacher establishes, promotes and sustains inclusive learning environments where diversity is embraced and every student is welcomed, cared for, respected and safe.

Achievement of this competency is demonstrated by indicators such as:

- (a) fostering equality and acceptance with respect to age, ethnicity, culture, religious belief, gender, gender identity, gender expression, physical ability, cognitive ability, family status and sexual orientation;
- (b) using appropriate universal and targeted strategies and supports to address students' strengths, learning challenges and areas for growth;
- (c) communicating a philosophy of education affirming that every student can learn and be successful;
- (d) being aware of and facilitating responses to the emotional and mental health needs of students;
- (e) recognizing and responding to specific learning needs of individual or small groups of students and, when needed, collaborating with service providers and other specialists to design and provide targeted and specialized supports to enable achievement of the learning outcomes;
- (f) employing classroom management strategies that promote positive, engaging learning environments;
- (g) incorporating students' personal and cultural strengths into teaching and learning; and
- (h) providing opportunities for student leadership.

Applying Foundational Knowledge about First Nations, Métis and Inuit

- (5) A teacher develops and applies foundational knowledge about First Nations, Métis and Inuit for the benefit of all students.

Achievement of this competency is demonstrated by indicators such as:

- (a) understanding the historical, social, economic, and political implications of:
 - treaties and agreements with First Nations;
 - agreements with Métis; and
 - residential schools and their legacy;
- (b) supporting student achievement by engaging in collaborative, whole school approaches to capacity building in First Nations, Métis and Inuit education;
- (c) using the programs of study to provide opportunities for all students to develop a knowledge and understanding of, and respect for, the histories, cultures, languages, contributions, perspectives, experiences and contemporary contexts of First Nations, Métis and Inuit; and
- (d) supporting the learning experiences of all students by using resources that accurately reflect and demonstrate the strength and diversity of First Nations, Métis and Inuit.

Adhering to Legal Frameworks and Policies

- (6) A teacher demonstrates an understanding of and adherence to the legal frameworks and policies that provide the foundations for the Alberta education system.

Achievement of this competency is demonstrated by indicators such as:

- (a) maintaining an awareness of, and responding in accordance with, requirements authorized under the *School Act* and other relevant legislation;
- (b) engaging in practices consistent with policies and procedures established by the school authority; and
- (c) recognizing that the professional practice of a teacher is bound by standards of conduct expected of a caring, knowledgeable and reasonable adult entrusted with the custody, care or education of students.

DRAFT

GOVERNMENT OF ALBERTA

DEPARTMENT OF EDUCATION

DRAFT SCHOOL LEADERSHIP QUALITY STANDARD

Draft: May 27, 2016

DRAFT

School Leadership Quality Standard

WHEREAS Alberta's teachers, students, parents, educational leaders, and members of the public have a strong will to ensure all Alberta students have access to quality learning experiences that enable their achievement of the learning outcomes and goals outlined in provincial legislation and programs of study.

WHEREAS school leaders have an important role in fostering collaboration, engagement and empowerment of all partners in the education system to enable all students to achieve their potential.

WHEREAS the success of all members of the school community requires inclusive environments in which diversity is respected and members of the school community are welcomed, cared for, respected, and safe.

WHEREAS school leaders play a fundamental role in establishing and supporting the conditions under which the learning aspirations and the potential of First Nations, Métis and Inuit students will be realized.

WHEREAS school leaders in Alberta schools are accomplished teachers able to create the conditions within which quality teaching and optimum learning can occur and be sustained.

WHEREAS the *School Leadership Quality Standard* provides a framework to support the professional growth, supervision and evaluation of all school leaders.

WHEREAS students, parents and other partners in education should be confident that Alberta school leaders demonstrate the *School Leadership Quality Standard* throughout their careers.

WHEREAS it is important to recognize the value of a consistent standard of practice for all school leaders in the province.

1. In the context of this document:

- (a) "competency" means an interrelated set of knowledge, skills, and attitudes developed over time and drawn upon and applied to a particular leadership context in order to support quality teaching and optimum learning as required by the *School Leadership Quality Standard*;

- (b) “inclusive learning environment” means a classroom, school, on-line learning environment or other educational setting structured to anticipate, value and respond to the diverse strengths and needs of all learners.
- (c) “indicator” means an action that could lead to the achievement of a competency and which, together with the competency, is measurable and observable;
- (d) “local community” means community members who have an interest in education and the school, including neighbouring Métis settlements, First Nations and other members of the public;
- (e) “principal” means principal under the *School Act*;
- (f) “reconciliation” means the process and goal of creating societal change through a fundamental shift in thinking and attitudes, increasing inter-cultural understanding to build a better society through learning about First Nations, Métis and Inuit perspectives and experiences, including residential schools and treaties;
- (g) “school authority” means a public school board, separate school board, Francophone regional authority, charter school operator or accredited private school operator;
- (h) “school community” means students, teachers and other school staff members, parents/guardians and school council members;
- (i) “school council” means a school council established under the *School Act*, or a parent advisory council established under the *Private Schools Regulation*;
- (j) “school leader” means a principal, assistant principal, associate principal, vice principal or other locally identified teachers with leadership designations;
- (k) “standard” (as summarized in the *School Leadership Quality Standard*) means the clear expression of the outcome of competent practice;
- (l) “student” means, for the purposes of this standard, an individual enrolled in a school or required by law to attend, and includes a child younger than 6 years of age who is enrolled in an early childhood services program; and
- (m) “teacher” means an individual who holds a certificate of qualification as a teacher issued under the *School Act*.

2. The *School Leadership Quality Standard*:

Quality school leadership occurs when the school leader’s ongoing analysis of the context, and the school leader’s decisions about what leadership knowledge and abilities to apply, result in quality teaching and optimum learning for all students in the school.

3. The *School Leadership Quality Standard* applies to all school leaders employed in a school authority. Principals are accountable for the demonstration of all the competencies. Assistant principals, associate principals, vice principals, and other locally identified teachers with school leadership designations are accountable for the demonstration of competencies directly related to their assigned role and leadership designation. In any given context, reasoned professional judgment must be used to determine whether the *School Leadership Quality Standard* is being met.
4. Every school leader must:
 - a. be certificated to teach in Alberta;
 - b. fulfill the applicable provincial requirements, and
 - c. meet other applicable school authority requirements for school leaders, as defined in local policy.
5. The *School Leadership Quality Standard* is described by the following competencies and indicators:

Modeling Commitment to Professional Learning

- (1) A school leader engages in career-long professional learning and ongoing critical reflection to identify opportunities for improving school leadership, teaching, and learning.

Achievement of this competency is demonstrated by indicators such as:

- (a) engaging with teachers and other school leaders to build personal and collective professional capacities and expertise;
- (b) actively seeking out feedback and information from a variety of sources to enhance leadership practice;
- (c) seeking, critically reviewing and applying educational research to inform effective practice;
- (d) engaging members of the school community to build a shared understanding of current trends and priorities in the Education system.

Fostering Effective Relationships

- (2) A school leader builds positive working relationships with students, teachers, support staff, parents/guardians, school councils and community groups.

Achievement of this competency is demonstrated by indicators such as:

- (a) acting with fairness, respect and integrity;
- (b) demonstrating empathy and a genuine concern for others;

- (c) creating a welcoming, caring, respectful and safe learning environment;
- (d) creating opportunities for parents/guardians, as partners in education, to take an active role in their children's education;
- (e) establishing relationships based on mutual trust with First Nations, Métis and Inuit parents/guardians, Elders/knowledge keepers, local leaders and community members;
- (f) demonstrating a commitment to the health and well-being of all students in the school and acting in their best interests;
- (g) modeling and promoting open, collaborative dialogue;
- (h) communicating, facilitating and solving problems effectively; and
- (i) implementing processes for improving working relationships and dealing with conflict within the school community.

Embodying Visionary Leadership

- (3) A school leader collaborates with the school community to create and implement the school's shared vision for student success, engagement, learning and well-being.

Achievement of this competency is demonstrated by indicators such as:

- (a) communicating a philosophy of education that is student-centred and based on sound principles of effective teaching and leadership;
- (b) recognizing the school community's values and aspirations and demonstrating an appreciation for diversity;
- (c) collaborating with other school and school authority leaders to address challenges and priorities;
- (d) supporting school community members, including school councils, in fulfilling their roles and responsibilities;
- (e) promoting innovation, enabling positive change, and fostering commitment to continuous improvement; and
- (f) accessing, sharing and using a range of data to determine the school community's progress towards achieving school goals.

Leading a Learning Community

- (4) A school leader nurtures and sustains a school culture that supports evidence-informed teaching and learning.

Achievement of this competency is demonstrated by indicators such as:

- (a) fostering in the school community equality and acceptance with respect to age, ethnicity, culture, religious belief, gender, gender identity, gender expression, physical ability, cognitive ability, family status and sexual orientation;

- (b) creating an inclusive learning environment in which diversity is embraced, a sense of belonging is emphasized, and all students and staff are welcomed, cared for, respected, and safe;
- (c) developing a shared responsibility for the success of all students;
- (d) cultivating a culture of high expectations for all students and all members of the school staff as leaders of their own learning;
- (e) creating meaningful, collaborative learning opportunities for teachers and support staff;
- (f) establishing opportunities and expectations for the positive involvement of parents/guardians in supporting student learning;
- (g) creating an environment for the safe and ethical use of technology;
- (h) collaborating with community service agencies to provide wrap-around supports for all students who may require them, including those with mental health needs; and
- (i) recognizing student, staff and school accomplishments.

Supporting the Application of Foundational Knowledge about First Nations, Métis and Inuit

- (5) A school leader supports the school community in acquiring and applying foundational knowledge about First Nations, Métis and Inuit for the benefit of all students.

Achievement of this competency is demonstrated by indicators such as:

- (a) understanding the historical, social, economic, and political implications of:
 - treaties and agreements with First Nations;
 - agreements with Métis; and
 - residential schools and their legacy;
- (b) aligning school resources and building the capacity of the school community to support First Nations, Métis and Inuit student achievement;
- (c) enabling all school staff and students to gain a knowledge and understanding of, and respect for, the histories, cultures, languages, contributions, perspectives, experiences and contemporary contexts of First Nations, Métis and Inuit; and
- (d) pursuing opportunities and engaging in practices to facilitate reconciliation within the school community.

Providing Instructional Leadership

- (6) A school leader ensures that every student has access to quality teaching and optimum learning experiences.

Achievement of this competency is demonstrated by indicators such as:

- (a) building the capacity of teachers to respond to the learning needs of all students;

- (b) implementing professional growth, supervision and evaluation processes to ensure that all teachers meet the *Teaching Quality Standard*;
- (c) ensuring that all instruction in the school addresses learning outcomes and goals outlined in provincial legislation and programs of study;
- (d) facilitating mentorship and induction supports for teachers and school leaders, as required;
- (e) demonstrating a strong understanding of effective pedagogy and curriculum;
- (f) facilitating the use of a variety of technologies to support learning for all students;
- (g) ensuring that student assessment and evaluation practices are fair, appropriate, and evidence-informed;
- (h) interpreting a wide range of data to inform school practice and enable success for all students; and
- (i) facilitating access to resources, agencies and experts within and outside the school community to enhance student learning and development.

Developing Leadership Capacity

- (7) A school leader provides opportunities for members of the school community to develop leadership capacity and to support others in fulfilling their educational roles.

Achievement of this competency is demonstrated by indicators such as:

- (a) demonstrating consultative and collaborative decision-making that is informed by open dialogue and multiple perspectives;
- (b) identifying, mentoring and empowering teachers in educational leadership roles;
- (c) promoting the engagement of parents in the school council and facilitating the constructive involvement of the school council in school life;
- (d) creating opportunities for students to participate in leadership activities and to exercise their voice in school leadership and decision making; and
- (e) promoting team building and shared leadership among members of the school community.

Managing School Operations and Resources

- (8) A school leader effectively directs school operations and manages resources.

Achievement of this competency is demonstrated by indicators such as:

- (a) identifying and planning for areas of need;
- (b) applying principles of effective teaching and learning, child development, and ethical leadership to all decisions;
- (c) aligning practices, procedures, policies, decisions, and resources with the vision, goals and priorities of the school and school authority;

- (d) following through on decisions made by allocating resources (human, physical, technological and financial) to provide the learning environments and supports needed to enable and/or improve learning for all students;
- (e) facilitating access to appropriate technology and digital learning environments; and
- (f) ensuring school operations align with provincial legislation, regulations and policies, and the policies and processes of the school authority.

Understanding and Responding to the Larger Societal Context

- (9) A school leader understands and appropriately responds to the political, social, economic, legal and cultural contexts impacting the school.

Achievement of this competency is demonstrated by indicators such as:

- (a) supporting the school community in understanding the legal frameworks and policies that provide the foundations for the Alberta education system;
- (b) representing the needs of students at the community, school authority and provincial levels;
- (c) engaging local community partners to understand local contexts;
- (d) demonstrating an understanding of local, provincial, national, and international issues and trends and their implications for education; and
- (e) facilitating school community members' understanding of local, provincial, national, and international issues and trends related to education.

DEPARTMENT OF EDUCATION

DRAFT SCHOOL AUTHORITY LEADERSHIP QUALITY STANDARD

Draft: May 13, 2016

DRAFT

School Authority Leadership Quality Standard DRAFT

WHEREAS Alberta’s teachers, students, parents, educational leaders, and members of the public have a strong will to ensure all Alberta students have access to quality learning experiences that enable their achievement of the learning outcomes and goals outlined in provincial legislation and programs of study.

WHEREAS quality leadership occurs best when school authority leaders collaborate with teachers, school leaders, school councils and parents in supporting student success.

WHEREAS the practice of teachers, school leaders and school authority leaders must be informed by current, relevant educational research, with a focus on career-long improvement.

WHEREAS the success of all members of the school authority community in their respective roles requires inclusive environments in which diversity is embraced and its members feel welcome, safe, cared for and respected.

WHEREAS school authority leaders play a fundamental role in establishing and supporting the conditions under which the learning aspirations and the potential of First Nations, Métis and Inuit students are realized.

WHEREAS it is important to recognize the value of a consistent standard of practice for all school authority leaders in the province.

1. In the context of this document,
 - (a) “board”, in this document, means the governing body of a public school authority, separate school authority, francophone regional authority or charter school operator;
 - (b) “competency” means an interrelated set of knowledge, skills, and attitudes developed over time and drawn upon and applied to a particular leadership context in order to support quality teaching and optimum learning as required by the *School Authority Leadership Quality Standard*;
 - (c) “indicator” means an action taken that could lead to the achievement of the competency and which, together with the competency, is measureable and observable;
 - (d) “local community” means citizens residing in or near the school authority who have an interest in education and school authority operations, including neighbouring First Nations and other members of the public;
 - (e) “principal” means principal as defined in the *School Act*;
 - (f) “reconciliation” means the process and goal of creating societal change through a fundamental shift in thinking and attitudes, increasing inter-cultural understanding to

build a better society through learning about First Nations, Métis and Inuit perspectives and experiences, including residential schools and treaties.

- (g) “school authority” means a public school board, separate school board, Francophone Regional Authority, charter school operator or accredited private school operator;
- (h) “school community” means the staff of the school authority, along with students, teachers and other school staff members, parents/guardians and school council members;
- (i) “school authority leader” means a superintendent of schools, deputy superintendent, associate and assistant superintendents, as well as other locally identified school authority educational leaders certificated to teach in Alberta;
- (j) “school council” means a school council established under the *School Act* or a parent advisory council established under the *Private Schools Regulation*;
- (k) “standard”, as summarized in the *School Authority Leadership Quality Standard*, means the clear expression of the outcome of competent practice;
- (l) “staff” means all certificated and non-certificated persons whose role in the school authority is to provide educational services to students;
- (m) “student” means, for the purposes of this standard, an individual enrolled in a school or required by law to attend, and includes a child younger than 6 years of age who is enrolled in an early childhood services program;
- (n) “superintendent” means a superintendent of schools as referred to in the *School Act*; and
- (o) “teacher” means an individual who holds a certificate of qualification as a teacher issued under the *School Act*.

2. The *School Authority Leadership Quality Standard*

Quality school authority leadership occurs when the school authority leader’s ongoing analysis of the context, and the school authority leader’s decisions about what leadership knowledge and abilities to apply, result in quality school leadership, quality teaching and optimum learning for all students in the school authority.

3. The *School Authority Leadership Quality Standard* applies to school authority leaders. Superintendents of schools are accountable for the demonstration of all competencies while other school authority leaders are accountable for the demonstration of those competencies directly related to their assigned role and leadership designation. In any given context, reasoned professional judgment must be used to determine whether the *School Authority Leadership Quality Standard* is being met.

4. Every school authority leader, in providing educational services to students and/or staff, must:
 - (a) be certificated to teach in Alberta,
 - (b) fulfill the applicable provincial requirements, and
 - (c) meet other applicable requirements for school authority leaders, as defined in local policy.

5. The *School Authority Leadership Quality Standard* is described by the following competencies and indicators:

Building Effective Relationships

- (1) The school authority leader establishes a welcoming, caring, respectful and safe learning environment by building positive and productive relationships with members of the school community and the local community.

Achievement of this competency is demonstrated by indicators such as:

- (a) collaborating with community and provincial agencies to address the needs of students and their families;
- (b) employing team-building strategies and using solution-focused processes to resolve challenges;
- (c) modeling ethical leadership practices, based on integrity and objectivity;
- (d) establishing constructive relationships with staff, school councils, parents/guardians, employee organizations, the education ministry and other stakeholders; and
- (e) facilitating the meaningful participation of members of the school community and local community in decision-making.

Modeling Commitment to Professional Learning

- (2) A school authority leader engages in career-long professional learning and ongoing critical reflection, identifying and acting on opportunities for enhancing leadership, teaching, and learning.

Achievement of this competency is demonstrated by a number of indicators, such as:

- (a) communicating a personal philosophy of education that is student-centered and based on sound principles of effective teaching and leadership;
- (b) collaborating with teachers, school leaders and other school authority leaders to build professional capacities and expertise;
- (c) actively seeking out feedback and information from a variety of sources to enhance leadership practice;

- (d) seeking, critically-reviewing and applying educational research to decisions and practices;
- (e) engaging in research initiatives, where appropriate; and
- (f) engaging with the members of the school authority to establish a shared understanding of current trends and priorities in the education system.

Visionary Leadership

- (3) The school authority leader engages with the school community in the development and implementation of a vision of a preferred future for student success, based on common values and beliefs.

Achievement of this competency is demonstrated by indicators such as:

- (a) ensuring that the vision is informed by research on effective learning, teaching and leadership;
- (b) building structures to support staff in professional collaboration, innovation, and continuous improvement;
- (c) promoting in the school community a common understanding of and support for the school authority's goals, priorities, roles and responsibilities; and
- (d) ensuring that the school authority's education plan is aligned with the school community's vision, meets all requirements identified in provincial legislation and is responsive to the ongoing analysis of the school authority's achievements.

Leading Learning

- (4) A school authority leader establishes and sustains a learning culture in the school community that promotes critical reflection on practice, shared responsibility for student success and continuous improvement.

Achievement of this competency is demonstrated by indicators such as:

- (a) fostering in the school community equality and acceptance with respect to age, ethnicity, culture, religious belief, gender, gender identity, gender expression, physical ability, cognitive ability, family status and sexual orientation;
- (b) providing learning opportunities, based on research-informed principles of effective teaching, learning and leadership, to build the capacity of all members of the school community to fulfill their educational roles;
- (c) promoting collaboration, critical thinking and innovation in the school community;
- (d) ensuring that staff have access to resources, programs and expertise to support them in meeting their professional responsibilities and in addressing the learning needs of all students;

- (e) building school leaders' capacities and holding them accountable for providing instructional leadership through effective support, supervision and evaluation practices; and
- (f) ensuring student assessment and evaluation practices in all school authority educational settings that are fair, appropriate, evidence-informed and used to enhance learning, teaching and leadership.

First Nations, Métis and Inuit Education for All Students

- (5) A school authority leader establishes the structures, resources and provision of services necessary for the school community to acquire and apply foundational knowledge about First Nations, Métis and Inuit for the benefit of all students.

Achievement of this competency is demonstrated by indicators such as:

- (a) supporting staff in accessing the professional learning and capacity-building needed to meet the learning needs of First Nations, Métis, Inuit and all other students;
- (b) engaging and collaborating with neighbouring First Nations and Métis leaders, organizations and communities to optimize learning success and development of First Nations, Métis, Inuit and all other students;
- (c) understanding historical, social, economic, and political implications of:
 - treaties and agreements with First Nations;
 - agreements with Métis; and
 - residential schools and their legacy;
- (d) aligning system resources and building organizational capacity to support First Nations, Métis and Inuit student achievement; and
- (e) pursuing opportunities and engaging in practices to facilitate reconciliation within the school authority community.

Managing School Authority Operations and Resources

- (6) A school authority leader directs operations and manages resources in the interests of all students and in alignment with the school authority's vision and priorities.

Achievement of this competency is demonstrated by indicators such as:

- (a) providing direction on fiscal and resource management in accordance with all statutory, regulatory and board requirements;
- (b) ensuring effective alignment of the organization's human resources to achieve the school authority's strategic plan;
- (c) delegating responsibility to staff, where appropriate, to enhance operational efficiency and effectiveness;
- (d) providing for the support, ongoing supervision and evaluation of all staff members in relation to their respective professional responsibilities;

- (e) establishing data-informed strategic planning and decision-making processes that are responsive to changing environments;
- (f) respecting the cultural diversity and differing perspectives of the school authority community;
- (g) recognizing student and staff accomplishments; and
- (h) implementing programs and procedures for the effective management of human resources in support of capacity-building, knowledge-transfer and succession planning.

Supporting Board Governance

- (7) A superintendent of schools, as chief executive officer of the board and chief education officer of the school authority, provides the board with information, advice and support required for the fulfillment of its governance role.

Achievement of this competency is demonstrated by indicators such as:

- (a) establishing and sustaining a productive working relationship with the board, based on mutual trust, respect and integrity;
- (b) ensuring that all students and staff are provided with a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging;
- (c) ensuring that all students in the school authority have the opportunity to meet the standards of education outcomes as set by the Minister of Education;
- (d) ensuring that the board's plans, resource allocations, strategies and procedures lead to the achievement of its goals and priorities;
- (e) ensuring that the school authority's fiscal and resource management is in accordance with all statutory, regulatory and board requirements;
- (f) supporting the board in the fulfilment of its governance functions in the fiduciary, strategic and generative realms;
- (g) implementing board policies and supporting the regular review and evaluation of their impact;
- (h) ensuring the support, ongoing supervision and evaluation of all staff members in relation to their respective professional responsibilities;
- (i) facilitating collaboration between the board and staff and First Nations, Métis and Inuit leaders, organizations and communities to establish strategic policy directions in support of First Nations, Métis and Inuit student achievement and development;
- (j) building the board's and staff's capacity to predict, communicate and respond to emergent environmental factors, including emergency readiness and crisis management, and to political, social, economic, legal and cultural contexts and trends;
- (k) reporting to the Minister on all matters required of the superintendent of schools, as identified in the *School Act*;

- (l) facilitating ongoing public communication about the board's operations and the achievement of its goals and priorities; and
- (m) promoting constructive relations between the board and staff, provincial authorities, post-secondary institutions and education stakeholders.

DRAFT

Accountability Pillar Overall Summary
 3-Year Plan - May 2016
 Authority: 1045 Horizon School Division No. 67



Measure Category	Measure Category Evaluation	Measure	Horizon Sch Div No. 67			Alberta			Measure Evaluation		
			Current Result	Prev Year Result	Prev 3 Year Average	Current Result	Prev Year Result	Prev 3 Year Average	Achievement	Improvement	Overall
Safe and Caring Schools	Excellent	Safe and Caring	93.7	93.0	92.6	89.5	89.2	89.1	Very High	Improved	Excellent
Student Learning Opportunities	Excellent	Program of Studies	82.9	82.3	81.6	81.9	81.3	81.4	Very High	Maintained	Excellent
		Education Quality	92.8	93.5	92.6	90.1	89.5	89.5	Very High	Maintained	Excellent
		Drop Out Rate	3.0	3.6	4.1	3.2	3.5	3.5	High	Improved	Good
		High School Completion Rate (3 yr)	81.2	84.5	80.5	76.5	76.5	75.5	High	Maintained	Good
Student Learning Achievement (Grades K-9)	Acceptable	PAT: Acceptable	75.8	77.0	76.5	73.0	73.1	73.9	Intermediate	Maintained	Acceptable
		PAT: Excellence	17.7	14.9	17.2	18.8	18.4	18.9	Intermediate	Maintained	Acceptable
Student Learning Achievement (Grades 10-12)	n/a	Diploma: Acceptable	89.5	91.8	92.1	85.2	85.5	84.6	High	Declined	Acceptable
		Diploma: Excellence	19.7	19.6	20.9	21.0	21.1	20.0	Intermediate	Maintained	Acceptable
		Diploma Exam Participation Rate (4+ Exams)	41.8	49.3	45.3	54.6	54.4	53.5	Low	Maintained	Issue
		Rutherford Scholarship Eligibility Rate	60.1	n/a	n/a	60.8	n/a	n/a	n/a	n/a	n/a
Preparation for Lifelong Learning, World of Work, Citizenship	Excellent	Transition Rate (6 yr)	57.5	54.0	59.3	59.4	59.7	59.3	High	Maintained	Good
		Work Preparation	88.5	88.2	87.8	82.6	82.0	81.1	Very High	Maintained	Excellent
		Citizenship	89.0	87.7	87.3	83.9	83.5	83.4	Very High	Improved	Excellent
Parental Involvement	Excellent	Parental Involvement	86.1	85.9	85.5	80.9	80.7	80.5	Very High	Maintained	Excellent
Continuous Improvement	Excellent	School Improvement	86.7	87.0	86.0	81.2	79.6	80.0	Very High	Maintained	Excellent

From: **Education Minister** <Education.Minister@gov.ab.ca>
Date: Fri, Jun 3, 2016 at 12:25 PM
Subject: Update on Education Legislation
To:

**TO: Board Chairs of Public, Separate, Francophone and Charter School Boards
FNMI Regional Contacts
Presidents of Stakeholder Associations**

Over the past several months, I have been conducting an extensive review of the Education Act and its proposed regulations. Throughout this process it has become clear to me further discussion and collaboration is needed on specific policy shifts that would take effect should the Education Act be proclaimed.

As such, the *School Act* will remain in effect for the 2016/17 school year. This legislation has served Albertans well, and will continue to do so.

In the coming months, I will engage our education partners to further discuss education legislation.

I truly appreciate the time and effort you and your organizations, as well as many other Albertans, have put into the Education Act to date. A wealth of information and insight has been gathered and will, I assure you, continue to be put to good use as we continue our legislative review.

In the coming months, I will have more information about the format, timing and scope of future discussions regarding the Education Act. In the meantime, I would ask that you share this information, as you deem necessary, with students, parents and others impacted by the *School Act* remaining in effect.

Lastly, I want to restate that our government is committed to the education of our children. We demonstrated this through the providing of stable and predictable funding in Budget 2016, funding that we know will be put to good use as our attention shifts to the 2016/17 school year.

I thank you, as always, for your contributions to K-12 education in our province. I believe, by working together, we will ensure that legislation will continue to meet the needs our students.

Sincerely,

David Eggen
Minister

cc: Superintendents of Public, Separate, Francophone and Charter School Boards
Executive Directors of Stakeholder Associations
Private Schools and Early Childhood Care Operators
School Division Communications Contact



Aggressive Curriculum Review Coming, Alberta Education Minister Says

JUNE 14, 2016 6:00 AM

The provincial government is planning a comprehensive curriculum review and revamp “unlike any seen in Alberta,” Education Minister David Eggen says. Every subject area in the K-12 curriculum will be reviewed and rewritten in 18 months, Eggen said, promising more details Wednesday.

“We have some curricula that are almost 30 years old. That’s the art curriculum, as it happens. There’s a whole range, a constellation of curriculum that needs updating. It is very exciting,” he said. The previous “stop, start, stop, start” approach of revisiting what Alberta students are expected to learn in each grade will also end, giving way to a new, ongoing process, Eggen said. Some expectations of students will now stretch across traditional subject areas like math, science or language arts, he said. “It’s going to be a big deal.” How students are tested and evaluated will also better match the curriculum, he said.

That move would be welcome news to University of Lethbridge education professor David Slomp. Standardized tests Alberta students write in Grade 6, 9 and 12 examine such narrow scraps of students’ skill and knowledge that teachers focus disproportionately on preparing them for the exams, said Slomp, a past language arts teacher who has been consulted on curriculum development.

“Until government decides that it wants to address the problems with our large-scale assessment program, I don’t really think it matters what you do with curriculum. We’re going to be locked into the same problems that we currently have.” There are gaps between the current curriculum and how students are tested, said Alberta Teachers’ Association president Mark Ramsankar. He wants government to do away with end-of-year provincial exams, and instead assess students’ strengths and deficits earlier in the year.

That approach would give teachers more information about where their students need the most work, he said. Modernizing Alberta’s curriculum is long overdue, said Edmonton Catholic school board chairwoman Marilyn Bergstra. She has advocated for comprehensive mental health lessons and technological skills to be included in the curriculum. Employers need pliable thinkers and empathetic, creative problem solvers, not factory “robots” who can follow commands, Bergstra said. Knowing how to program a website is as crucial now as the ability to write an essay, she said. “They don’t need to memorize how many states are in America. They can Google that.”

Other advocates have also pointed to Alberta’s sex education curriculum as badly outdated. Eggen said health is part of the review. The former Progressive Conservative government was in the midst of revamping the curriculum when it was turfed from office in 2015. In 2014, government was spending \$30 million annually on that task. What’s happened to the work, or how it might be used now, is unclear. Curriculum renewal was paused by Jim Prentice’s government, Eggen’s press secretary, Larissa Liepins, said in an email.

The PC government’s earlier efforts came as Alberta parents and teachers raised alarm about the new “discovery math” approach, which teaches students numerous methods to solve one problem. Critics claimed the method was responsible for declining provincial math scores. Hundreds of parents enrolled their children in math tutoring programs that used more traditional teaching methods.

Teachers are best poised to decide which methods to use to impart each concept, said Ramsankar. He said the current math curriculum is too prescriptive about which strategies teachers should employ.

jfrench@postmedia.com

Home-Schooling Loophole Spells Trouble

School superintendent sees problems with congregated sites

J.W. Schnarr -Lethbridge Herald
jwschnarr@lethbridgeherald.com

The province must close a home-schooling loophole that is harming the quality of education for many students attending congregated school sites, says the superintendent of a southern Alberta school division.

Brian Andjelic, superintendent for Prairie Rose School Division, said he has seen many issues with the education of children in congregated sites when they transition into public schools. So much that he has written a letter to the Ministry of Education asking for more involvement.

“In some cases, we have students and families who come to the public schools because they know full well themselves that they are not receiving a standardized education,” he said. “They come to us to get (quality teaching). Are there learning issues? Absolutely.”

Congregated sites are spaces where home-school children come together and are instructed by non-certified teachers. In southern Alberta, these sites are often found in churches for children from Low German Mennonite communities.

LGM families who put their children in congregated sites often begin by enrolling their children in obscure private schools. These schools might only have 40 actual students in them but could have 800 or more home-school students who are in these congregated sites.

And because they are registered in a home-schooling program, children are generally considered to be “in school” during the day. Don Zech, a trustee for Palliser Regional Schools who helped set up that district’s LGM schools, said that is not always the case. “Many of them are being used for child labour for babysitting, or housecleaning, either at home or for other people,” he said. “Some of them have jobs. I know some are employed by rural businesses in southern Alberta. “There’s no accountability whether they are getting any school work done. Or if they are getting it done, how well are they doing it?”

As the majority of congregated sites are comprised of English as Second Language students, Andjelic said it should be expected that there is a discrepancy in the level of education (ESL students face barriers with communication).

However, looking at the education levels of many congregated site students making the transition to public school, there is reason to be concerned they are not receiving an adequate education. “(LGM families) have told us, directly, that in some of these cases, they are just not satisfied with the level of education they are receiving in these congregated home-school settings that don’t have a qualified teacher,” Andjelic said. “That’s why they’ve come with us.”

He noted the situation can be hard on the families, as there is often a lot of pressure from the church that the children remain at the congregated sites.

“It takes a lot of courage for a family to withdraw from that,” he said.

Horizon School Division is another school district dealing with a large LGM population. It is unclear on the exact number of students attending these sites, but there is some indication many, possibly hundreds, of LGM children may not be taking part in any schooling at all or participating in limited schooling through congregated sites.

Wilco Tymensen, superintendent for HSD, said he is concerned about the rights of children to be able to gain an education to allow them to be successful in society, in spite of the wishes of parents. “Our world is ever-changing,” he said. “If you ask businesses what they want, they want kids who are ethical, engaged and can learn and work together, critically think, and who are complex problem solvers.” “They want future leaders who have the skills. My question becomes, ‘Are all kids living in our geographic boundary getting those skills?’ And if not, that’s not right.”

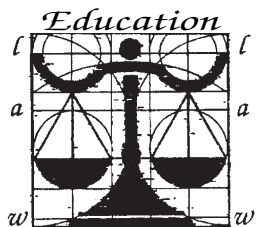
Zech said belief in a parent’s choice does not mean all the options are viable ones. “I believe in choice,” he said. “But not educating your children is not a choice.” Because the instructors at congregated sites are not certified, there is no guarantee the education level is held to any standard.

A press secretary for Minister of Education David Eggen provided a statement which read in part:

“The minister is committed to supporting all Alberta students in their education, regardless of whether they learn in a school or at home. In the case of home education, a certified teacher employed by an Alberta school board or an accredited private school measures the progress of the student at least twice a year.”

Andjelic said the issues seen with transitioning students show these assessments clearly are not enough. Tymensen said the issue can come down to one of parental rights in education versus children’s rights to receive a complete education. “Certainly, parents have a right to be involved in a child’s education, but kids have rights as well,” he said. “They have a right to receive a high-quality education. They have a right to feel safe, secure and welcomed. Let’s be sure the kids are getting what they need to be successful.”

There is potential for a lot of upside for rural school divisions to encourage LGM families to attend public school. Rural depopulation can be partially offset by swelling LGM populations. This allows the districts to keep staff and continue programs they might not otherwise receive funding for. “We’re trying to provide as many options to meet as many needs as our budget and resources will allow,” Andjelic said. “That’s been our strategy. We work together with families and try to be as flexible as we can.” “They are great kids, and great parents,” Zech said. “They are good community people. The more we can include them in our communities, and have it so they can function in a 21st Century Canadian society, at any level they choose to, is really important. They shouldn’t be handicapped by inadequate education.”



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STUDENTS and THE LAW

Harassment: Discrimination Claim will Proceed

Facts

Child G was born in Romania in 1997. When she was 2, she came to Canada and was adopted by Parent F and her same-sex partner. Eventually, it was discovered that she had a number of learning disabilities and, accordingly, she was sent to School H (“the School”), which had the resources to address these disabilities, starting in Grade 8.

In her Grade 9 year, G began making complaints of harassment and bullying by other students. Accordingly F, acting on G’s behalf, brought a complaint against the School before the British Columbia Human Rights Tribunal (“the Tribunal”), alleging discrimination (by failing to provide a harassment-free environment) in the provision of a service (education) contrary to s.8 of the *Human Rights Code* (“the Code”), on the basis of sex, perceived sexual orientation, family status, and actual and/or perceived mental disability.

The School denied the allegations and brought an application to dismiss the complaint. The Tribunal dismissed the application, however, on the basis that the allegations, if proved true, would constitute a breach of the *Code*.

Cause of Action

The School applied for judicial review of the Tribunal’s decision to dismiss their application.

Decision

The application was denied.

Reasons

Allegations

The specific allegations against the School are that it failed to investigate, or made a limited response to G’s allegations of harassment; failed to take G’s disabilities into account in relation to her accounts of harassment; improperly treated G’s allegations of harassment resulting in her suspension; and failed to provide G with alternative supervision and education services while she was suspended. The School took the position that it had properly investigated and addressed each allegation and that G was suspended for making false allegations of harassment.

Test for Dismissal: Dismissal of a claim without hearing is available under s. 27(1) of the *Code*, if:

- (a) the complaint is not within the jurisdiction of the tribunal;
- (b) the acts or omissions alleged in the complaint or that part of the complaint do not contravene this Code;
- (c) there is no reasonable prospect that the complaint will succeed;
- (d) proceeding with the complaint would not
 - (i) benefit the person, group or class alleged to have been discriminated against, or
 - (ii) further the purposes of this Code;
- (e) the complaint was filed for improper motives or made in bad faith;
- (f) the substance of the complaint was appropriately dealt with in another proceeding;
- (g) the contravention alleged in the complaint occurred more than 6 months before the complaint was filed.

The School applied for dismissal under ss. 27(1) (b),(c), and (d)(ii). The portion of the application brought under 27(1)(d)(ii) related to claims against individually named administrators and was granted.

27(1)(b): While the Tribunal dismissed the School's arguments made pursuant to s. 27(1)(b), the application for judicial review did not address it. The reviewing Court, however, found that the Tribunal's reasons for dismissing the School's arguments under s. 27(1)(b) were relevant to the issues that were subject to review. Specifically,

Determinations under s. 27(1)(b) are made on the basis of the allegations ... In order to amount to discrimination under the Code, there must be facts alleged from which a

reasonable inference could be drawn that there was a connection, or nexus, between the allegedly discriminatory conduct and a prohibited ground of discrimination...

Here, the complainant alleges that G was bullied and harassed by other students at School H over an extended period of time. It is alleged that G was harassed on the basis of sex, sexual orientation, and family status while attending School H. The allegations include that members of management at School H were told about the bullying and harassment [but]... carried out flawed and inadequate inquiries ...

Without looking at any contrary explanation put forward by the respondents, it is clear that these allegations could amount to violations of the Code.

The test for dismissal of a complaint under s. 27(1)(c) is whether the complainant has no reasonable prospect of success at a hearing. The threshold in this test is low: the complainant need only show that the complaint is based on more than "mere speculation or conjecture."

The onus is on the party seeking dismissal of the complaint to prove, on a balance of probabilities, that there is no reasonable prospect of success at hearing. In other words, it was for the School to prove that G and F had no reasonable prospect of success – not for G & F to prove that they did.

Unlike deliberations under s. 27(1)(b), which are made based upon the assumption that the allegations made in the complaint are true, deliberations under s.27(1)(c) are based on the evidence filed in support and in answer to the application. This amounts to a requirement that the Tribunal undertake a preliminary review of the evidence. It does not require the Tribunal to make findings of fact or determinations of credibility. As stated by the Tribunal:

... rarely have I encountered a complaint that so clearly cannot be

determined on the basis of affidavits filed in a preliminary application. While the extent of the affidavit material filed is not determinative, where support for a respondent's version of events requires extensive affidavit material that is likely to be countered by similarly extensive affidavit material supporting the allegations in the complaint, it is well worth considering the likelihood that the application is not feasible.

... There is considerable untested material before me that does not convince me, on a balance of probability, that there is no reasonable prospect of success. The Tribunal requires the benefit of a hearing procedure to fairly determine the facts. It is unreasonable for a party to expect a point-by-point deliberation of every claim made. It is sufficient to observe that, fundamentally, there remain issues to be decided after a hearing. ...

Standard of Review: British Columbia's *Administrative Tribunals Act*, s. 59, provides that where a tribunal's enabling statute has no privative clause, the standard of review is correctness except for issues involving discretion, findings of fact and the application of the common law rules of natural justice and procedural fairness. The standard for findings of fact is reasonableness, and the standard for discretionary decisions is that they are not to be set aside unless they are patently unreasonable. This occurs when the discretion is exercised arbitrarily or in bad faith, for an improper purpose or the decisions is made on irrelevant factors or fails to take statutory requirements into account.

The reviewing court characterized the Tribunal's Decision as an exercise of its discretion regarding whether or not the School met the test under s. 27(1)(c). Accordingly, the test would be one of patent unreasonableness.

Patent Unreasonableness: What makes a decision "patently unreasonable" is not very clearly defined. The

basic principles, however, are always the same. First, to be reasonable, a decision must be rational. It must be supported by reasons that are, in themselves, reasonable. Specialized tribunals are owed a high degree of deference from reviewing Courts, at least within the subject area of the tribunal's expertise. In this case, the subject-area of expertise is human rights legislation.

The School took the position that the Tribunal's decision was patently unreasonable as regards each of the enumerated grounds and that G had no reasonable prospect of succeeding in obtaining a finding of discrimination because:

- the allegations of bullying and harassment were outside the reach of the *Code*;
- the School investigated the complaints and determined that all but two of them were unfounded;
- G had participated in the conduct of which she complained;
- The School had a progressive educational anti-bullying and harassment strategy;
- complaints of bullying and harassment had declined significantly since G left the School;
- 89% of parents of students at the School expressed an extremely high level of satisfaction with safety at the School; and
- complaints of bullying and harassment stopped after G was told that she had to change her behaviour if she wanted to go along on a class trip to Costa Rica, but started again after she was sent home early from the trip.

With regard to discrimination on the basis of mental disability, it was argued that:

- The School is designed for children with learning disorders;
- G's disability was dyslexia and there was no diagnosis indicating her condition caused her to fabricate events;
- The School employed highly trained professionals to work with its

students, many of whom had to overcome learning disabilities themselves;

- G's allegations of bullying and harassment related to behaviour issues rather than her learning disability; and
- if the Tribunal found there was a disability, the School would have suffered undue hardship in accommodating it.

On the grounds of sexual orientation, the School submitted that the G was neither gay nor perceived to be gay. According to the School, the only evidence on this was that G and another student at the School often teased each other about having gay parents.

Finally, the School argued that the allegations in the complaint did not disclose any circumstances that could reasonably be characterized as differential treatment based on family status.

F and G introduced an equally extensive amount of evidence and arguments to refute all of these arguments, including the information that, at the time, G considered herself bisexual and other students referred to her as a "lez."

Adequacy of Reasons: A good deal of the School's argument focused on what they considered to be the inadequacy of the Tribunal's reasons.

Again, a reviewing court is obligated to show deference to the Tribunal whose reasons are under review. The correct approach to be taken is seen in the Supreme Court of Canada's 2011 decision in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, which builds on the often-cited 2008 *Dunsmuir* decision:

- reasonableness concerns the existence of justification, transparency and intelligibility within the decision-making process;
- the court must not substitute its own reasons for the tribunal's. The court must try to supplement the tribunal's

reasons before it tries to subvert them;

- adequacy of reasons is not a stand-alone basis for review. Reasons must be read as a whole to determine whether the result falls within a range of acceptable outcomes; and
- adequacy of reasons does not require the tribunal to address each and every argument, statutory provision or other law or require analysis, assessment and conclusions on every piece of evidence put before it.

In 2010's *Gichuru v. Law Society of BC*, the British Columbia Court of Appeal set out the test as follows:

In the context of administrative law, reasons must be sufficient to fulfill the purposes required of them, particularly to let the individual whose rights, privileges or interests are affected know why the decision was made and to permit effective judicial review. ...this is accomplished if the reasons, read in context, show why the tribunal decided as it did. The basis of the decision must be explained and this explanation must be logically linked to the decision made. This does not require that the tribunal refer to every piece of evidence or set out every finding or conclusion in the process of arriving at the decision.

The Court found that the School's arguments on the adequacy of the Reasons, and on the deficiencies in their reasoning, arose largely from its reading of isolated excerpts from the tribunal's decision. Reading the decision as a whole, it is clear that the Tribunal considered all of the evidence before it, but chose not to address every piece of that evidence. Rather, the Tribunal stated that it would only address the evidence it considered in reaching its conclusion. Nor did the Tribunal make its decision based on the sheer volume of evidence, as suggested by the School – it is clear that while there was a great deal of evidence, and much of it was in conflict, it was the conflict rather than the volume that led

the Tribunal to conclude that a full hearing would be necessary.

In summary, it was clear that the Court felt the School's arguments for review were largely to do with the Tribunal's failure to accept their version of events over the complainants, even though weighing and testing for credibility was

beyond the scope of the tribunal's jurisdiction on this application. The Court agreed whole-heartedly with the Tribunal that a review of the materials showed there was significant conflict in the evidence on many, if not most, of the key issues and their conclusion that a full hearing of the evidence was

required was not only logical, it was the only reasonable conclusion the Tribunal could have made.

School H v. British Columbia (Human Rights Tribunal), [2016] B.C.J. No. 760; 2016 BCSC 672

Authored by
Hilary Stout LL.B., LL.M.



Discriminatory Practice in Transporting Student: Parties to the Litigation Considered

The Transportation Company

A human rights complaint was brought by EJ against the Toronto District School Board ("the Board"), arising from allegations of discrimination arising from the refusal of a school bus driver to assist EJ in attaching and detaching her child's safety harness on the bus that that transported the child to and from school. This was an interim application to add the school bus company, Stock Transportation, to the application. The Tribunal decided that the complainants' allegations, if proven, would result in a finding of discrimination against Stock and would result in an order involving a Stock employee, and accordingly approved the addition of Stock Transportation.

The Transportation Group – Not a legal Entity

The Board brought its own application to have the Toronto Student Transportation Group ("TSTG") removed as a party on the basis that the TSTG is an unincorporated association with no legal status beyond that of its individual members, and those members are 15 Board employees and 12 Toronto Catholic District School Board ("TCDSB") employees. The Board argued that it would be vicariously liable for the TSTG to the extent that it is operated by its own employees, and that to the extent the TSTG is operated by members of the TCDSB, which is not a party to the application, the application would be delayed. The applicants argued that the lines of accountability for student transportation are unclear; that

the TSTG's Operations and Safety Manager played a central role in the events surrounding C.J.'s transportation issues and the TSTG will be the entity implementing the accommodation plan that they are seeking and should, therefore, remain a party. This is particularly so considering the TSTG's expertise in transportation issues and the various forms of restraint on school buses.

The Tribunal found that in the absence of evidence concerning the operations

of TSTG and the individuals who work for it, it could not assume, based on the submissions of counsel, that the Board would be vicariously liable for TSTG, or that the inclusion of the TCDSB, through the TSTG, would act as a roadblock to resolution.

E.J. v. Toronto District School Board, [2016] O.H.R.T.D. No. 533, 2016 HRTO 537

Authored by
Hilary Stout LL.B., LL.M.



GOVERNMENT, FINANCE and THE LAW

Ontario Education Unions Charter Challenge Succeeds

Facts

In 2012, the Ontario government was facing a number of challenges – primarily economic. The 2008 financial crisis had led to the creation of a significant provincial deficit, and the government was determined to cut spending. At the same time, a significant number of collective agreements in the educational sector were due to expire, with the result that they would either continue until replaced – a situation which would result in an almost immediate increase in the cost of education in the province, in large part due to negotiated pay raises under the various agreements' grid systems. Alternatively, the parties would be free to negotiate a new collective agreement, or to strike – which could

send the province into a major educational mess.

To forestall the problem, the government decided to become more proactive in its involvement in the collective bargaining process. In Ontario, education-sector collective bargaining is a two-part process. First, there is a province-wide negotiation process, referred to as the Provincial Discussion Tables, or "PDT," where broad, general and province-wide issues get dealt with as a whole, after which individual school boards negotiate particulars with the relevant "locals" representing their unionized employees. Agreements reached by the PDTs were implemented by adoption into the local agreements. The government did not function as a party to either the PDT

or local negotiations. From its inception in 2008, the PDT process was voluntary.

In 2012, however, the government fielded its own negotiations team at the PDT. Instead of acting as facilitators, they collectively advised the parties that they had to cut costs significantly, that the public sector had to bear some of the load, and introduced a set of “parameters” which they had developed as a means of achieving their fiscal goals. They were:

- (1) All agreements would be for a 2-year term (September 1, 2012-August 31, 2014);
- (2) there would be no salary increases during this time;
- (3) Sick days could no longer be banked and added to the retirement gratuity.
- (4) Pension negotiations with the Ontario Teachers’ Federation would continue, with the aim of keeping the Ontario Teachers’ Pension Plan solvent without increasing the government’s contributions - which would, at the end of the day, result in reductions in plan benefits.
- (5) Salary grids would be reviewed, and for the 2-year term, no employee would advance to the next level - nor would it be allowable for this to be “made up for” after the 2-year period.

When the 2012 PDT sessions began, the government started things off with a message from the Minister of Education, who advised that their proposal for meeting the “formidable challenge” presented by the economic situation would be shared at the meetings set for the next day, outlined the schedule for those meetings, and “suggested that it would be helpful if financial parameters were agreed to quickly.” The Minister added that she was looking for and expected that the unions would “take up this economic fight” and “share some of the load.”

The “proposal” presented at the meetings was the set of parameters. While taking the position that these were open to discussion, the government negotiation team also made it clear that this was only insofar as the discussion was in regard to other ways the fiscal goals could be met. The unions, not surprisingly, took instant exception to this approach, which they viewed as dealing with fundamental terms and conditions of employment that had been negotiated over many decades. The government’s approach in setting the schedules, dictating who would attend which meetings, and setting the terms to which it sought agreement was seen as an intrusion into the collective bargaining process.

A number of the unions withdrew from the PDT entirely. Some withdrew and came back, and of those, some withdrew again. Some continued. Finally, in July, Ontario entered into a Memorandum of Understanding (“MOU”) with the Ontario Elementary Catholic Teachers Association (OECTA), which was remarkable in that the employer in the case, the Ontario Catholic School Trustees Association (“OCSTA”) withdrew from the PDT a day before the OECTA MOU was announced. “In other words,” as the Court put it, “Ontario entered into an agreement with teachers that did not include the affected employers.”

The government then announced that the OECTA MOU was, essentially, going to be the basis of all agreements for all the unions. Thus, an agreement made by representatives of Catholic School teachers – employees who had different objectives from non-teaching staff or even, arguably, non-Catholic teachers - was going to be imposed on every education worker in the province.

This had the effect of drawing a few unions back to the bargaining table, as they realized that if they didn’t at least try for their own agreements, they would end up living with OECTA’s.

One problem that kept arising was that every time one of these unions would ask for specific information on the financial goals its members were expected to help the government reach, they were told this wasn’t available. In other words, a province-wide set of cuts had been developed and the government was going to spread the effect of those cuts across the entire sector, whether or not the costs related to the bargaining unit in question.

While many of the unions tried to negotiate their own agreements before the deadline, few of them succeeded. On January 2, 2013, Ontario imposed collective agreements on: 1) All of the bargaining units represented by the Ontario Secondary School Teachers’ Federation (the “OSSTF”) and the Elementary Teachers’ Federation of Ontario (“ETFO”); 2) Two bargaining units represented by the Canadian Auto Workers (“CAW”) and; 3) All (7) of the bargaining units represented by the Ontario Public Service Employees’ Union (“OPSEU”).

On January 21, 2013, collective agreements were imposed on 39 different bargaining units of the Canadian Union of Public Employees (“CUPE”), affecting 30 different school boards.

One day later, the government repealed the *PSFA*, leaving the imposed collective agreements in place.

Cause of Action

ETFO, OPSEU, CUPE, Unifor (formerly CAW) and the OSSTF applied for a ruling that the *PSFA* was contrary to s. 2 (d) of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”).

Decision

The application was successful.

Reasons

Section 2(d) of the *Charter* is the section that guarantees freedom of association. While this was not initially seen by all of the Supreme Court as being a constitutional guarantee of the right to bargain collectively, over the years this has

become the case as there has been increased recognition that freedom of association requires that individuals have the right to associate freely, but also that associations have rights, in and of themselves.

The Court, in addressing this argument, underwent a thorough analysis of the history of s. 2(d) and what was done, in this case, that might amount to an infringement of the section. It seems very clear, however, that by imposing its own terms and conditions on both the unions and the employers in the education sector, the government of Ontario was infringing s. 2(d). The real issue was whether or not the infringement could be justified under s. 1 of the *Charter*, by way of the “*Oakes* test.”

Section 1 of the *Charter* states that: The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

The test for how an infringement can be “demonstrably justified in a free and democratic society” was developed in *R. v. Oakes*. The *Oakes* test, as it is known, has two parts: 1) the objective of the government action at issue must relate to concerns which are sufficiently “pressing and substantial” in our free and democratic society to justify any kind of infringement of a *Charter*-protected right and; 2) once it has been determined that the objective of the government action is sufficiently pressing and substantial, it must be shown that the means of achieving the objective which was chosen by the government are both reasonable and demonstrably justified.

Part 2 is referred to as the proportionality test. It has three components:

- The measures adopted must be rationaly connected to the objective;
- the measures should minimally impair the protected right or freedom; and
- there must be a proportionality between the effects of the measures and the identified objective.

Pressing and Substantial: The first matter the Court dealt with was clarifying what right was being infringed. The right of teachers to have higher salaries versus the financial stability of the province of Ontario was not the issue. Protection of the financial status of union members is a benefit sought through reliance on the right to freedom of association. Thus the issue was determined to be whether the need to safeguard the economy of Ontario justified an infringement of the right to freedom of association.

Having regard to the circumstances, the Court found that the need to try to reduce what was an unprecedentedly high deficit for the province was a “pressing and substantial” objective.

Rational Connection: Having passed part 1 of the *Oakes* test, the next question was whether or not the means used by Ontario were rationally connected to its objectives.

Ontario took the position, based on an excerpt from *Canada (Human Rights Commission) v. Taylor*, a 1990 *Charter* decision by the Supreme Court of Canada that

...[A]s long as the challenged provision can be said to further in a general way an important government aim it cannot be seen as irrational...

The court, however, pointed out words from the same case, which modified the excerpt relied on by Ontario:

...As for the ‘rational connection’ aspect of proportionality, the presence in an impugned measure of care of design and lack of arbitrariness – the hallmarks of a rational connection – allows the government to pass a sort of preliminary hurdle...

In short, there are limits to the degree to which reason and logic can be stretched so as to demonstrate the existence of a rational connection. The measures taken should not be arbitrary and there must be some evidence that

care was taken in designing those measures. In this case, everything Ontario did was unilateral, undertaken without consultation, and done in a rush. This shows a significant lack of care of design, and the result was a completely arbitrary interference with an already-established procedure, the PDT.

Failure on this point would have been enough to justify a finding that the *PSFA* was unconstitutional, but the Court went on to address the rest of part two of the *Oakes* test.

Minimal Impairment: Ontario’s position on this point was that it had no obligation to undertake the *most* minimal form of impairment, it is sufficient if the means chosen fall within a range of reasonable approaches to the problem. In this case, however, the Court found that the approach taken was unreasonable, it was directed only at the education sector – that is, other sectors involving provincial employees were not put to the same strictures as the education sector – and its effect was to almost completely do away with collective bargaining for education workers. Clearly, the impairment was far from minimal and, in the Court’s view, not something that could be said to fall within a range of reasonable measures.

Proportionality: With regard to the final part of the *Oakes* test, the Court characterized the government’s actions as “running right over” the rights of employees, with an impact that “was not just on the economic circumstances of education workers but on their associational rights and the dignity, autonomy and equality that comes with the exercise of that fundamental freedom.” In short, while the need to reduce the deficit was sufficiently “pressing and substantial” the means chosen to do it were disproportionately hard on education workers and therefore not justifiable.

OPSEU v. Ontario, 2016 ONSC 2197

Authored by
Hilary Stout LL.B., LL.M.



Implications and Applications

While the *OPSEU* matter was making its way to, and through, the Courts, other issues and grievances relating to the imposed agreements were arising. For example, in *Thames Valley District School Board v Elementary Teachers' Federation of Ontario (Performance of Duties Grievance)*, [2016] O.L.A.A. No. 143 (“*Thames Valley*”), the employer Thames Valley District School Board (“the Board”) filed a grievance arising from the refusal by teachers in its employ to perform certain duties during November of 2012. The Board took the position that these actions violated the Education Act, the Labour Relations Act 1995 and the collective agreement. The Union argued that the issues in the grievance were moot, as a new collective agreement had been negotiated by the time of the hearing, there was no risk of any work-to-rule activity occurring for a long time and therefore no labour relations purpose would be served by proceeding. It is of note that the activities in question were all of the type characterized as “voluntary” in Ontario – coaching sports teams, directing plays, essentially doing any of the many things teachers do that is not, strictly speaking, “teaching” and which takes

place primarily after the school day ends.

When the mootness issue was first raised in 2014, the arbitrator ruled that unless the Union admitted that the teachers’ actions in November 2012 constituted a strike, then a live issue would remain between the parties. The Union did not make that admission, and accordingly the matter was set for hearing in December of 2015. At that hearing, the Unions again raised the issue of mootness.

This matter arose from a concerted work-to-rule action by the teachers employed by the Board during November 2012 (when the *Putting Students First Act* was in effect), prior to the date upon which the teachers were in a legal strike position. The Board sought a formal declaration that this particular work-to-rule action was a violation of the *Education Act*, the *Labour Relations Act* and the collective agreement in force at the time.

Much the same question had been in issue in an earlier action before the Ontario Labour Relations Board (the “OLRB”) in *Trillium Lakelands District School Board and Upper Canada District School Board v. Elementary*

Teachers’ Federation of Ontario, 2013 CanLII 20262 (ON LRB) (“Trillium”). This particular Board, however, was not a party to *Trillium*. Further, it brought its action as a grievance under the collective

agreement, whereas in *Trillium* the parties were proceeding only in relation to the *Education Act*.

The result of *Trillium* was the following:


- even though ETFO withdrew its “advice” to members not to

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participate in voluntary/extracurricular activities, there was still a labour relations purpose to issuing the decision – it was not clearly moot;

- although the *Putting Students First Act* had been repealed, the collective agreements imposed by that legislation continue to exist and operate;
- the withdrawal in combination or in concert of participation in voluntary co-instructional (or extracurricular) activities constitutes a “strike” within the meaning of the *Education Act*;
- no final orders are issued because ETFO’s *Charter* challenge to the definition of strike in the *Education Act* remains to be litigated – but a direction to post a Notice to Employees is issued clarifying the stage that this litigation has reached and the position of ETFO (at least up until it withdrew its “advice” to members on March 26, 2013) with respect to the participation of its members in the withdrawal of these activities.

ETFO’s major argument in *Trillium* was that there was nothing unlawful

about the job action because either the repeal of the *PSFA* had invalidated all the government-imposed collective agreements or, even if the agreements were still in effect, they were not “collective agreements” as contemplated by the *Education Act*. Either was, no valid collective agreement was in place and without one, there is no such thing as an unlawful strike.

The Court in *Trillium* disagreed and found that, subject to the outcome of the Unions’ *Charter* challenge (that is, the *OPSEU* case), the repeal of the *PSFA* did not invalidate the collective agreements that were imposed on the various Boards and Unions, and that the imposed agreements were, in fact, collective agreements within the meaning of the *Education Act*.

ETFO took the position that withdrawal of voluntary services, even in a concerted fashion, did not amount to a strike. While this seems to make perfect sense, that in Ontario, the meaning of the word “strike” is not the same under the *Education Act* as under the *Labour Relations Act*. For teachers, a “strike” is any organized act intended to interfere with the normal activities of

a school in relation to its overall operation, functioning or “programs” and specifically includes work to rule.

The *Thames Valley* court agreed with *Trillium*, and found that the teachers’ action had been a strike.

Thames Valley came out less than 2 weeks before the *OPSEU* decision was released. The conclusion in *OPSEU* that the *PSFA* was unconstitutional means that the government imposed collective agreements were never valid. That puts the results in both *Thames Valley* and *Trillium* into question, and it may be that both matters will be reopened.

Another result of *OPSEU* is that any attempt by a provincial government to direct, influence or legislate agreements between school boards and their employees will probably be seen as a breach of the *Charter*. Given the state of the economy in various other provinces such as Alberta) it will be interesting to see whether any province trying to cut costs in the education sector will be able to come up with a means of doing so that survives the *Oakes* test.



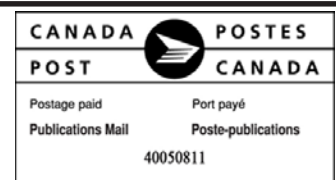
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From: **Education Deputy Minister** <EducationDeputyMinister@gov.ab.ca>

Date: Mon, May 16, 2016 at 9:12 AM

Subject: Message from Deputy Minister of Education

**To: Superintendents of Public, Separate, Francophone and Charter School Boards
Executive Directors of Stakeholder Associations**

As I prepared for the transition to Alberta Education I dusted off one of my favourite quotes from Abraham Lincoln. He viewed education “as the most important subject which we as a people can be engaged in” (1832). Upon reflection I realized what an honour it is to be the Deputy Minister for Alberta Education and how privileged I am to be given the opportunity to work in partnership with each of you. I look forward to meeting with many of you in the near future and to continue the important work we are so passionate about. In the meantime, I wanted to take this opportunity to introduce myself.

I have been with the Government of Alberta (GoA) public service for 10 years working for Justice and Solicitor General. My most recent role was as Associate Deputy Solicitor General. Prior to joining the GoA public service, I held the position of Associate Professor and Coordinator of the Criminal Justice program at Athabasca University, where I was responsible for the development of on-site and on-line programming, implementation of Prior Learning assessment criteria and partnership development with colleges, universities and public sector stakeholders. I have also carried out studies on competency based curriculum design, experiential learning and adult education.

In my role as President of the Canadian Association of Police Educators, Board member of the National Police Sector Council and a founding member of the INTERPOL Group of Experts in Training, I helped design and implement national and international models of competency based curriculum design and delivery. And as the Executive Director of the JSG Staff College, I guided the revision of the provincial training and curriculum model for Alberta’s Sheriffs, Correctional Peace Officers and Community Peace Officers.

I am eager to start and to continue conversations on our strong education system and how, by working together, we can strengthen it even more. As Deputy Minister, I look forward to working with you as we share in our commitment to Alberta’s education system.

Sincerely,

Dr. Curtis Clarke
Deputy Minister

cc: Board Chairs of Public, Separate, Francophone and Charter School Boards
Presidents of Stakeholder Associations
First Nations Directors of Education
Communications Contacts at School Divisions



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HORIZON SCHOOL DIVISION NO. 67

Horizon School Division Welcomes New Erle Rivers High School Principal



May 20, 2016

Horizon School Division No. 67 is pleased to announce the appointment of Mrs. Barbara Arend as the new principal of Erle Rivers High School commencing with the 2016-2017 school year.

Mrs. Arend (Brown) has been in education for 20 years and has worked in Manitoba, Saskatchewan, and Alberta, teaching all grades from K-9 in rural or remote schools. She was previously employed with Horizon School Division No. 67 and taught at Coutts Community School and at Barnwell School. Mrs. Arend holds a Bachelor of Education from the University of Manitoba and a Master of Education, in Educational Leadership, from the University of Calgary.

Barbara and her husband Michael have a blended family of 6 children ages 12-22. In their spare time, Barbara and her husband have been actively involved in the sport of Roller Derby for many Northern Alberta teams. They have travelled and worked as the HNSO (head non-skating official) and have been announcers for games and tournaments; both hope to continue this interest once they are back in Southern Alberta.

Mrs. Arend states, "I am excited about returning to Horizon and about becoming a member Erle Rivers High School educational team. I look forward to working with the staff and community to continue the tradition of success that is in place at the school. "

The Board of Trustees is confident Erle Rivers High School students, staff, and community will benefit from Mrs. Arend's commitment to work with staff and parents to provide students with "student centered learning experiences that are engaging, challenging and exemplify a quality learning environment."

Marie Logan, Board Chair