

OUR MISSION

The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ. We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.

OUR VISION

At Toronto Catholic we transform the world through witness, faith, innovation and action.



**ADDENDUM
EDUCATION DEVELOPMENT CHARGES (EDC) OF THE
TORONTO CATHOLIC DISTRICT SCHOOL BOARD
PUBLIC SESSION**

Barbara Poplawski, Chair

Maria Rizzo, Vice-Chair

Thursday, November 15, 2018

7:00 P.M.

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Education Development Charges Successor By-law Public Meeting



Toronto Catholic DSB
November 15, 2018

EDC Current Situation

- Board adopted a jurisdiction-wide Interim EDC by-law on June 29, 2018 with a 1-year by-law term, and the 2015 by-law amendment rates
- Current Residential rate - \$1,493 per unit
- Current Non-residential rate - \$ 1.07 per sq. ft. of non-exempt GFA
- Based on 75%/25% residential/non-residential share approved by Board
- By-law expires on July 3, 2019
- The Province's requirement to adopt a 1-year Interim by-law places the TCDSB in a significant financial shortfall to deal with upcoming site acquisitions, and impedes the Board's ability to access external financing for this purpose

Eligibility to Adopt a Successor EDC By-law

- The TCDSB was proposing to adopt a successor 5-year EDC by-law on November 15th
- The intention was to have a 5-year by-law in place at a rate that derived sufficient collections to offset a higher share of the net education land expenditures over the next 12 months & would enable the Board to access the external financing necessary to fund the full cost of the site purchases
- On Friday October 12th the Province filed O. Reg. 438/18 which prohibits EDC boards from adopting higher EDC rates than those set out in existing EDC by-laws as of August 30, 2018
- The new Regulation also prohibits EDC boards from making several EDC policy decisions respecting the by-law area, differentiated rates, balance of net education land cost from residential and non-res development
- However, the Regulation does not prohibit an EDC board from replacing a 1-year Interim by-law with a 5-year EDC by-law
- Michael Loberto has been appointed to the committee examining EDC legislation and Board continues to discuss Land Priorities funding needs with the Ministry. Ministry is receptive but no commitment to date.

Capped versus Calculated EDC Rates

- In this presentation:
 - ‘capped’ EDC rates refer to the in-force EDC rates as of August 30, 2018
 - ‘calculated’ rates refer to the rates underlying the Board’s April 17th Background Study Report Addendum and supported by the Regulation Estimates approved by the Minister of Education on June 28th

EDC Policy Review – Key Policies

1. By-law Structure

Considerations:

- Boards may adopt jurisdiction-wide (i.e. one set of charges through all of the City of Toronto); or
- One or more area-specific by-laws (i.e. different rates in portions of the City – i.e. a different rate in Etobicoke, or Scarborough, or North York)
 - Jurisdiction-wide more consistent with delivery of education services and the education funding model; and
 - Monies collected in one area-specific by-law cannot be spent outside of that area

Recommendation – Under O. Reg. 438/18 EDC boards cannot alter the areas subject to education development charges, therefore TCDSB must adopt jurisdiction-wide EDC rates

EDC Policy Review – Key Policies

2. Recovery of Net Education Land Costs

Considerations:

- All EDC by-laws in Ontario are applied on the basis of recovery of 100% of net education land costs over the long term (no more-no less than land acquisition and site development costs to address growth-related needs)
- No tax-based funding source to make up for shortfalls
- Capital allocations for land related to enrolment growth may not be available from the Province where a school board is EDC eligible

Recommendation – O. Reg. 438/18 requires that school board adopt EDC rates that represent the lesser of: the ‘calculated’ rate and the ‘capped’ rate

The ‘capped’ rates are the lowest and must be adopted in the by-law

Further, the TCDSB should adopt a position of 100% Recovery of Net Education Land Costs underlying the ‘capped’ rates to avoid any further shortfall in funding growth-related site needs

EDC Policy Review – Key Policies

3. Non-Statutory Exemptions

Considerations:

- No funding source to absorb the cost of providing non-statutory exemptions (e.g. affordable housing as a use)
- EDC boards generally do not include non-statutory exemptions in their by-laws, however more recently EDC boards have added 'Places of Worship' exempt for taxation under the *Assessment Act*

Recommendation – No additional residential exemptions in order to mitigate the funding shortfall

4. Portion of Net Education Land Costs to be Recovered from Residential versus Non-residential Development

Considerations:

- Non-residential share can range from 0% to 40% of total costs
 - For most EDC by-laws 10-15% of costs are recovered from non-residential development, with the remainder from residential development

Recommendation – O. Reg. 438/18 prohibits a school board from altering the residential and non-residential shares of the 'capped' rates if the adjustment would increase either one of the rates

EDC Policy Review – Key Policies

5. Differentiated EDC

Considerations:

- Previously boards could choose to have a singular EDC rate for all residential unit types, or differentiated by density type - Stakeholders have historically preferred singular rate

Recommendation – Under O. Reg. 438/18 EDC boards can not chose any differentiated residential rates that would be higher than the uniform ‘capped’ rate

6. Demolition Credits

Considerations:

- Legislative provisions require Boards to provide demolition credits for a period of up to two (2) years for residential development and five (5) years for non-residential development
- The TCDSB existing EDC by-law incorporates a 2-year period for residential and a 5-year period for non-residential

Recommendation – 2 years residential and 5 years non-residential consistent with legislation

EDC Policy Review – Key Policies

7. Conversion Credits

Considerations:

- No legislative provisions specifically dealing with conversion of use
- Some boards offer limited EDC conversion credits

Recommendation – Board approve proposed by-law permitting conversion credits

8. By-law term

Considerations:

- The maximum term of five-years is typically adopted
- The TCDSB EDC by-law carries a 1-year term consistent with the June 28th approval letter from the Minister of Education
- Board can amend the by-law or pass a new one earlier, if necessary (ongoing monitoring to account for land cost increase)
- Consistency with Board's capital plan is a consideration

Recommendation – no rationale to consider anything other than 5 year by-law term under the existing legislative circumstances

EDC Policy Review – Key Policies

9. Need to Conduct Further Public Meeting

- Board must determine through resolution whether any additional public meetings are required
- TCDSB has more than met the public meeting requirements and has offered additional opportunities for stakeholder consultation outside of the formal public meeting process

Recommendation – no further public meetings are required

Proposed By-law Adoption

- Proposed adoption of a 5-year EDC by-law at the current rates
 - Current Residential rate - \$1,493 per unit
 - Current Non-residential rate - \$ 1.07 per sq. ft. of non-exempt GFA
 - Based on 75%/25% residential/non-residential share approved by Board
- By-law implementation for Monday December 3rd
- By-law would expire on December 2, 2023
- Once the Province completes a proposed consultation process respecting EDCs, eligible boards would have the ability to amend by-laws to increase the rates due to land price increases, alter policy decisions, etc.
- It is not clear at this stage whether the future EDC rates will incorporate the revenue shortfall in the interim
- Seek a written response from the Ministry of Education respecting a request for Land Priorities funding allocation of \$86 million
- Add a school board voice to the deliberations respecting the future of education development charges

TORONTO CATHOLIC DISTRICT SCHOOL BOARD
EDUCATION DEVELOPMENT CHARGES BY-LAW 2018 NO. ____

PREAMBLE

1. Section 257.54(1) of the *Education Act* (the “Act”) enables a district school board to pass by-laws for the imposition of education development charges against land if there is residential development in its area of jurisdiction that would increase education land costs and the residential development requires one or more of the actions identified in section 257.54(2) of the Act.
2. The Toronto Catholic District School Board (the “Board”) has determined that the residential development of land to which this by-law applies increases education land costs.
3. The Board will experience enrolment growth in the areas of the City of Toronto where it has no sites for new schools or where its existing sites cannot accommodate more students without an addition for which it will require funds for the acquisition of new school sites, expansion of existing school sites, servicing and site preparation of school sites, and other education land costs. The only available funding source for education land costs is education development charges.

The Board notes that without amendments to the Act and its regulations, the Board is legally constrained in its ability to acquire strata fee interests for the purpose of developing new school sites.

4. Section 257.54(4) of the Act provides that an education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it.
5. The Board has referred its estimates of the total number of new elementary and secondary pupils and its estimates of the number of elementary and secondary school sites to the Ministry of Education for approval, and such approval was given on under section 10 of Regulation 20/98.

6. The Board has conducted a review of its education development charge policies and held public meetings on October 11 and October 18, 2018, in accordance with section 257.60 of the Act.
7. The estimated average number of secondary school pupils of the Board over the five years immediately following the day this by-law comes into force will exceed the total capacity of the Board to accommodate secondary school pupils throughout its jurisdiction on the day this by-law is passed.
8. The Board has given a copy of the education development charges background study relating to this by-law to the Minister of Education and to each school board having jurisdiction within the area to which this by-law applies in accordance with section 10 of Ont. Reg. 20/98.
9. The Board has therefore complied with conditions prescribed by section 10 of Regulation 20/98.
10. The Board has given notice and held public meetings on October 18, 2018 and November 15, 2018, in accordance with section 257.63(1) of the *Education Act* and permitted any person who attended the public meeting to make representations in respect of the proposed education development charges.
11. The Board has determined in accordance with section 257.63(3) of the Act that no additional public meeting is necessary in respect of this by-law.

NOW THEREFORE THE TORONTO CATHOLIC DISTRICT SCHOOL BOARD HEREBY ENACTS AS FOLLOWS:

PART 1 - APPLICATION

Defined Terms

1. In this by-law,
 - a. “Act” means the *Education Act*,

- b. “area of the by-law” means the City of Toronto resulting from the amalgamation effected on January 1, 1998 under the *City of Toronto Act, 1997 S.O. 1997, c.2*;
- c. “Board” means the Toronto Catholic District School Board;
- d. “development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in Sections 5 and 6 of this by-law, and includes redevelopment, expansion, extension or alteration, or any two or more of them, of a use, building or structure, except interior alternations to an existing building or structure which do not intensify the use of the building;
- e. “dwelling unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, and shall include, but is not limited to, a dwelling unit or units in an apartment, a secondary dwelling unit, group home, mobile home, duplex, triplex, semi-detached dwelling, single detached dwelling, stacked townhouse and townhouse;
- f. “education development charge” means charges imposed pursuant to this by-law in accordance with the Act;
- g. “education land costs” means costs incurred or proposed to be incurred by the Board,
 - i. to acquire land or an interest in land, including a leasehold interest, to be used by the Board to provide pupil accommodation;
 - ii. to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation;
 - iii. to prepare and distribute education development charge background studies as required under the Act;
 - iv. as interest on money borrowed to pay for costs described in paragraphs (i) and (ii); and

- v. to undertake studies in connection with an acquisition referred to in paragraph (i).
- h. “existing industrial building” means a building used for or in connection with,
 - i. manufacturing, producing, processing, storing or distributing something,
 - ii. research or development in connection with manufacturing, producing or processing something,
 - iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced, if the retail sales are at the site where the manufacturing, production or processing takes place,
 - iv. office or administrative purposes, if they are,
 - A. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - B. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- i. “gross floor area” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls and, for the purpose of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;
- j. “local board” means a local board as defined in the *Municipal Affairs Act*, other than a district school board;
- k. “mixed use” means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;

- l. “non-residential use” means lands, buildings or structures or portions thereof used, or designed or intended for all uses other than residential use, and includes, but is not limited to, an office, retail, industrial or institutional use;
 - m. “residential development” means lands, buildings or structures developed or to be developed for residential use;
 - n. “residential use” means lands, buildings or structures used, or designed or intended for use as a dwelling unit or units, and shall include a residential use accessory to a non-residential use and the residential component of a mixed use or of an agricultural use.
 - o. “secondary dwelling unit” means a dwelling unit, whether contained within a proposed single detached dwelling or semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling including but not limited to a coach house, laneway suite or structure constructed above an existing garage or other structure separate from the primary dwelling unit, which:
 - i. comprises an area less than the gross floor area of the primary dwelling unit; and
 - ii. is not capable of being legally conveyed as a separate parcel of land from the primary dwelling unit.
2. Unless otherwise expressly provided in this by-law, the definitions contained in the Act or the regulations under the Act shall have the same meanings in this by-law.
 3. In this by-law where reference is made to a statute, a section of a statute, or a regulation, such reference will be deemed to be a reference to any successor statute, section or regulation.

Lands Affected

4.
 - a. Subject to section 4(b), this by-law applies to all lands in the area of the by-law;

- b. This by-law shall not apply to lands that are owned by and are used for the purpose_of:
- i. a municipality or a local board thereof;
 - ii. a district school board;
 - iii. a public hospital receiving aid under the *Public Hospitals Act*;
 - iv. a publicly-funded university, community college or a college of applied arts and technology established under the *Ministry of Colleges and Universities Act*, or a predecessor statute;
 - v. The Toronto Area Transit Operating Authority ("GO Transit");
 - vi. a cemetery or burying ground that is exempt from taxation under section 3 of the *Assessment Act*;
 - vii. non-residential uses permitted under s. 39 of the *Planning Act*.

Part II - Education Development Charges

5.

(1) In accordance with the Act and this by-law, and subject to sections 9 and 10, the Board hereby imposes an education development charge against land undergoing residential development or redevelopment in the area of the by-law if the residential development or redevelopment requires any one of those actions set out in subsection 257.54(2) of the Act, namely:

- a. the passing of a zoning by-law or of an amendment to zoning by-law under section 34 of the *Planning Act*;
- b. the approval of a minor variance under section 45 of the *Planning Act*;
- c. a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;

- d. the approval of a plan of subdivision under section 51 of the *Planning Act*;
- e. a consent under section 53 of the *Planning Act*;
- f. the approval of a description under section 50 of the *Condominium Act*;
or
- g. the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure,

where the first building permit issued in relation to a building or structure for above ground construction is issued on or after the date the by-law comes into force.

(2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to future development or redevelopment on the same property.

6.

(1) In accordance with the Act and this by-law, and subject to sections 12 and 13 the Board hereby imposes an education development charge against land undergoing non-residential development or redevelopment in the area of the by-law which has the effect of increasing existing gross floor area of such development if the non-residential development or redevelopment requires any one of those actions set out in subsection 257.54(2) of the Act, namely:

- a. the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- b. the approval of a minor variance under section 45 of the *Planning Act*;
- c. a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;

- d. the approval of a plan of subdivision under section 51 of the *Planning Act*;
- e. a consent under section 53 of the *Planning Act*;
- f. the approval of a description under section 50 of the *Condominium Act*;
or
- g. the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

where the first building permit issued in relation to a building or structure for above ground construction is issued on or after the date the by-law comes into force.

(2) In respect of a particular development or redevelopment an education development charge will be collected once, but this does not prevent the application of this by-law to future development or redevelopment on the same property.

7. Subject to the provisions of this by-law, the Board hereby designates all categories of residential development and non-residential development and all residential and non-residential uses of land, buildings or structures as those upon which education development charges shall be imposed.

Residential Education Development Charges

8. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of \$ 1,493 per dwelling unit upon the designated categories of residential development and the designated residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use, and, in the case of a mixed-use building or structure, upon the dwelling units in the mixed-use building or structure.

Exemptions from Residential Education Development Charges

9. As required by subsection 257.54(3) of the Act, an education development charge shall not be imposed with respect to:
- a. the enlargement of an existing dwelling unit or;
 - b. the creation of one or two additional dwelling units as prescribed in section 3 of Regulation 20/98 as follows:

NAME OF CLASS OF RESIDENTIAL BUILDING	DESCRIPTION OF CLASS OF RESIDENTIAL BUILDINGS	MAXIMUM NUMBER OF ADDITIONAL DWELLING UNITS	RESTRICTIONS
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts,	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit

	attached to other buildings		already in the building
Other residential buildings	A residential building not in another class of residential building described in this table	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building

10.

(1) An education development charge under section 8 shall not be imposed with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) Notwithstanding subsection (1), education development charges shall be imposed under section 8 if the building permit for the replacement dwelling unit is issued more than 3 years after,

- a. the date the former dwelling unit was destroyed or became uninhabitable; or
- b. if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.

(3) Notwithstanding subsection (1), education development charges shall be imposed under section 8 against any dwelling unit or units on the same site in

addition to the dwelling unit or units being replaced. The onus is on the applicant to produce evidence to the satisfaction of the Board, acting reasonably, to establish the number of dwelling units being replaced.

(4) Subject to section 13, an education development charge shall be imposed under section 8 where a non-residential building or structure is replaced by or converted to, in whole or in part, a residential building or structure.

Non-Residential Education Development Charges

11. Subject to the provisions of this by-law, the Board hereby imposes an education development charge of \$ 1.07 per square foot of gross floor area of non-residential development upon the designated categories of non-residential development and the designated non-residential uses of land, buildings or structures and, in the case of a mixed-use building or structure, upon the non-residential uses in the mixed-use building or structure.

Exemptions from Non-Residential Education Development Charges

12. As required by section 257.55 of the Act, if a development includes the enlargement of a gross floor area of an existing industrial building, the amount of the education development charge that is payable in respect of the enlargement is determined in accordance with the following rules:

- a. if the gross floor area is enlarged by 50 per cent or less, the amount of the education development charge in respect of the enlargement is zero;
- b. If the gross floor area is enlarged by more than 50 per cent the amount of the education development charge in respect of the enlargement is the amount of the education development charge that would otherwise be payable multiplied by the fraction determined as follows:
 - i. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement;
 - ii. Divide the amount determined under paragraph 1 by the amount of the enlargement.

13.

- a. As required by section 5 of Regulation 20/98, subject to paragraphs (b) and (c), an education development charge under s. 11 shall not be imposed with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.
- b. Notwithstanding paragraph (a), an education development charge shall be imposed under section 11 against any additional gross floor area of any non-residential development on the same site in excess of the gross floor area of the non-residential building or structure being replaced, subject to the following calculation:

If the gross floor area of the non-residential part of the replacement building exceeds the gross floor area of the non-residential part of the building being replaced, the exemption applies with respect to the portion of the education development charge calculated in accordance with the following formula:

$$\text{Exempted portion} = \frac{\text{GFA (old)} \times \text{EDC}}{\text{GFA (new)}}$$

where,

"Exempted portion" means the portion of the education development charge that the board is required to exempt;

"GFA (old)" means the gross floor area of the non-residential part of the building being replaced;

"GFA (new)" means the gross floor area of the non-residential part of the replacement building;

"EDC" means the education development charge that would be payable in the absence of the exemption;

- c. The exemption in paragraph (a) does not apply if the building permit for the replacement building is issued more than 5 years after,
- d. the date the former building was destroyed or became unusable; or

- e. if the former building was demolished pursuant to a demolition permit issued before the former building was destroyed or became unusable, the date the demolition permit was issued;
- f. Subject to section 16, an education development charge shall be imposed under section 11 where a residential building or structure is replaced by or converted to, in whole or in part, a non-residential building or structure.

14. The education development charge to be imposed in respect of mixed use development shall be the aggregate of the amount applicable to the residential development component and the amount applicable to the non-residential development component.

15.

- a. Where it appears to the Board that the land values underlying the education development charge calculation are predicting higher costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the By-law to reduce the charge.
- b. Where it appears to the Board that the land values underlying the education development charge calculation are predicting lower costs than the Board is generally experiencing over a period of time sufficient to show the discrepancy with a reasonable degree of assurance, the Board shall consider a motion to study amending the By-law to increase the charge.

Credits

16. This section applies where an education development charge has previously been paid in respect of development on land and the land is being redeveloped, except where sections 9 and 10, and/or section 12 and 13 apply:

- a. The education development charge payable in respect of the redevelopment will be calculated under this by-law;

- b. The education development charge determined under paragraph (a) will be reduced by a credit equivalent to the education development charge previously paid in respect of the land, provided that the credit shall not exceed the education development charge determined under paragraph (a);
- c. Where the redevelopment applies to part of the land the amount of the credit shall be calculated on a proportionate basis having regard to the development permissions being displaced by the new development. For example, if 10% of non-residential gross floor area of a non-residential building is being displaced by residential development through conversion, the residential education development charge on the applicable number of units will be calculated under section 8 of the by-law, and the credit will be the education development charge originally paid on the gross floor area being converted subject to the limit in paragraph (b).

PART III - ADMINISTRATION

Payment of Education Development Charges

- 17. The education development charge in respect of a development is payable to the City of Toronto on the date that the first building permit for above ground construction is issued in relation to a building or structure on land to which the education development charge applies.
- 18. Education development charges shall be paid by cash, by certified cheque or by bank draft.
- 19. The Treasurer of the Board shall establish and maintain an education development charge reserve fund in accordance with the Act, the Regulations and this By-law.

Payment by Land

- 20. Subject to the requirements of the Act, the Board may by agreement permit an owner to provide land in lieu of the payment of all or any portion of an education development charge. In such event, the Treasurer of the Board

shall advise the Treasurer of the City of Toronto of the amount of the credit to be applied to the education development charge.

Collection of Unpaid Education Development Charges

21. In accordance with section 257.96 of the Act, section 349 of the *Municipal Act*, S.O. 2001, c. 25, applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Date By-law In Force

22. This by-law shall come into force on December 3, 2018.

Date By-law Expires

23. This by-law shall expire on December 2, 2023, unless it is repealed at an earlier date.

Severability

24. Each of the provisions of this by-law are severable and if any provision hereof should for any reason be declared invalid by a court or tribunal, the remaining provisions shall remain in full force and effect.

Interpretation

25. Nothing in this by-law shall be construed so as to commit or require the Board to authorize or proceed with any particular capital project at any time.

Short Title

26. This by-law may be cited as the Toronto Catholic District School Board Education Development Charges, 2018 By-law No. _____.

ENACTED AND PASSED this _____ day of _____,
2018.

Chair

Director of Education and Secretary