

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE REGULAR MEETING Public Session

**AGENDA
MAY 13, 2021**

Angela Kennedy, Chair
Trustee Ward 11

Frank D'Amico, Vice Chair
Trustee Ward 6

Nancy Crawford
Trustee Ward 12

Markus de Domenico
Trustee Ward 2

Michael Del Grande
Trustee Ward 7

Norman Di Pasquale
Trustee Ward 9

Keith Baybayon
Student Trustee

Daniel Di Giorgio
Trustee Ward 10

Ida Li Preti
Trustee Ward 3

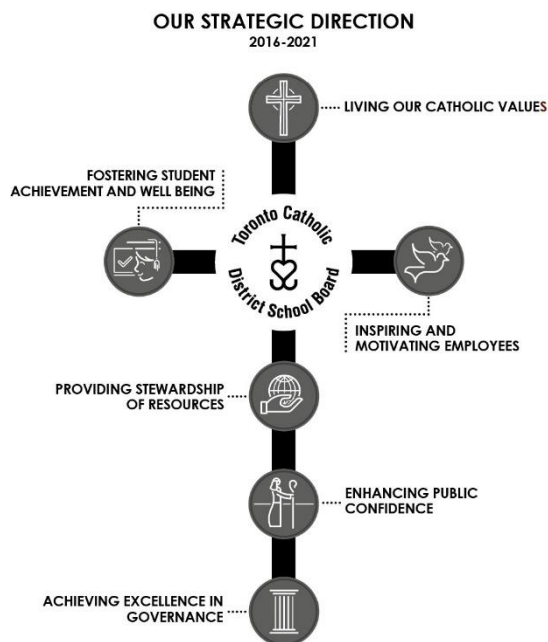
Teresa Lubinski
Trustee Ward 4

Joseph Martino
Trustee Ward 1

Maria Rizzo
Trustee Ward 5

Garry Tanuan
Trustee Ward 8

Kathy Nguyen
Student Trustee



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.*

VISION

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

Recording Secretary: Sophia Harris, 416-222-8282 Ext. 2293
Assistant Recording Secretary: Skeeter Hinds-Barnett, 416-222-8282 Ext. 2298
Assistant Recording Secretary: Sarah Pellegrini, 416-222-8282 Ext. 2207

Dr. Brendan Browne
Director of Education

Joseph Martino
Chair of the Board

TERMS OF REFERENCE FOR CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

The Corporate Services, Strategic Planning and Property Committee shall have responsibility for considering matters pertaining to:

- (a) Business services including procurement, pupil transportation risk management/insurance and quarterly financial reporting
- (b) Facilities (buildings and other), including capital planning, construction, custodial services, design, maintenance, naming of schools, enrolment projections and use permits
- (c) Information Technology including, computer and management information services
- (d) Financial matters within the areas of responsibility of the Corporate Services, Strategic Planning and Property Committee including budget development
- (e) Policy development and revision in the areas of responsibility of the Corporate Services, Strategic Planning and Property Committee
- (f) Policies relating to the effective stewardship of board resources in the specific areas of real estate and property planning, facilities renewal and development, financial planning and information technology
- (g) The annual operational and capital budgets along with the financial goals and objectives are aligned with the Board's multi-year strategic plan
- (h) Any matter referred to the Corporate Services, Strategic Planning and Property Committee by the Board
- (i) Intergovernmental affairs and relations with other outside organizations
- (j) Advocacy and political action
- (k) Partnership development and community relations
- (l) Annual strategic planning review and design

LAND ACKNOWLEDGEMENT

Out of our deep respect for Indigenous peoples in Canada, we acknowledge that all Toronto Catholic District School Board properties are situated upon traditional territories of the Anishinabek (a-ni-shna-bek), the Haudenosaunee (hoh-Dee-noh-Shoh-nee) Confederacy, and the Wendat peoples. We also acknowledge the land covered by Treaty 13 is held by the Mississaugas of the Credit First Nation and Toronto is subject to The Dish with One Spoon covenant. We also recognize the contributions and enduring presence of all First Nations, Métis, and Inuit peoples in Ontario and the rest of Canada.

La Reconnaissance du Territoire

Nous témoignons du plus grand respect pour les Peuples autochtones au Canada et nous avons à cœur de souligner que tous les immeubles du Toronto Catholic District School Board sont situés sur les terres traditionnelles de la Nation Anishinabek, de la Confédération de Haudenosaunee et des Wendats. Il est également important de noter que le territoire visé par le Traité 13 est celui des Mississaugas de la Première Nation Credit et que celui de Toronto est protégé par l'accord d'« un plat à une cuillère ». Nous tenons également à rappeler la présence pérenne et l'importance des contributions des Premières Nations, des Metis et des Inuits en Ontario, et dans tout le Canada.

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AGENDA THE REGULAR MEETING OF THE CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

PUBLIC SESSION

Angela Kennedy, Chair

Frank D'Amico, Vice-Chair

Thursday, May 13, 2021

7:00 P.M.

Pages

1. Call to Order
2. Opening Prayer (Chair or Designate)
3. Land Acknowledgement
4. Singing of O Canada
5. Roll Call and Apologies
6. Approval of the Agenda
7. Report from Private Session
8. Declarations of Interest
9. Approval and Signing of the Minutes of the Meeting held March 11, 2021 1 - 16
10. Delegations
11. Presentation

- 11.a. Toronto Public Health - Joe Cressey, Chair, Toronto Public Health regarding Toronto Catholic District School Board (TCDSB) Partnerships in a COVID World

12. Notices of Motion

13. Consent and Review

14. Consideration of Motion for which previous notice has been given

15. Unfinished Business

16. Matters referred or deferred

From the May 6, 2021 Student Achievement and Well-Being Committee Meeting

- | | | |
|-------|--|---------|
| 16.a. | COVID Response Strategy for Learning (Information) | 17 - 20 |
| 16.b. | Ratification of Student Trustee Nominee 2021-2023 (Recommendation) | 21 - 24 |
| 16.c. | 2021-2022 School Year Calendar (Recommendation) | 25 - 30 |

Communications from:

- | | | |
|-------|---|---------|
| 16.d. | Pete McKay, President, Toronto Secondary Unit (TSU) regarding 2SLGBTQ+ Pride Month | 31 |
| 16.e. | Julie Altomare-DiNunzio, President, Toronto Elementary Catholic Teachers (TECT) regarding the Pride Flag | 32 |
| 16.f. | Thomas Cardinal Collins, Archbishop of Toronto regarding the Sacred Heart of Jesus | 33 - 34 |
| 16.g. | Diego Olmedo, President, Toronto Catholic Designated Early Childhood Educators (TCDECE) affiliated with Elementary Teachers Federation of Ontario (ETFO) regarding the Pride Flag | 35 |
| 16.h. | Kathryn Jaitley regarding Acknowledging Pride Month | 36 - 37 |
| 16.i. | Carla and Matthew Hindman regarding Recognizing Pride Month | 38 |

16.j.	Derek Chica regarding Proclamation of Pride Month	39
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16.p.	Tamara Nugent and Yvonne Runstedler at the request of the Very Reverend Cornelius O'Mahony, Episcopal Vicar for Education for the Catholic Partners of the Diocese of Hamilton regarding the Rainbow Flag	45 - 51
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16.r.	Archdiocese of Toronto regarding Reflection on Inclusivity and Acceptance	53 - 54
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16.v.	Marissa Bondi regarding June as Pride Month	113
16.w.	V. Sharma, President, United Hindu Congress of Canada regarding the Pride Flag	114 - 115
16.x.	Joseph Aprile regarding International Languages Program	116
16.y.	Paul Ritchi, Found and General Commissioner, Federation of North-American Explorers regarding the Sacred Heart of Jesus	117 - 118
16.z.	Maurice Lelli regarding the International Languages Program	119 - 120

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16.al.	Alice Franco regarding the Pride Flag	138
16.am.	Suresh Dominic, Lift Jesus Higher Rally regarding the Pride Flag	139 - 140

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20.	Updating of the Pending Lists	
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21.	Resolve into FULL BOARD to Rise and Report	
22.	Closing Prayer	
23.	Adjournment	

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MINUTES OF THE REGULAR VIRTUAL MEETING OF THE CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE PUBLIC SESSION

HELD THURSDAY, MARCH 11, 2021

PRESENT:

Trustees:

A. Kennedy, Chair - In Person
F. D'Amico, Vice-Chair - In Person and Virtual
N. Crawford
M. de Domenico
D. Di Giorgio
N. Di Pasquale
I. Li Preti
T. Lubinski
J. Martino
M. Rizzo
G. Tanuan

Student Trustees:

K. Baybayon
K. Nguyen

Staff:

B. Browne
D. Koenig
S. Camacho
A. Della Mora
S. Campbell
P. De Cock

K. Dixon
M. Farrell
D. Friesen
M. Loberto
O. Malik
P. Matthews
M. Meehan
J. Wujek

S. Harris, Recording Secretary
S. Hinds-Barnett, Assistant Recording Secretary

External Guests: V. Dubey, Associate Medical Officer of Health, Toronto
Public Health (For Item 11a)
N. Welsh, Director of School Team, Toronto Public
Health (For Item 11a)
A. Robertson, Parliamentarian

5. Roll Call and Apologies

Trustee Del Grande was not in attendance due to Board-approved leave of absence.

6. Approval of the Agenda

MOVED by Trustee Martino, seconded by Trustee D'Amico, that the Agenda, as amended to include the Addendum, and to reorder Item 17c) 2021-22 Budget Assumptions and Pressures prior to Item 17a) Monthly Procurement Approvals, be approved.

The Motion was declared

CARRIED

7. Report from Private Session

MOVED by Trustee Crawford, seconded by Trustee Di Pasquale, that the report from PRIVATE and DOUBLE PRIVATE Sessions regarding the following be received:

IN PRIVATE Session – Received report on a local bargaining matter and approved Staff recommendation regarding property; and

IN DOUBLE PRIVATE Session – Received an update report on a Human Resources matter.

Trustee Rizzo declared an interest in the PRIVATE Session Item, as mentioned in Item 8 below.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Martino
Rizzo
Tanuan

The Motion was declared

CARRIED

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

8. Declarations of Interest

In PRIVATE Session, Trustee Rizzo declared an interest in a local bargaining matter as she has a family member who is an employee of the Board. Trustee Rizzo did not vote nor participate in discussions regarding that Item.

In PUBLIC Session, Trustee Kennedy declared an interest in Item 17c) Budget Series Report: 2021-2022 Budget Assumptions and Pressures as she has family members who are employees of the Board. Trustee Kennedy indicated that she would neither vote nor participate in discussions regarding that Item.

9. Approval and Signing of the Minutes of the Previous Meeting

MOVED by Trustee D'Amico, seconded by Trustee Martino, that the Minutes of the meeting held February 11, 2021 for PUBLIC Session be approved.

The Motion was declared

CARRIED

11. Presentation

MOVED by Trustee D'Amico, seconded by Trustee Li Preti, that Item 11a) be adopted as follows:

- 11a) Toronto Public Health, Dr. Vinita Dubey, Associate Medical Officer of Health received.**

The Motion was declared

CARRIED

13. Consent and Review

The Chair reviewed the Order Page and the following Items were held:

- 17c) 2021-22 Budget Assumptions and Pressures – Trustee Di Giorgio;
- 17d) St. John the Evangelist Catholic School Capital Project Budget Increase (Ward 10) – Trustee Rizzo;
- 17e) Return to School Update - Di Giorgio; and
- 17f) A.18 - Development Proposals, Amendments of Official Plan and Bylaws Annual Reporting Requirement – Trustee Rizzo

MOVED by Trustee Martino, seconded by Trustee Crawford, that the Items not held be received and the Staff recommendations be approved.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Martino
Rizzo
Tanuan

The Motion was declared

CARRIED

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

ITEMS NOT HELD AS CAPTURED IN ABOVE MOTION

- 17a) Monthly Procurement Approvals** that the Board of Trustees approve all procurement activities/awards listed in Appendix A and B of the report;
- 17b) 2021-22 To 2023-24 Consensus Enrolment Projections** that the consensus enrolment projections, as summarized below, for the 2021-22 to 2023-2024 school years be approved for staffing, budgetary purposes and Ministry of Education reporting requirements;

TCDSB Current & Projected Enrolment (ADE)				
Year	2020 (Current)	2021	2022	2023
Elem.	61,084	60,829	60,836	60,949
Sec.	27,386	26,827	26,791	27,145
Total	88,470	87,656	87,627	88,094
Annual Change	-	-814	-29	467

- 20a) Annual Calendar of Reports and Policy Metrics; and
- 20b) Monthly Pending List

Trustee Kennedy relinquished the Chair to Trustee D'Amico due to a Declaration of Interest in Item 17c) below, as earlier indicated, and left the horseshoe at 8:19 pm.

17. Staff Reports

MOVED by Trustee Di Pasquale, seconded by Trustee Martino, that Item 17c) be adopted as follows:

17c) 2021-22 Budget Assumptions and Pressures received.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
Di Giorgio
Di Pasquale
Li Preti
Martino
Tanuan

The Motion was declared

CARRIED

Trustees de Domenico, Lubinski and Rizzo did not vote/respond.

Student Trustees Baybayon Nguyen wished to be recorded as voted in favour.

Trustee Kennedy returned to the horseshoe at 8:51 pm and reassumed the Chair.

Trustee D'Amico left the horseshoe at 8:52 pm and connected virtually.

MOVED by Trustee Rizzo, seconded by Trustee Crawford, that Item 17d) be adopted as follows:

17d) St. John the Evangelist Catholic School Capital Project Budget Increase (Ward 10) received.

MOVED in AMENDMENT by Trustee Rizzo, seconded by Trustee Li Preti:

1. That increased funding for St John the Evangelist for items listed in Item #5 of the report be deferred;
2. That staff be requested to provide a report on projects that have waited in line and have not started nor been completed for the past ten years;
3. That criteria and policy be developed on significant capital improvements be considered in budget approvals for monies not approved by the Province; and
4. That a final project budget of \$20,946,383 be approved for the construction of the new St. John the Evangelist Catholic School, as detailed in Appendix A of the report.

Trustee Di Pasquale requested that the AMENDMENT be split.

Results of the Vote taken on Part 1 of the AMENDMENT, as follows:

In favour

Trustees Rizzo

Opposed

Crawford
de Domenico
D'Amico
Di Giorgio

Di Pasquale
Kennedy
Li Preti
Lubinski
Martino
Tanuan

Part 1 of the AMENDMENT was declared

FAILED

Student Trustees Baybayon Nguyen wished to be recorded as voted in opposition.

Results of the Vote taken on Part 2 of the AMENDMENT, as follows:

In favour

Trustees Di Pasquale
Li Preti
Martino
Rizzo

Opposed

Crawford
D'Amico
de Domenico
Di Giorgio
Kennedy
Lubinski
Tanuan

Part 2 of the AMENDMENT was declared

FAILED

Student Trustees Baybayon Nguyen wished to be recorded as voted in favour.

Results of the Vote taken on Part 3 of the AMENDMENT, as follows:

In favour

Opposed

Trustees D'Amico
de Domenico
Di Pasquale
Li Preti
Martino
Rizzo
Tanuan

Crawford
Di Giorgio
Kennedy
Lubinski

Part 3 of the AMENDMENT was declared

CARRIED

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

Results of the Vote taken on Part 4 of the AMENDMENT, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy

Li Preti
Lubinski
Martino
Rizzo
Tanuan

Part 4 of the AMENDMENT was declared

CARRIED

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

Results of the Vote taken on the Motion, as amended, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Martino
Rizzo
Tanuan

The Motion, as amended, was declared

CARRIED

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

MOVED by Trustee Martino, seconded by Trustee Crawford, that Item 17e) be adopted as follows:

17e) Return to School Update received.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Martino
Rizzo
Tanuan

The Motion was declared

CARRIED

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

MOVED by Trustee Rizzo, seconded by Trustee Crawford, that Item 17f) be adopted as follows:

17f) A.18 - Development Proposals, Amendments of Official Plan and Bylaws Annual Reporting Requirement received.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Rizzo
Tanuan

The Motion was declared

CARRIED

Trustee Martino did not vote/respond.

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

21. Resolve into FULL BOARD to Rise and Report

MOVED by Trustee Rizzo, seconded by Trustee Di Giorgio, that the meeting resolve into FULL BOARD to Rise and Report.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Rizzo
Tanuan

The Motion was declared

CARRIED

Trustee Martino did not vote/respond.

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

23. Adjournment

MOVED by Trustee Tanuan, seconded by Trustee Di Pasquale, that the meeting be adjourned.

Results of the Vote taken, as follows:

In favour

Opposed

Trustees Crawford
D'Amico
de Domenico
Di Giorgio
Di Pasquale
Kennedy
Li Preti
Lubinski
Rizzo
Tanuan

The Motion was declared

CARRIED

Trustee Martino did not vote/respond.

Student Trustees Baybayon and Nguyen wished to be recorded as voted in favour.

SECRETARY

CHAIR



REPORT TO

**STUDENT ACHIEVEMENT AND
WELL BEING, CATHOLIC
EDUCATION AND HUMAN
RESOURCES COMMITTEE**

COVID RESPONSE STRATEGY FOR LEARNING

“Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it for me.” Matthew 25:40

Created, Draft	First Tabling	Review
April 26, 2021	May 6, 2021	Click here to enter a date.
Kimberly Dixon, Superintendent of Education Lori DiMarco, Superintendent of Education Maria Meehan, Superintendent of Education Michael Caccamo, Superintendent of Education Michael Loberto, Superintendent of Planning and Development		
INFORMATION REPORT		

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Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

The TCDSB COVID Response Strategy for Learning was developed to provide opportunities for students to ensure continuity of learning as we prepare for a safe return to school in September. Through summer learning opportunities, in multiple delivery options, students in grades K – 12 will have an opportunity to access quality learning opportunities in literacy, numeracy and wellness strategies.

The cumulative staff time required to prepare this report was 30 hours

B. PURPOSE

1. The government has provided funding and asked school boards to develop a COVID Gap Closing Strategy that would focus on priorities to support the learning and health and safety of students. This report outlines the TCDSB strategy.
2. Staff are focussed on an asset-based approach and have developed the TCDSB COVID Response Strategy for Learning (CRS) that is designed to address the opportunity gaps that some students may have experienced. The summer learning opportunities will help retrieve and build critical literacy and numeracy skills that may need more attention after learning during the COVID pandemic. Resources from School Mental Health Ontario will be integrated into programs to support student mental health and well-being.

C. BACKGROUND

1. To fulfil the learning goals of the COVID Response Strategy for Learning for this summer 2021, the following will be offered. TCDSB will follow the direction of Toronto Public Health to determine the delivery model, that include in person and/or remote teaching and learning. Registration in elementary programs will prioritize schools from the Equity Poverty Action Network (EPAN). Registration will occur in phases, based on available spaces. Secondary programs are open to all eligible TCDSB students.
 - Grade 1-3 Summer Learning Program – an evidence- based reading intervention program, that also includes numeracy, to meet the needs of students from identified elementary schools.

- Grade 4 – 5 Summer Learning Program – an inquiry- based program based on the UN Sustainable Development Goals that includes STEAM and experiential learning. This program is offered through funding from the Council of Ontario Directors of Education.
 - Grade 6 – 8 Literacy/Numeracy Summer School – programming will include connections to support well-being and meaningfully connect these elements to the literacy and numeracy expectations.
 - Grade 9 Transition Program – offered for students transitioning from grade 8 to grade 9 at their local secondary school. Students receive one credit for participating in this literacy/numeracy focused program.
 - Grade 9 – 12 Summer School – upgrade and full credit courses.
 - Grade 11 – 12 Focus on Youth (FOY) – an opportunity to provide secondary students with employment and leadership skills while earning two secondary co-op credits in an experiential learning placement. Mental wellness and self-care training will be a component this year for FOY.
 - Multiple Exceptionalities/Developmental Disability (MEDD) Summer School; and
 - K – 12 Summer Playground, optional learning activities for parents and students, offered on the TCDSB website for access throughout the summer, when desired.
2. In partnership with the Special Services department, CRS will support the mental health of students and staff. The aim will be to build capacity through the integration of well-being strategies into revised curriculums and teaching practises during the summer. This will benefit students as they return to school after this challenging year.
3. The Angel Foundation for Learning (AFL) will provide grocery gift cards as part of the Food for Kids student Home Nutrition Program. The program is intended to support online learners with nutritious snacks for the duration of each of these programs:
- Grade 1 -5 Summer Learning
 - Grade 6 – 8 Literacy/Numeracy Summer School
 - Grade 9 Transition Program
 - MEDD Summer School.

D. EVIDENCE/RESEARCH/ANALYSIS

1. “This year has exposed the inequities of society and education.” (Quinn, Gardner, Drummy & Fullan). Health and safety of our students continues to remain a priority, as well as access to quality learning opportunities. Disengagement and opportunity gaps will be addressed through summer learning opportunities. Disengagement and opportunity gaps will be addressed through summer learning opportunities offered through our CRS.

E. METRICS AND ACCOUNTABILITY

1. The TCDSB Research Department will work closely with the various departments offering programs through the COVID Response Strategy for Learning, to create and administer the following surveys to monitor success of the programs:
 - Grade 6 – 12 student end of program survey
 - Parent survey for parents of students participating in the Grade 1 – 5 Summer Learning Programs to provide feedback on the programs
 - Staff surveys for staff participating in or leading summer programs
2. The survey results will be used to:
 - Document and track student experiences
 - Monitor progress of the programs: and
 - Make recommendations for improvement for future offerings

F. IMPLEMENTATION, STRATEGIC COMMUNICATIONS AND STAKEHOLDER ENGAGEMENT PLAN

Students in EPAN schools will be prioritized for elementary programs. Grades 1 - 8. Principals in EPAN schools will communicate with staff the applicable parameters, in order to identify students that will benefit from the program.

Families will learn of the elementary program opportunities directly through their child’s school in late June for a program start date early July.

Secondary registration will open the week of May 3rd and be communicated through local schools, the TCDSB website, and social media channels.

G. CONCLUDING STATEMENT

This report is for the consideration of the Board.



REPORT TO

**STUDENT ACHIEVEMENT AND
WELL BEING, CATHOLIC
EDUCATION AND HUMAN
RESOURCES COMMITTEE**

**RATIFICATION OF STUDENT TRUSTEE NOMINEE
2021-2023**

Don't let anyone look down on you because you are young, but set an example for the believers in speech, in conduct, in love, in faith and in purity." 1 Timothy 4:12

Created, Draft	First Tabling	Review
April 26, 2021	May 6, 2021	Click here to enter a date.

M. Consul, Catholic Student Leadership Resource Teacher

M. Caccamo, Superintendent of Education, Nurturing our Catholic Community, Safe Schools, Continuing Education, and St. Anne Catholic Academy, School of Virtual Learning

RECOMMENDATION REPORT

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Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

As per Board policy T.02, there is an annual election process for the selection of a new Student Trustee. Policy T.02 was revised and approved by the Board of Trustees on February 19, 2015. Invitations for nominations for the position of Student Trustee were sent to all TCDSB secondary schools. Student trustees will serve two successive one-year terms.

The cumulative staff time required to prepare this report was 3 hours.

B. PURPOSE

1. Approval of the Student Trustee appointment required under Board policy T.02, Student Trustee.

C. BACKGROUND

1. A notice was sent to all secondary school Principals and Vice Principals on February 25th, 2021 outlining the election process for Student Trustee.
 - a. Included in the notice was an explanation of the rights and responsibilities associated with the role of a Student Trustee.
 - b. The administration team also received an application form for a second year secondary student (grade 10) as per the policy.
2. The Student Trustee election process was outlined with Catholic Student Leadership Impact Team (CSLIT) members at the February 23, 2021 monthly general assembly meeting.
3. CSLIT uploaded a “Meet the Candidates” video on April 19, 2021 on social media. On this video, each candidate explained how they plan to make a positive impact on CSLIT. This video gives the general assembly more information about each candidate before the April 27, 2021 election.
4. A reminder was sent by e-mail on April 23, 2021 to all secondary school Principals and Vice-Principals outlining the voting process and a list of candidates for the position.
5. The term for the current Student Trustee Kathy Nguyen ends July 31, 2021.

D. EVIDENCE/RESEARCH/ANALYSIS

1. The applicant names that appeared on the ballot were:

Name	School	Grade
Abbey Kulasingh	Loretto Abbey	10
Adelola Adeyeye	James Cardinal McGuigan	10
Chloe Smith	Notre Dame	10
Daicey Ansong	Loretto College	10
Gabriel Fajardo	St. Patrick	10
Jessica Varriale	St. Joseph Morrow Park	10
Julissa Perez	St. Joseph's College	10
Pia Manipol	Mary Ward	10
Roy Bou Abboud	Bishop Allen	10
Sharon Okoroma	Madonna	10
Stephanie De Castro	Senator O'Connor	10

2. Student leaders from across the TCDSB met on April 27th, 2021 online for their monthly CSLIT general assembly meeting.
- Following the welcome and an opening address by the CSLIT executive, each candidate gave a verbal presentation on their qualifications, experience, and goals related to the position of student trustee.
 - Individual candidates participated in a question and answer session with the CSLIT membership.
 - Each candidate presented a speech with a maximum length of 4 minutes.
 - Each candidate was asked a series of questions. These questions were identical for each candidate. Candidates had a total of 4 minutes to answer all the questions. This was conducted through Youtube live.

Members of the general assembly were able to observe each candidate during the livestream.

- Voting was conducted using the Alternative Vote process outlined prior to the vote. The Alternative Vote method of election has voters rank candidates in order of preference. If any single candidate receives a majority of first-preference votes, that candidate is deemed elected. If no candidate clears this hurdle, the last-place candidate is eliminated and that candidate's second preferences are reapportioned to others, and so on, until a candidate clears the threshold of 50 percent of the vote plus one.
3. The counting of the votes will be conducted by current Student Trustees Keith Baybayon and Kathy Nguyen, and witnessed by Catholic Student Leadership Resource Teacher Michael Consul.
 4. When the Board of Trustees ratifies the appointment of the Student Trustee elect:
 - the successful candidate will be officially notified by letter;
 - appropriate announcements will be made within the TCDSB;
 - notifications will be sent to all Student Council representatives, the Ontario Catholic Student Council Federation, and the Ontario Catholic School Trustees' Association;
 - letters of appreciation will be sent to those Student Trustee candidates who put their name forward;
 - prior to the start of their term on August 1, 2020, briefing sessions and arrangements for providing equipment to the new Student Trustees will occur;
 - the newly elected student trustee will have the opportunity to attend several Board Standing Committee meetings and regular Board meetings, prior to officially taking office as Student Trustee;
 - this appointment will allow for a transition period from April 28, 2021 to July 31, 2021.

E. STAFF RECOMMENDATION

That the Board of Trustees appoint **Stephanie De Castro** from **Senator O'Connor Secondary School** as Student Trustee for the term August 1, 2021 through to July 31, 2023.



REPORT TO

**STUDENT ACHIEVEMENT AND
WELL BEING, CATHOLIC
EDUCATION AND HUMAN
RESOURCES COMMITTEE**

2021-2022 SCHOOL YEAR CALENDAR

*To the sensible person education is like a golden ornament, and like a bracelet on the right arm.
Sirach 21:21*

Created, Draft	First Tabling	Review
May 5, 2021	May 7, 2021	Click here to enter a date.
Lori DiMarco, Superintendent of Curriculum Leadership & Innovation; Academic ICT Shazia Vlahos, Chief of Communications and Government Relations		

RECOMMENDATION REPORT

Vision:

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

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.



Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

The school year calendar is prepared and submitted annually to the Ministry of Education, in accordance with the Education Act and Ont. Regulation 304, School Year Calendar, Professional Activity Days. The 2021-2022 school year calendar must be submitted to the MOE by May 28, 2021.

This report recommends that trustees adopt the attached school year calendar in **Appendix A** for the 2021-2022 school year, and that this information be communicated as outlined in Section E of this report.

Highlights:

- This selection of PA days was done in consultation with our Academic/Business Advisory Committee (AcBac) Committee members.
- The calendar aligns with that of the Toronto District School Board and the alignment will minimize additional transportation costs for both boards.
- In the 2021-2022 school year, there are a possible 193 of the required school days from September 7, 2021 (day after Labour Day) to June 30, 2022.
- The Education Act defines the school year as occurring between September 1 and June 30.
- In order to meet the requirement of 194 school days for the 2021-2022 school year, 1 day for TCDSB staff must occur prior to Labour Day.
- This year the Ministry of Education has requested that 3 Professional Activity Days occur prior to the start of student instruction.
- This report recommends that that two Professional Activity Days occur on September 7 and 8, 2021 and thus the first day of classes for students will be Thursday, September 9, 2021.
- Secondary schools, in consultation with their Local School Staffing Advisory Committee (LSSAC), may schedule a Professional Activity Day to align with the day following one of the Parent-Teacher Interview nights.

The cumulative staff time required to prepare this report was 30 hours.

B. PURPOSE

1. To provide information on what governs the development of the school year calendar.
2. To outline a communication plan that encompasses the TCDSB community.
3. To present the 2021-2022 school year calendar as agreed to, through a consensus process, by the Academic/Business Advisory Committee (AcBac) members.

C. BACKGROUND

1. Annually the Board establishes the school year calendar in accordance with the Education Act and Ont. Regulation 304.
2. The TCDSB must approve a school year calendar that includes a minimum of 194 school days, of which no more than seven (7) will be professional activity (PA) days and at least 187 will be instructional days. Three (3) of the seven PA Days must be devoted to provincial education priorities as set out by the Ministry of Education. In the case of secondary schools, no more than ten (10) instructional days can be designated as exam days.
3. In the 2021-2022 school year, there are a possible 193 of the required school days from September 7, 2021 (day after Labour Day) to June 30, 2022.
4. The Education Act defines the school year as occurring between September 1 and June 30. To meet the requirement of 194 school days for the 2021-2022 school year, 1 school day must occur prior to Labour Day. This day will be designated as a PA day and no students will be required to attend school prior to Labour Day.
5. This year the Ministry of Education has also advised that 3 PA days should occur prior to the start of student instruction.
6. In addition to the September 2, 2021 PA day, two additional PA days occurring prior to the start of student instruction will occur on September 7 and 8, 2021.
7. Student instruction will begin on Thursday, September 9, 2021.

8. The selection of the PA days for 2021-2022 school year has been in consultation with our Academic/Business Advisory Committee (AcBac) Committee members.
9. The AcBac Committee consists of members of Senior Staff and representatives from each union, association and various board departments (including Transportation, Payroll, Communications and Human Resources).
10. PA days have been aligned with the TDSB to minimize any additional transportation costs.
11. Each school year calendar must be accompanied by a general outline of the activities to be conducted on PA days, as per Ministry Policy/Program Memorandum 151, "*Professional Activity Days Devoted to Provincial Education Priorities*" (PPM151).
12. Summary of the proposed 2021-2022 school year calendar
 - a) Elementary Schools:
 - Two PA days are to be used for parent-teacher conferences, as per the Collective Agreement.
 - Two PA days are to be used for assessment and completion of report cards, as per the Collective Agreement.
 - Three PA days are to be used for Provincial Education Priorities of which one half day will be devoted to Faith Development.
 - b) Secondary Schools:
 - Three PA days devoted to Provincial Education Priorities and supporting Article 19 (Joint Professional Development Committee) of the Collective Agreement
 - One PA day devoted to Faith Development.
 - One PA day devoted to numeracy across the curriculum.
 - The remaining two PA days will be devoted to system priorities, annual learning plans and local goals articulated in the School Learning Improvement Plan.
 - c) The remaining school days shall be instructional days, which for secondary schools will include ten (10) examination days.

D. COMMUNICATIONS

The 2021-2022 school year calendar will be communicated in the following ways:

1. Letter to families, staff, SEAC, CPIC, CSPC Chairs and OAPCE-Toronto
2. Insert for school newsletters
3. TCDSB website
4. Social media channels

E. STAFF RECOMMENDATION

That the Board of Trustees approve:

1. The school year calendar for the 2021-2022 school year in Appendix A.
2. The communication plan outlined in this report; and that Principals share the 2021-2022 school year calendar and the plans for professional activity days with their CSPC members and their school communities.

TCDSB SCHOOL YEAR CALENDAR 2021-2022	
Number of school day	194
Number of Professional Activity Day	7
Number of Exam Days (Secondary Only)	10
First Three Days of the School Year (Staff Only)	September 2, 7, 8, 2021
Labour Day	September 6, 2021
First Day of Classes for Students	September 9, 2021
Thanksgiving Day	October 11, 2021
Christmas Break	December 20 – 31, 2021
Family Day	February 21, 2022
Mid-Winter Break	March 14-18, 2022
Good Friday	April 15, 2022
Easter Monday	April 18, 2022
Victoria Day	May 23, 2022
Last Day of Exams for Secondary Students	June 28, 2022
Last Day of Classes for Elementary Students	June 30, 2022
Last Day of School Year (Staff Only)	June 30, 2022

Seven (7) Professional Activity (PA) Days for ELEMENTARY schools:

September 2, 7 and 8, 2021	Provincial Education Priorities/ Faith Development
November 19, 2021	Parent-Teacher Conferences
January 14, 2022	Assessment, Evaluation and Reporting
February 18, 2022	Parent-Teacher Conferences
June 3, 2022	Assessment, Evaluation and Reporting

***Seven (7) Professional Activity (PA) Days for SECONDARY schools:**

September 2, 7 and 8, 2021
November 19, 2021
February 18, 2022
June 29 and 30, 2022

- Three PA days devoted to Provincial Education Priorities and supporting Article 19 of the Collective Agreement.
- One PA day devoted to Faith Development.
- One PA day devoted to numeracy across the curriculum.
- The remaining two PA days will be devoted to system priorities, annual learning plans and local goals articulated in the School Learning Improvement Plans.

Note: Secondary schools, in consultation with their Local School Staffing Advisory Committee, may schedule a Professional Activity Day to align with the day following one of the Parent-Teacher Interview nights.

April 23, 2021

Toronto Catholic District School Board
Director of Education

Toronto Catholic District School Board
Board of Trustees

Dear Dr. Browne and Trustees:

It has been quite an extraordinary year for equity initiatives at the TCDSB.

The members of the Toronto Secondary Unit applaud the many changes that the Board has made to proactively address anti-Black racism, to begin to understand structural oppression and issues of privilege, and to celebrate the multiple diversities within our community.

Socioculturally, our celebrations reveal what we value, e.g. African Canadian Heritage Month (and the many other Heritage Months). Conversely, our silences too often reveal that about which we are ashamed.

The historical culture of fear, sanction, silence and shame surrounding 2SLGBTQ+ issues in our Board will be hard to shake. Many teachers continue to be afraid to come out for fear of isolation, harassment, and dismissal. Consequently, 2SLGBTQ+ students (and, in fact, all students) are robbed of positive models of faith-filled, Catholic 2SLGBTQ+ adulthood. Instead, of seeing themselves reflected in the teaching staff, queer students are met with a spectre fear and shame. The message they get is that life does not "get better" and, should they aspire to be teachers, the TCDSB is not a community that would welcome them.

This needs to change.

The Toronto Secondary Unit is asking that June be designated 2SLGBTQ+ Pride Month at the TCDSB. As Catholics, we know how powerful symbols can be. The acknowledgement and celebration of Pride Month at the TCDSB would symbolize a fledgling acknowledgement and celebration of 2SLGBTQ+ students and staff in our community. The raising of the Pride flag at the CEC, and at our schools, would symbolize the centring and recognition of many of the most marginalized and invisible members of our community.

One thing we have learned from our advocacy work is that it is not up to oppressed and marginalized people to "fix the system". Rather, those with power and the safety of privilege must work to eliminate barriers to the full inclusion of all. We pray for all leaders and decision-makers at the TCDSB, that you will have the courage to stand up for those who cannot speak for themselves and take this important step to greater inclusion for 2SLGBTQ+ members of our Catholic community.

Respectfully,



Pete McKay
President, Toronto Secondary Unit



Mr. Joseph Martino
Chair-TCDSB Board of Trustees

April 27, 2021

Dear Mr. Martino:

The approximately five thousand (5000) elementary Catholic teachers in the Toronto Catholic District Community strive every day to create safe and welcoming environments for all students, teachers, and education workers. Our Association is proud of the role we have played in changing attitudes and advancing rights at the local level and throughout the province. However, just like in the wider community, some students and staff in our schools who identify as LGBTQ2S1+ continue to face bullying, discrimination and harassment.

The Pride flag is a symbol of the dignity of all people including those in the LGBTQ2SI+ community. Flying the flag is an essential action for the school board to take not only on behalf of the students and staff who identify as LGBTQ2SI+, but also for their parents and families, along with others in the broader community. It is a way of recognizing the struggles endured by people who identify as LGBTQ2SI+, while visibly demonstrating our Catholic school community's support for the human rights of all. This is a meaningful act showing our deep belief in the unconditional love God has for us all. It is also an important step toward creating a culture that respects the health and well-being of LGBTQ2SI+ people.

Throughout Pride month, our Association will be displaying our OECTA rainbow Pride flag and other materials as signs of support for our members, students, and others in the community. We strongly urge the TCDSB to join us by flying the traditional Pride flag at the Catholic Education Centre.

Sincerely,

A handwritten signature in black ink that reads "Julie Altomare-Di Nunzio". The signature is written in a cursive, flowing style.

Julie Altomare-Di Nunzio
TECT President

cc. Board of Trustees
cc. Dr. Brendan Browne



March 23, 2021

To the Trustees and Directors of Education in the Catholic School Boards, and to all Catholic educational institutions, in the Archdiocese of Toronto:

“Come to me, all you who labour and are heavy laden, and I will give you rest. Take my yoke upon you, and learn from me; for I am gentle and lowly in heart, and you will find rest for your souls.” (Matthew 11: 28-29)

After a year of Covid-19, we are all heavy laden. The spectre of sickness and death wears us down, as does the devastating effect of pandemic restrictions. This is nowhere more evident than in schools. But quite apart from the pandemic, these are days of much suffering, with so much conflict in the world, and so much contention in society. Across the globe, refugees flee oppressive regimes, and the blood of martyrs rebukes us in our comfortable Christianity. In our own country, social trends antagonistic to the Gospel gather strength.

To move outward with compassionate love, we need first to go deeper in our life of faith, through prayer, through meditation on sacred Scripture, especially the Gospels, and through the sacraments. As the prophet Isaiah says: “with joy you will draw water from the wells of salvation.” (Isaiah 12:3) To give us the guidance and strength required to fulfil our mission more effectively, we also need to rediscover a treasure, central to our life in Christ, that is hidden in plain sight in our Catholic spiritual heritage. It seems ever more clear to me that especially in these days we would all do well to meditate upon the symbol of the compassionate love of Christ: the Sacred Heart of Jesus.

Even in our secular society, the heart is the common sign of love, as we see every Valentine’s Day, but for a Christian the Sacred Heart signifies the steady, reliable, faithful, life-giving love which we experience in Jesus as we encounter him both in the Gospels and in our life of faith; we are called to imitate that faithful love.

The traditional image of the Sacred Heart is surmounted by a cross, the primary symbol of Christian faith: it draws us to contemplate the generous and sacrificial love of Jesus, as he lays down his life for us on the cross. We are called to show that same generous and sacrificial love, as we take up our cross and follow him each day. The Sacred Heart is crowned by the Crown of Thorns, which reminds us of the cost of discipleship. It is surrounded by flames: our love for others, in imitation of Christ, must not flicker but burn brightly with light and warmth in a world so often dark and cold.

Sometimes, Jesus points to the Sacred Heart, inviting us to come to him when we labour and are heavy laden; sometimes the arms of Jesus reach outward, welcoming everyone, as he calls us to do. The Sacred Heart is a sign of the love of Jesus, which we are invited to imitate. More than ever before, our world now needs the love symbolized by the Sacred Heart of Jesus.

I am inviting all Catholics, in all our parishes, and in all the hospitals, schools, and institutions within the archdiocese, to focus on the significance of this sign of the sacrificial and compassionate love of Christ: the Sacred Heart of Jesus.

In our families and in our parishes we all need to ponder the love of the Sacred Heart, and to live accordingly; on the Fourth Week of Lent I preached on this theme at the live-streamed Mass at the Cathedral, and will continue to do so in other contexts. Shortly before that I emphasized it at the Lenten retreat for the priests of the archdiocese, encouraging them to emphasize this sign of Christ’s love in their ministry.



I am also writing to you, who are responsible for the Catholic Schools in our archdiocese, because you are entrusted in a particular way with the sacred duty of caring for the young people of our community. Like us all, they deserve and they need life-giving spiritual nourishment, clear guidance in life, and the true compassionate love that Jesus teaches us in the Gospel, and models for us, and challenges us to imitate. The symbol of the Sacred Heart is the sign of that love in our Catholic Christian tradition.

This year the Solemnity of the Sacred Heart of Jesus is on Friday, June 11th, and I encourage all Catholics to prepare to celebrate it with renewed appreciation. In fact, each year the Church celebrates the whole month of June as the Month of the Sacred Heart. I am inviting everyone in the archdiocese to devote that month to meditating on the Sacred Heart, and to deepening our commitment to imitate the compassionate love of Jesus, a love that reaches out to the lonely, to the isolated, to the sick, and to all those who are rejected. Along with the cross, the symbol of the Sacred Heart is the Catholic Christian sign of that love.

And so I ask all Catholic schools to focus throughout June, the Month of the Sacred Heart, on this profound symbol of what our life in Christ is all about – of what Catholic education is all about.

As I announced in January at the meeting with the Chairs and Directors of Education, I will publish a pastoral letter to offer a more extended meditation on the insights of our Catholic tradition regarding this fundamental symbol of the compassionate love of Christ. More resources and suggestions for prayer, thought, and action will be forthcoming. But for now, I encourage all of us to reflect prayerfully upon the Sacred Heart, this sign of the love of Jesus, and to live accordingly.

Thank you for all that you continue to do to support and strengthen Catholic education. May God bless you always.

Sincerely in Christ,

+Thomas Card. Collins

Thomas Cardinal Collins
Archbishop of Toronto



TORONTO CATHOLIC DESIGNATED EARLY CHILDHOOD EDUCATORS



An Open Letter to Chair Trustee Mr. Joseph Martino and the Trustees for Toronto Catholic District School Board

May 3, 2021

Toronto Catholic DECE Local affiliated with Elementary Teachers Federation of Ontario and its members are writing this letter in support to fly the Pride Flag to mark Pride month. I am writing on behalf of the Elementary Teachers' Federation of Ontario (ETFO) and our 83,000 members, to ask that our school board designate the month of June as LGBTQ2S+ Awareness Month and require that our school board observe it as such.

The Pride Flag was born from and of the LGBTQ2S+ community. It is an important marker of belonging, acceptance, affirmation, and love for members of the LGBTQ+ communities. It is used by LGBTQ+ people all over the world to say, **"I see myself"**. It is used by communities, institutions, and governments all over the world.

The Pride Flag serves the important role of "voice" for LGBTQ+ people and communities. Importantly, supporters and families of LGBTQ2S+ people are also encouraged by seeing the flag. You need to decide and make the right choice to fly the Pride Flag.

As Early Childhood Educators, community members, educators, and leaders within our TCDSB we know that LGBTQ2S+ individuals already experience far too much isolation, violence, and erasure. It is an important step towards creating a culture that respects the health and well-being of LGBTQ+ people. **"Everyone—whether straight, gay, lesbian, bisexual or transgender—should be allowed to show their true colors and be accepted and loved for who they are."**

Cyndi Lauper

Flying the Pride Flag would be a strong message that our school board values and loves all. We strongly urge you to consider flying the Pride Flag and its impact on our community for all.

Sincerely,

Diego Olmedo

Diego Olmedo

TDECE President

CC : Mr. Joseph Martino Chair of TCDSB Trustee

CC: Dr. Brendan Browne Director of Education

Dear Trustees of the TCDSB,

My name is Kathryn Jaitley. I may be a familiar face and name for some of you representing my parent council, for OAPCE and delegating on matters that impact my school community.

Today I write to you as a parent.

My two children are in grades 2 and 4 at St. Cyril and while I do my very best to raise my family I do lean on our shared faith and our school community to support.

We were speaking as a family the other day about how important it is to mean what we say. That is an important lesson in that we teach our young children to follow through and fulfil their commitments. I leaned on our faith and explained to them to trust in God and ask for courage to be brave enough to follow through with what we say. I wanted to share that personal story with you in hopes that it may have an impact on the decisions ahead.

I attended that historic meeting in November of 2019. I was happy with the outcome of the board's decision to be inclusive. As it was decided then to be an inclusive board and include four terms to the board's code: gender identity, gender expression, family status and marital status. It is now a time for action. It's not enough to be inclusive on paper - we need to mean what we say. As a very engaged parent I see families, teachers, administrators all inclusive of LGBTQ2S students. I see teachers advocate for their students, I see parents exposing their kids to media, sharing celebrating differences and teaching diversity in their daily lives. I see in high schools teachers, and the TCDSB forming clubs and committees to advocate and support diversity and inclusivity - it's a strength and asset to all communities to have that. I have seen principals and vice principal send out all the communication for pink shirt day and celebrate - they proudly share images of these initiatives for all to see. These local initiatives matter and show our kids that we mean what we say.

As an invested parent stakeholder of catholic education am asking all trustees as governors to please mean what you say. Send the right messaging to all catholic boards as leaders and the largest catholic school board.

You say you represent parents and communities. You see, the communities you represent are very much working towards inclusion. They are already doing it.

You say that the TCDSB is an inclusive board than please mean that in your decision to include celebrating and acknowledge pride month.

Our school communities work so hard to teach acceptance and to make all schools a place of belonging through diversity and inclusion. Putting up roadblocks and barriers only hinders the efforts of these communities. Catholic education is a gift for our children and for future generations. As a parent I am disheartened to see such blatant discrimination at the board level.

I ask that you trust in your communities and lean on our faith as a strength to make a decision that makes it possible to improve the climate for all school communities. The decision you make can show love or alternatively fear. Your decision impacts many families, students and staff and represents those stakeholders that chose you. I am hopeful that you will make the best decision you can for us.

With witness and faith comes action.

Please act on May 6th to mean what you say. The students and communities you serve are counting on you.

Thank you
Kathryn Jaitley
(TCDSB parent)

Dear Trustees,

We are writing to ask that you please vote in favour of recognizing Pride month and flying the beautiful rainbow flag at our schools this year, and every year.

There is simply no good reason not to - and so many good reasons that we should.

I have written to many of you before with regard to issues of equality at our school board. The TCDSB has had enough damaging press related to this topic, and although that shouldn't be the reason to make the right decision here... I'm sure it will be on your minds as well.

We urge you to learn from the mistakes that the Halton trustees made - the public reaction was swift and clear, and many eyes will be on you this week. We need to support ALL our students and their families during this ongoing pandemic, and recognizing Pride month is one simple and impactful way to do it.

Sincerely,

Carla & Matthew Hindman
Parents of 3 children in TCDSB schools

Dear TCDSB Trustees,

My name is Derik Chica and I am a guidance counsellor, community advocate, education activist, and a parent of an awesome 3 year old. Years ago, for a few years, I was also an active member of the TCDSB Partners in Motion, the TCDSB Hispanic Heritage Month Planning Committee, and the TCDSB Advisory Committee for Spanish Speaking Communities representing the Latin American Education Network (LAEN).

Next year my partner and I have a decision to make. Where will our child be going to public school? Being an educator, I know the benefit of school stability as much as possible in a student's life so this is a big decision. Do we send our child to the Toronto District School Board or the Toronto Catholic District School Board?

Being a Guidance Counsellor, it is unfortunately common for students to come out as members of 2SLGBTQ+ communities to me first, and not their parents. These students feel that a huge part of **who they are** will not be accepted by their parents or religious communities. Sadly, sometimes, they are right.

As you see in your own recommendation report for the proclamation of Pride Month, 35% of lesbian, gay, bisexual, pansexual, or other, students have considered suicide! This is partially because these identities are not welcomed, included, and/or integrated in our schools, in our boards, and in our society. We must do better.

No parent wants their child considering suicide. I certainly don't.

If the very identity my child embraces is being debated by school board leaders, **that school board is not a safe space for my child.**

Unfortunately we live in a homophobic and transphobic world. Our schools NEED to be an "inclusive learning community" (TCDSB Mission). To combat homophobia and transphobia, our schools need to proudly declare that all identities are welcome and 2sLGBTQ+ students should have Pride in their identity. To combat homophobia and transphobia, a single simple step would be to proclaim June as Pride Month and proudly fly the Pride flag at all your schools.

I ask that as you read this letter, then head into the May 6 meeting for "debate", you consider that to take Pride in your identity is not a debate. It is a Human Right. Every word against the recommendations of this report is doing unjust harm on our children.

I am available for a conversation at any time.

Sincerely,
Derik Chica
A Concerned Parent

Dear TCDSB Trustees,

This Thursday you are scheduled to vote for the suggestions made by the 2SLGBTQ+ Advisory Committee. They support flying the rainbow flag in our Catholic schools and recognizing June as pride month.

On Sunday, in his homily, Cardinal Collins said clearly that June, for Catholics, is about the Sacred Heart of Jesus. It is not about "secular things". The month of June must not be turned into homosexual pride or flying the rainbow flag for the entire school system.

Cardinal Collins recommended reading the four Gospels and the Catechism of the Catholic Church in order to avoid the political currents of the day. The TCDSB is a true welcoming community. We know that firsthand because we worked for the Board as teachers for over 60 years. No ideology can save us. Only Christ can do that.

Flying the rainbow flag is not what the Church teaches about the human person, marriage and the family. Wokeness doesn't change those truths. Celebrating the Sacred Heart of Jesus must not be politicized with being "inclusive" and "diverse". True inclusiveness comes with love of neighbour and God. God has created us, male and female and in His own image.

We are asking you to vote to support Catholic teaching and the Constitutional right that Catholics have to operate their schools based on Church teaching. Remember that you took an oath to do so. May God help the innocent children in all schools.

Thank you,
Lou and Michelle Iacobelli
Ward 10

Good evening Ms. Rizzo,

I'm a constituent in your ward and I am also a Catholic teacher with the TCDSB. I'm writing to offer my support for the motion to fly the Pride flag during Pride month. After the roller coaster of this year for the TCDSB with many of our most vulnerable students feeling unsupported and unrepresented, families under attack and identities treated as criminal acts the board needs to see some positive change in support of our learners. I truly believe this action would not only set a precedent but could quite literally save lives. With further isolation for our students during this third wave and a disconnect from community and for some, the safe spaces of school buildings, our students need to know they have our support, and a safe second home to come to.

Thank you for your advocacy on this matter, and for your continued support for our LGBTQIA2+ students.

Sincerely,

Elyse Hartmann

To Whom it May Concern:

I am writing as an Ontario taxpayer. I SUPPORT the motion proposed to raise the Pride Flag.

I understand a “debate” is scheduled for this week on whether or not TCDSB will recognize Pride Month and raise the Pride Flag. In 2021, this should not be a debate. We know that our 2SLBGTQ+ are at higher risk of discrimination and violence, both inside and outside of our schools. We also know that due to this, individuals who identify as 2SLBGTQ+ are at higher risk of suicide attempts and completion, as well as a compilation of other mental health concerns.

A Catholic faith does not give us the right to hide behind hate and bigotry. All students deserve to attend a school in a safe and supportive environment. Those within the 2SLBGTQ+ community have told us that the Pride Flag is an important symbol, identifying safe, inclusive places. Toronto Catholic schools should be no less welcoming and inclusive than any other school located in Toronto, or elsewhere.

I implore you to make the right decision on Thursday night. I implore you to look inside yourselves and instead of finding excuses as to why you won't support this motion, find the courage to put your students first and #FlyTheFlag!

Sincerely,

Alexandra Power

Hi Maria, I absolutely support flying the Pride flag outside all of our TCDSB schools.

Catherine Mulroney

Ms Rizzo,

You can be part of the solution; let all kids know that they are children of God.
Vote to encourage the flying of the Pride flag at TCDSB properties.

Thanks, Kelly

TO LISTEN, TO REASON AND TO PROPOSE: The Rainbow Flag & Catholic Schools

Prepared by Tamara Nugent and Yvonne Runstedler
at the request of the Very Reverend Cornelius O'Mahony, Episcopal Vicar for Education
for the Catholic Partners of the Diocese of Hamilton

All who enter our Catholic schools come to the process of formation with a personal story, experienced as a journey and shaped by their diverse and unique life experiences. Individual stories are lived out in a communal context. The new *Directory for Catechesis* addresses the complex needs of persons today and the best methodologies of proclamation and catechesis to meet these needs. It acknowledges the challenges of our current culture and the call to hope as a required response. The recent pastoral letter from the Ontario Bishops, *Renewing the Promise*, calls us to live this hope as a community that encourages engagement, accompanies, builds relationships, and forms joyful disciples. We want to create an environment where people can listen and learn from each other about why it is important to talk about LGBTQ+ identities and the intersectionality of these with racism and mental health. In *Male and Female He Created Them: Towards a Path of Dialogue on the Question of Gender Theory in Education*, is an emphasis on listening in this context described through three guiding principles “best-suited to meet the needs of both individuals and communities: to *listen*, to *reason* and to *propose*.”¹

TO LISTEN: CONTEXT

Our Catholic schools function in a secular society and serve the needs of people who come from a variety of backgrounds and experiences. It is important to, “... to educate children and young people to respect every person in their particularity and difference, so that no one should suffer bullying, violence, insults or unjust discrimination based on their specific characteristics (such as special needs, race, religion, sexual tendencies, etc.). Essentially, this involves educating for active and responsible citizenship, which is marked by the ability to welcome all legitimate expressions of human personhood with respect.”²

The Rainbow Flag

The Rainbow Flag has been part of the LGBTQ+ movement since 1978, when, at the request of Harvey Milk (the first openly gay man to be elected to public office in the United States), activist and artist Gilbert Baker (1951–2017) designed it in his studio in San Francisco. Milk said, “It’s not about personal gain, it’s not about ego, it’s not about power, it’s about giving those young people out there hope.”

Originally the flag was eight colours in composition – pink and turquoise were dropped to make mass production easier – and each colour means something. More recent versions of the flag have reintroduced pink, alongside light blue and white to include those who are non-binary or transgender. Red means life, orange means healing, yellow means sunlight. Green represents nature, turquoise art, blue harmony, and violet means spirit.

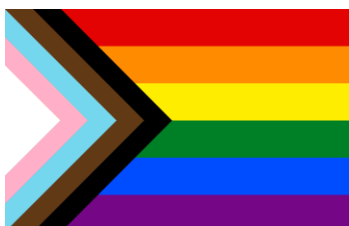


¹ Congregation for Catholic Education, *Male and Female He Created Them: Towards a path of dialogue on the question of gender theory in education*, Vatican City, 2019.
http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20190202_maschio-e-femmina_en.pdf

² Ibid.

Though Baker originally assigned meanings to each colour, over time, the colours have come to represent diverse people who come together to form something beautiful (the rainbow).

There are now several variations of the flag including versions that include black and brown stripes to represent LGBTQ+ people of colour. Most recently, graphic designer Daniel Quasar has added a five-coloured chevron to the Rainbow Flag to place a greater emphasis on "inclusion and progression". This flag is often referred to as the "Progress Flag" or "Inclusion Flag".

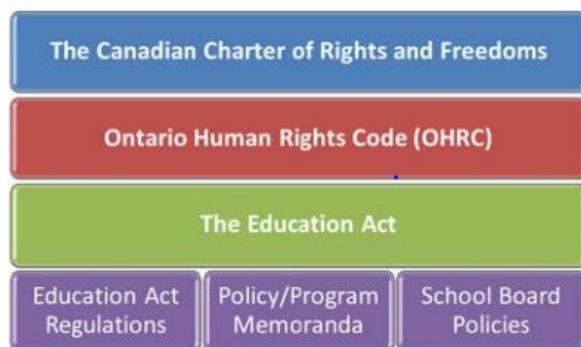


TO REASON: THE LAW IN ONTARIO

"In so far as this issue relates to the world of education, it is clear that by its very nature, education can help lay the foundations for peaceful dialogue and facilitate a fruitful meeting together of peoples and a meeting of minds."³

Research has demonstrated that an inclusive school culture and climate is important for all students to achieve success and personal wellbeing. Evidence has shown that this is especially important for students who are, or who identify as members of the LGBTQ+ community. The Directory of Catechesis emphasizes this as well, speaking in particular to the challenge of gender and gender identity, acknowledging that, "The Church is well aware of the complexity of the personal situations that are lived out, at times, in a conflicted way. She does not judge persons, but asks that they be accompanied always and in whatever situation."⁴

Legislative Context



The following links outline the legislative requirements, as well as the Ministry resources that have been developed to support school boards.

³ Congregation for Catholic Education, "Male and Female He Created Them: Towards a path of dialogue on the question of gender theory in education," Vatican City, 2019.

⁴ Pontifical Council for the Promotion of the New Evangelization. "Catechesis and Some Questions of Bioethics" *Directory for Catechesis*. July 2020, #377.

LEGISLATIVE / POLICY FRAMEWORK

The Education Act <https://www.ontario.ca/laws/statute/S12005>

Ontario Human Rights Code <https://www.ontario.ca/laws/statute/90h19>

Prohibitive Grounds for Discrimination http://www.ohrc.on.ca/en/code_grounds/gender_identity

PPM 119, Equity and Inclusive Education, April 22, 2013 Developing and Implementing Equity and Inclusive Education in Ontario Schools <http://www.edu.gov.on.ca/extra/eng/ppm/119.pdf>

PPM 145, Progressive Discipline and Promoting Positive Student Behaviour, December 5, 2012 <http://www.edu.gov.on.ca/extra/eng/ppm/145.pdf>

PPM 144, Bullying Prevention and Intervention, December 5, 2012 <http://www.edu.gov.on.ca/extra/eng/ppm/144.pdf>

Equity and Inclusive Education in Ontario Schools (2014 Edition) <http://www.edu.gov.on.ca/eng/policyfunding/inclusiveguide.pdf>

Ontario's Equity and Inclusive Education Strategy, Realizing the Promise of Diversity (2009 Edition) <http://edu.gov.on.ca/eng/policyfunding/equity.pdf>

A Catholic training module entitled, *"Human Dignity: Our Catholic Call to Love - Inclusive Communities Supporting Transgender Students"* (2018) was developed by the Catholic Partners of Hamilton Diocese for the Catholic community.

In 2012 Bill 13, commonly referred to as the *Accepting Schools Act*, was enacted based on the following beliefs:

- that education plays a critical role in preparing young people to grow up as productive, contributing and constructive citizens in the diverse society of Ontario;
- that all students should feel safe at school and deserve a positive school climate that is inclusive and accepting, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;
- that a healthy, safe and inclusive learning environment where all students feel accepted is a necessary condition for student success;
- Understanding that students cannot be expected to reach their full potential in an environment where they feel insecure or intimidated;
- that students need to be equipped with the knowledge, skills, attitude and values to engage the world and others critically, which means developing a critical consciousness that allows them to take action on making their schools and communities more equitable and inclusive for all people, including LGBTQ+ people;
- Recognition that a whole-school approach is required, and that everyone - government, educators, school staff, parents, students and the wider community has a role to play in creating a positive school climate and preventing inappropriate behaviour, such as bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia;
- Acknowledgement that an open and ongoing dialogue among the principal, school staff, parents and students is an important component in creating a positive school climate in which everyone feels safe and respected;

- Acknowledgement that there is a need for stronger action to create a safe and inclusive environment in all schools, and to support all students, including both students who are impacted by and students who have engaged in inappropriate behavior, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success.

In addition to a range of other requirements the legislation set out the following:

Board support for certain pupil activities and organizations

303.1 (1) Every board shall support pupils who want to establish and lead activities and organizations that promote a safe and inclusive learning environment, the acceptance of and respect for others and the creation of a positive school climate, including,

- (a) activities or organizations that promote gender equity;
- (b) activities or organizations that promote anti-racism;
- (c) activities or organizations that promote the awareness and understanding of, and respect for, people with disabilities; or
- (d) activities or organizations that promote the awareness and understanding of, and respect for, people of all sexual orientations and gender identities, including organizations with the name gay-straight alliance or another name.

Moreover,

(5) A board shall comply with this section in a way that does not adversely affect any right of a pupil guaranteed by the *Canadian Charter of Rights and Freedoms*.

Of note is that prior to the legislation being enacted, GSAs (Gay Straight Alliance student support groups) arose organically in many Catholic schools because of a need. Students who identify as LGBTQ+ are known to experience higher rates of bullying, victimization, harassment, and suicide. As an example, Wellington-Dufferin Public Health reports that, “Non-binary youth are most likely to have low family support, have low school engagement, be a smoker, feel least safe at school and report thoughts of suicide.”⁵ The establishment of GSAs is empirically supported to contribute to more positive school environments that are safer, more inclusive learning spaces to thrive.

School Mental Health Ontario, in addition to the goals outlined in the provincial strategy, has emphasized that more than ever students need:

1. Schools and classrooms that are safe – physically and emotionally – and where they feel welcome, included, heard, comfortable, and confident
2. Skills and tools for self-care, managing stress, nurturing relationships, and enhancing their sense of strength and identity
3. Caring adults who notice when they may be struggling, and who provide knowledgeable responsive support
4. Encouragement to seek additional help when they need it, and guidance towards appropriate support.
5. Quick access to the right level of service (in schools or community mental health)

⁵ Wellington-Dufferin Guelph Public Health Unit. “2017-2018 Youth Survey: Key Findings.” <https://www.wdgppublichealth.ca/bh01feb0619r04-2017-2018-youth-survey>

The Institute for Catholic Education (ICE) – Working on Behalf of all Partners

Throughout the 2019/2020 school year the Institute for Catholic Education worked with its respective partners including the Ontario Bishops and the Education Commission to affirm our commitment to equity, diversity and inclusive school communities.

On May 19, 2020 a memo was sent to all Catholic Directors and the partners (Assembly of Catholic Bishops of Ontario, Catholic Principals' Council of Ontario, Ontario Association of Parents in Catholic Education, Ontario Catholic School Business Officials' Association, Ontario Catholic School Trustees' Association, Ontario Catholic Supervisory Officers' Association Ontario and English Catholic Teachers' Association).

A number of messages and visual images were developed as examples that would assist Catholic school boards to proactively address community-based celebrations of diversity, equity and inclusion. The intention was to develop messaging regarding how Catholic schools approach the month of June, a month in which LGBTQ+ rights are recognized, with a distinctively Catholic language and perspective.

The memo which is attached for reference and should be considered in its entirety, further states:

During the Spring 2020 Plenary meeting of the ACBO the bishops reviewed a number of potential messages and visual images and had further discussion. While individual bishops hold a range of personal perspectives on the matter, collectively they do understand the need for Boards to communicate the commitment to ensuring safe and welcoming communities.

- The bishops recognize and value the good work of Catholic schools in providing support and accompaniment to students who may identify as LGBTQ+ and expressed their appreciation,
- The bishops understand the need for Boards to communicate their commitment to ensuring equitable, safe, and inclusive school communities,
- The bishops are supportive of Boards taking a positive and proactive approach to express this commitment.

The 2020 Pandemic / Black Lives Matter (BLM)/LGBTQ+ and Student Voice

Recent events that the world has faced have allowed for a refocusing of our attention on the issues affecting those most vulnerable. Following several months of “lockdown” and numerous tragic events involving the deaths of people of colour, there was a rallying cry for actions of solidarity and the Black Lives Matter movement emerged with renewed vigour in June 2020 during what is traditionally known as PRIDE month. In many ways the two are complementary as both BLM and PRIDE are focussed on the community speaking up against injustice and making the noted individuals/groups visible. The pandemic has finally done what many have long called for and put the discussion about the impact of privilege on the community front and centre.

Showing up for others can be unifying and life-changing. In a time where many people are feeling more isolated and anxious than usual, we know that kindness and unity are needed now more than ever. Drawing on the example of Christ, who preached a message of love and inclusion through His ministry, is the message that our Catholic schools are called to action. We are all seeking support, understanding, and real and thoughtful conversations. This is especially true for our students; the children and youth entrusted to our care. The *Catechism of the Catholic Church* affirms and values this need for support, encounter and accompaniment. Pope Benedict described it as such: “In its very structure, the *Catechism of the Catholic Church* follows the development of the faith right up to the great themes of daily life. On page after page, we find that what is presented here is no theory, but an encounter with a Person ... the teaching of the *Catechism* on the moral life acquires its full meaning

if placed in relationship with faith, liturgy and prayer.”⁶ It is in this spirit of encounter that we meet students who identify as LGBTQ+ in Catholic schools.

We are called to work for justice. In fact, our students, staff and community are demanding it. Restrictions on gathering in schools and the public, has meant for the first time conversations and digital platforms became the go to way of connecting. While this is true, there is an appetite for conversation, dialogue and a focus on connection. There has been more attention being paid to structural inequalities that keep us apart, and that have been so starkly highlighted by the current pandemic.

It has also brought to the foreground those who are doubly marginalized. The development and use of the Progress Flag is a reflection of the increased awareness of intersecting forms of oppression, and therefore the need for intersectional inclusion.

Brian Wenke, Executive Director of the “It Gets Better Project”, recently stated that, “If you don’t have a solid understanding of who you’re trying to reach, you’ll never find them.” Our students, staff and community have made many attempts to articulate why it is important that the PRIDE flag (and one might now consider the progress or inclusion flag) be a visible, outward facing sign as symbol of solidarity, inclusion and acceptance. It communicates for our children, youth, staff, and families that this is a safe, welcoming place to learn and grow.

Our Catholic schools can and must engage fully and relentlessly to address bullying, discrimination and harassment in all its forms and manifestations. We can do this by building inclusive communities that respect the dignity of every person and advancing social justice for all families. A visible sign such as a Rainbow Flag or Progress Flag is an unspoken sign of solidarity, that “we see you and are here to support you” and is noticed by those that are looking for it as it also indicates that this is a safe space for dialogue.

Pope Francis said, “Catechesis is taking others by the hand and accompanying them...because Christian life does not even out or standardize, but rather enhances the uniqueness of each child of God.”⁷

It is understood that in our Catholic schools, it is important that topics such as human sexuality, gender identity and gender expression, as well as initiatives that promote understanding of and respect for difference, are discussed against a clear moral background. Resource personnel and resources are available to support this work. Properly understood, difference is something to be recognized in a society that honours diversity, multiculturalism and human rights. Respect, compassion and sensitivity must guide our actions.

TO PROPOSE: HOPE FOR THE FUTURE

As we look to the provide hope for the future, we are reminded that, “The Catholic school should be an educating community in which the human person can express himself and grow in his or her humanity, in a process of relational dialogue, interacting in a constructive way, exercising tolerance, understanding different points of view and creating trust in an atmosphere of authentic harmony.”⁸

⁶ Pope Benedict. “Porta Fidei.” Apostolic Letter, 2011, # 11. http://www.vatican.va/content/benedict-xvi/en/motu_proprio/documents/hf_ben-xvi_motu-proprio_20111011_porta-fidei.html

⁷ Pope Francis. “Address of His Holiness Pope Francis to Participants in the Meeting Promoted by the National Catechetical Office of the Italian Episcopal Conference.” Bulletin of the Holy See Press Office, 30 January 2021. http://www.vatican.va/content/francesco/en/speeches/2021/january/documents/papa-francesco_20210130_ufficio-catechistico-cei.html

⁸ Congregation for Catholic Education, *Male and Female He Created Them: Towards a path of dialogue on the question of gender theory in education*, Vatican City, 2019. http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20190202_maschio-e-femmina_en.pdf

Ontario is a pluralistic society. In any school, some community members may live in same-sex relationships, and same-sex couples may be part of the group of parents; some students may choose to openly identify and recognize their sexual orientation during their years in school or they may identify as transgender. Such is the reality in the educational context in Ontario. Denying this is simply not understanding or appreciating who is coming through our school, classroom and workplace doors, each and every day.

The Rainbow Flag's meaning rests not in its individual colors but in the symbolism of the entire spectrum. Baker described the rainbow's universal, all-embracing resonance best: "The rainbow came from earliest recorded history as a symbol of hope. In the Book of Genesis, it appeared as proof of a covenant between God and all living creatures."

June is nationally recognized as Pride Month in Canada. Many institutions and organizations fly the Rainbow Flag as a celebration of diversity. The well-being of all our students and staff are met through a focus on equity and inclusion. While the Rainbow Flag is strongly connected to the LGBTQ+ community, it also is a representation of social change cited as being a symbol of hope and peace.

Flying the Rainbow Flag or Progress Flag communicates that our schools are safe spaces for everyone. It also aligns with boards' equity plans, and mission and vision statements regarding inclusion and belonging as well as student and staff well-being. Most notably, St. Jerome's University (SJU) within the Diocese of Hamilton, marked the beginning of Pride Month by raising a Rainbow Flag on its campus on Monday, June 1, 2020. The event was hailed as a key step toward bringing people even closer together.

Dr. Kline, interim President of the University, stated, "We teach and support a diverse student body, which is drawn from across the University of Waterloo campus. As an academic community rooted in the Catholic tradition, the virtue of hospitality provides direction to us. It calls us to reflect on how we treat our guests and to consider our place in the broader community." He went on further to say, "In recent years, it had become painfully evident that our decision not to fly the Pride flag was sending the wrong message; namely, SJU was not a welcoming space for people who identified as LGBTQ+. This was never our intention and, in fact, that message contradicts our mission and dedication to being community builders. For us, the flag represents our commitment to our students and to all members of the SJU community. The time was right to provide a symbolic reminder that 'all are welcome in this place.'"

In our Catholic schools, we welcome and value all students and celebrate diversity within our communities. We believe that we are all created in the image and likeness of God, and we teach our students to honour the dignity in each person by treating one another with care, compassion and respect. We are committed to nurturing safe and inclusive learning environments that are an expression of God's love and mercy in this world.

With our partners, staff and families we want to create safe, inclusive and welcoming environments of learning and social justice. To raise a Rainbow Flag or Progress Flag at our schools and board offices, in the spirit of care, compassion and respect for all, will signal that we remain firm in our resolve that the work that our staff and students engage in each and every day will ignite the courage to faithfully confront injustice, racism, oppression, and violence while also advocating valiantly for reconciliation, peace, equality, healing, and hope.

Attachment:

ICE Memo

Re: Affirming our Commitment to Equity, Diversity and Inclusive School Communities, May 19, 2020

Dear Maria Rizzo,

My family would like to see the pride flag hung during pride month. Would be a huge step forward towards love and acceptance which is part of my Catholic values and it's teachings.

Thank you for voting on my behalf,
Natalie Botica
(Blessed Sacrament Catholic School Parent)



May 4, 2021

In response to numerous inquiries from trustees, teachers, students and parents, the Archdiocese of Toronto offers the following reflection regarding inclusivity and acceptance.

Reflection on Inclusivity & Acceptance from the Archdiocese of Toronto

Earlier this year, Cardinal Thomas Collins, Archbishop of Toronto, met with Directors of Education and Chairs of Catholic School Boards in the Archdiocese of Toronto. Among the items discussed were issues of inclusion, and specifically the request made in some boards to have Catholic schools fly the Pride flag during the month of June. We are well aware of the passionate feelings on both sides of this issue, and we pray that dialogue regarding these matters can be conducted respectfully and thoughtfully. It is painful that the public discussion around how to best promote inclusivity has, in itself, often caused division in the community.

As Catholics, we are taught that we must love our neighbour and treat every individual as a child of God, accepted with respect, compassion and sensitivity.

Parents make a clear choice when they decide that their children will attend a Catholic school. They rightly expect that trustees, principals, teachers – all partners in education – will ensure that Catholic teaching is presented, lived and infused in all that we do.

In that regard, the appropriate symbol that represents our faith, and the inclusion and acceptance of others, is the cross, which is visible at the entrance of every Catholic school. It is the primary symbol of our Christian faith: it draws us to contemplate the generous and sacrificial love of Jesus, as he lays down his life for all of us. In a world that would crucify an innocent man, Jesus returns love for hatred and says: “Father, forgive them, for they know not what they do.” (Luke 23:34) The love represented by the cross is that sacrificial love, centered not on self, but on others. The cross outside of Catholic schools and any Catholic church, hospital or institution, signals our commitment that all who enter the building are welcomed and loved in their beauty and uniqueness as children of God.

Practically, we also know that there are any number of groups working to advocate for many diverse causes. For this reason, many school boards wisely fly only the Canadian flag out of a sense of equity for all.

There is a belief among some that unless one embraces secular symbols, one cannot be inclusive or accepting. This is simply not true. Where there are cases of injustice and mistreatment of any student, whether they are bullied or rejected due to their sexual orientation, appearance, race, sex or any other reason, we must seize the moment, address the situation and ensure that we lead by example, as we foster a culture of care and love for every individual. That truth is perfectly represented in our most fundamental Catholic symbol: the cross.



Archdiocese
of Toronto

Catholic Pastoral Centre
1155 Yonge Street
Toronto, Ontario M4T 1W2
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We also recognize that there are times when the presentation of Catholic teaching will clash with the views held by many in society, whether these relate to human sexuality, the sanctity of life, issues of social justice or other deeply held beliefs. Those who are faithful to these teachings are often ridiculed, mocked and excluded. Frequently, since the time of Jesus, Christian teaching has not aligned with currently prevailing opinions.

To be clear, locally elected Catholic school trustees will ultimately determine the path forward, but we trust that these insights will be helpful. We pray that we may all reflect on these challenging conversations and do so in a spirit of collaboration, mutual respect and care for one another.

Geoffrey F. Cauchi, LL.B, CIC.C

By email attachment to multiple addressees

May 4, 2021

Toronto Catholic District School
80 Sheppard Ave. E.,
Toronto, ON
M2N 6E8

Attention: Chair of the Board
All Trustees
Director of Education
Integrity Commissioner

Dear Sirs et Mesdames:

Re: Board Communication on the Legal Issues Arising from Conflicts of Interests at the TCDSB

“Dissent, in the form of carefully orchestrated protests and polemics carried on in the media, is opposed to ecclesial communion and to a correct understanding of the hierarchical constitution of the People of God. Opposition to the teaching of the Church’s Pastors cannot be seen as a legitimate expression either of Christian freedom or of the diversity of the Spirit’s gifts. When this happens, the Church’s Pastors have the duty to act in conformity with their apostolic mission, insisting that the right of the faithful to receive Catholic doctrine in its purity and integrity must always be respected.”

Pope St. John Paul II, Papal Encyclical, *Veritatis Splendour*, n. 113.2

I practise law in Ontario, but I write this communication to the School Board as a ‘friend of the Board’, and not on behalf of any client. Some of the current Trustees have a tenure long enough to remember that, in 2011, I submitted to Cardinal Collins (primarily) and, secondarily, to all of the Trustees of the Board and the Assembly of Catholic Bishops of Ontario, a similar “friend of Cardinal” legal opinion on the Equity and Inclusive Education Policy, generally, and on the subject of so-called “Gay-Straight Alliance” groups in your schools, specifically. That opinion, dated May 18, 2011, as well as another legal opinion submitted by Toronto lawyer Michael Osborne, was the subject of a detailed analysis by your Board’s solicitors, BLG, which was in turn communicated to the Trustees by way of a Memo dated August 31, 2011 (the “2011 BLG Opinion”).

I am a Catholic Elector of the Halton Catholic District School Board, and have been following the recent public controversy arising from its handling of its “Rainbow Flag Resolution” and “Critical Race Theory Resolution” (my terms). That controversy has sparked a number of conversations among Catholic electors of both my Board and yours.

It is my understanding that your Board (the “TCDSB”) is about to deliberate on resolutions to approve the flying of the “Rainbow Flag” at its schools during the month of June, 2021, and approve moving forward with a plan to incorporate into its curricula the ideologies promoted by the organization that goes by the name Black Lives Matter, and those that come under the general description of “Critical Race Theory”.

As a member of the “Class of Persons” in the Province of Ontario who possess what is known as Denominational Rights, I cannot resist the urge to again volunteer my assistance to the Board in helping it avoid serious errors in corporate governance. I have over thirty years experience in providing legal advice in this area to regulated financial institutions, and also served nine years as a volunteer member of the Board of Directors of my local Children’s Aid Society, including one year as Chair of the Board, and one year as Past-Chair. My input here is offered in good faith, and I trust, just as my 2011 submission was received in good faith, it too will be received in good faith.

I also trust that all of the Trustees of the TCDSB honestly acknowledge that they owe fiduciary duties to all of their Catholic Electors who support the Constitutionally Protected Mandate I will explain below. I do not know how I could draw any contrary inference from the requirement in clause 1(d) of your *Code of Conduct* that each Trustee “recognize and rigorously defend the constitutional right of Catholic education”, as well as the public record of each of them answering “I will” to the question – “***Will you be faithful to the teachings of the Church and to the Primacy of the Roman Pontiff and the authority of the Magisterium?***” --- when they each took the oath of office after their election to the office of Trustee. I also trust that all of the Trustees know and understand the implications of the word “Magisterium”, and can discern when a person who is lobbying them on denominational issues dissents from the teachings of the Magisterium.¹

In this context, my legal commentary to you must be viewed as coming from someone whose interests are perfectly aligned with what should be considered the legitimate interests of the Trustees. There is no ***conflict of interest*** that I need to disclose to you in making my submissions. I am a member in good standing of the Catholic Church and a Catholic Elector of my own Board who considers himself bound, as a matter of conscience, to observe all of the magisterial teachings of the Catholic Church. This is the only religion that I have embraced. I am NOT a believer in the “Religion of OECTA”, and not a member of the “Church of OECTA”. These two “religions” are incompatible.² Moreover, in my opinion, as a lawyer, the TDSCB

¹ “In brief, the magisterium consists of what the pope and the bishops in union with him officially teach. The Second Vatican Council, in its 1965 *Dogmatic Constitution on Divine Revelation (Dei Verum)*, refined this understanding of the Church’s magisterium when it taught that ‘the task of giving an authentic interpretation of the Word of God, whether in its written form or in the form of Tradition, has been entrusted to the living teaching office of the Church alone’ (10)”: Kenneth D. Whitehead, entry for *Magisterium*, Encyclopedia of Catholic Social Thought, Social Science and Social Policy (Lanham, MD: Scarecrow Press, Inc., 2007).

² Members of the Church of OECTA will often refuse to admit that they have, in a spiritual sense, left the Catholic Church and become what Pope St. John Paul II sometimes called “practical atheists”, often euphemistically couching their lobbying efforts directed at Catholic Trustees as merely an appeal to a “broader vision” of Catholicism than that of the Magisterium. Then there are other Catholic Electors who deny any close association

does not have the legal or constitutional authority to engage in the religious indoctrination of its students in any religion other than the Catholic religion, as taught by its Magisterium.³

I think this is an opportune time for the TCDSB to review its conflicts of interest “management” obligations, and take appropriate action. In my opinion, a failure to do so could materially expose the TCDSB and many of its individual Trustees to valid legal claims asserted by its Catholic Electors.

The Executive Summary:

1. The TCDSB itself owes fiduciary duties to its Catholic Electors who support the Constitutionally Protected Mandate of the Board, as defined in cases such as *Daly*. This Mandate is derived from the rights and privileges referred to in section 93 of the *Constitution Act, 1867* (“Section 93”). To say so, and to go further and say this Mandate *informs* the content and parameters of the fiduciary duties is NOT to improperly use “Section 93” as a “sword” against the Board and its Trustees, as objected to by the authors of the 2011 BLG Opinion. The Trustees, in turn, owe a fiduciary duty to the Board to not act or vote in a way that frustrates the ability of the Board to fulfill its fiduciary duties to the Catholic Electors.
2. There are some basic and fundamental duties that are common to all fiduciary relationships. These include, broadly, a duty of full disclosure and a duty of loyalty to the beneficiary of the fiduciary party (i.e., to put the interests of their beneficiaries above their own personal interests and those of any third party special interest group). However, the full and precise scope of the fiduciary duties in any given case is further informed and defined by any unique features of the particular fiduciary relationship involved (e.g., financial advisor/client, doctor/patient, Priest/parishioner, trustee of a

with the Church of OECTA, but who nevertheless then attempt to bully our Trustees into approving their own idiosyncratic and subjective religious beliefs that are incompatible with magisterial teachings, and imposing them, by their decisions, on everyone else connected with the Board. Such Catholics are proud of their *dissent* from the magisterial teachings and do not tolerate dissent from their dissent. I do dissent from their dissent. I want my Trustees to be accountable to the faithful Catholic Electors, and I presume that they want to be held accountable to them should they fail to fulfill their Constitutionally Protected Mandate.

³In the 1990 decision of the Ontario Court of Appeal in the *Elgin County Case*, the court established the general principle that, as a matter of constitutional law, indoctrination in religion is prohibited in government-funded schools. Notwithstanding this general principle, the Denominational Rights of Catholic Electors in Ontario who adhere to the magisterial teachings of the Catholic Church present a clear, but singular, *exception* to this general prohibition. Thus, when Catholic Electors who are members of the Church of OECTA demand that Catholic Trustees adopt a particular policy that contradicts a magisterial teaching of the Catholic Church they cannot be said to be asserting Denominational Rights, which are the collective rights of the adherent Catholic Electors, exclusively. At best, if the Trustees reject their lobbying efforts, they could, as individuals, complain that the Board has infringed their *Charter* right to freedom of religion, or make a complaint of discrimination on the basis of “creed” under the Ontario Human Rights Code. However, as we all know, the Board has a perfect defence to any such claims or complaints, and that would be the very Denominational Rights that members of the Church of OECTA cannot assert, due to their dissent from magisterial teaching.

family trust/beneficiary, estate trustee/beneficiaries of the estate, corporate officer/corporation, Ontario Catholic School Board/Catholic Electors).

3. The full and precise scope of the fiduciary duties an Ontario Catholic separate school board owes to its faithful Catholic Electors is further informed by:
 - (a) the magisterial teachings of the Catholic Church, especially the *Code of Canon Law*;
 - (b) the Board's Constitutionally Protected Mandate, as explicated by the Courts;
 - (c) the denominational rights of Catholic Electors, as explicated by the Courts;
 - (d) the text of any relevant statutory re-statements of the denominational rights and privileges of Catholic Electors, including ss. 1(4) and 1(4.1) of the *Education Act*, the parallel provisions of the amended *Labour Relations Act, 1995* and the *School Board Collective Bargaining Act, 2014*, and section 19 of the *Human Rights Code* (Ontario);
 - (e) the text of any industry-wide codes or standards of conduct for school board trustees; and
 - (f) the text of the school board's own *Code of Conduct*.
4. The foregoing has, at a minimum, the following legal implications for the TCDSB in respect of all denominational issues that come before it:
 - (a) the Board and its Trustees must always put the interests of the Catholic Electors who support the Mandate of the Board ahead of their own personal interests and the interests of all other persons or special interest groups;
 - (b) the Board and its Trustees must seek out and use all reasonable means at their disposal, including the judicial remedy in Section 93, to oppose government action and legislative and regulatory measures that prejudicially affect the rights and privileges of the Catholic Electors (the "Denominational Rights");
 - (c) the Board and its Trustees must recognize that they do not have the legal capacity or authority to unilaterally *wave* any Denominational Rights on behalf of their Catholic Electors, whether or not they do so under duress from representatives of the provincial government or special interest or advocacy groups;
 - (d) the Board and its Trustees must reject all advice and lobbying efforts from persons and groups that are hostile to the magisterial teachings of the Catholic Church;
 - (e) having recognized the obvious reality that the essential purpose of a Catholic school is to indoctrinate its students in the teachings of the Catholic Church, the Courts have now settled (see the *Loyola* case) that those "teachings" are those taught by its Magisterium, exclusively. Moreover, the *Loyola* decision has essentially signalled to future litigants that the Courts will defer to the Catholic Church's own understanding of what kinds of documents issued by the Church should be accepted by the secular courts as conclusive evidence of what the Catholic Church actually teaches. On most denominational matters, there will be no compelling reason why the TCDSB should think it necessary to retain the services of an expert like Professor Douglas Farrow of

McGill University to provide it with advice on what is to be considered a magisterial document and on whether or not a proposed course of action contradicts a magisterial teaching of the Catholic Church, or, God-forbid, tolerate being lobbied by the officers of OECTA or other dissenting Catholics on such matters. Professor Farrow has already shown you the tools you need to answer such questions, and those tools have been approved by the Courts;

(f) the Board must put in place a *Code of Conduct* that both appropriately reflects all of the legal implications expressed above and includes an effective mechanism to manage any conflicts of interest that may arise, including non-pecuniary conflicts of interest as defined by the common law. This mechanism must require the Trustees to fulfill their duty of full disclosure of conflicts of interest, and absent themselves from any discussion or voting on denominational matters affected by the identified conflict of interest; and

(g) the Board must vigorously enforce its *Code of Conduct* against offending Trustees.

5. A failure by the Board or any of its Trustees to fulfill the duties described above will constitute a breach of fiduciary duty that will trigger a variety of causes of action and their attendant legal remedies to which the injured Catholic Electors should have recourse as a matter of law. Some of them are those that are available to any beneficiary who is victimized by a fiduciary's wrongful conduct, generally; other causes of action and remedies are those that are uniquely available to Catholic Electors. Those causes of action/remedies will include actions for a declaration that the "seat" of the offending Trustee on the Board is "vacant", actions for damages and injunctive relief for breaches of fiduciary duty, actions for damages for the tort of misfeasance in public office, and applications for judicial review.
6. Whatever the authors of the 2011 BLG Opinion actually meant by their talk of "shields" and "swords" (I still am not sure, ten years later), any inference Trustees may wish to draw from it that Catholic Electors do not have any effective legal means to compel their Catholic Board and its Trustees to act in accordance with Catholic doctrine cannot possibly be accurate (see page 1 of the opinion). In the grand scheme of things, the constitutional protections of Section 93 would be illusory if the Trustees (the very people who have a fiduciary duty of loyalty to their electors) could themselves, with impunity, at the same time have a legal right to just stand by and let the provincial government and special interest groups prejudicially affect the rights and privileges of the electors?
7. Apart from vigorously enforcing its *Code of Conduct* against offending Trustees, the TCDSB could further mitigate its risk of legal liability in other ways. For example, applicants for judicial review, seeking perhaps a declaration that a particular decision of the Board was null and void, do so on administrative law grounds ---- that the Board made a decision by taking into consideration things that they ought not to have taken into consideration, and NOT taking consideration other things they ought to have taken into consideration. It is obvious that the TCDSB could strengthen its legal position by:

- (a) refusing to tolerate being lobbied by special interest groups that have no legal standing to do so (like OECTA and the various LGBT political action organizations) on denominational matters;
- (b) pre-screening the participants on committees assigned the task of making recommendations on denominational matters for their loyalty to magisterial teaching of the Catholic Church and/or conflicts of interests, and removing from the committees those persons who do not pass the screening process; and
- (c) putting the onus on Catholic Electors who profess to be loyal to the Church but who nevertheless lobby Trustees to vote in favour of a resolution that would, objectively, contradict magisterial teaching, to present magisterial documents of the Church that support their position. There is no good reason for Trustees to be defensive about their loyalty to the Church and assume that they themselves bear the onus of finding and presenting the magisterial documents that support their opposition to the proposed resolution.⁴

⁴ That said, if Trustees cannot resist the urge to “take the bait” and present to the dissenter magisterial documents that defend the Catholic position on a proposed resolution, I do not recommend expending the effort and energy to prepare a 50 page dissertation on the subject. Instead, they should focus their attention on presenting the best two or three magisterial documents that most clearly and succinctly present the Church’s position. For example, in the case of the “Rainbow Flag” resolution, I would try to focus the dissenter’s attention on the 1986 CDF document entitled “*Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons*”. Cardinal Ratzinger [later Pope Benedict XVI] wrote the following [n. 8-9]:

“....[I]ncreasing numbers of people today, even within the Church, are bringing enormous pressure to bear on the Church to accept the homosexual condition as though it were not disordered and to condone homosexual activity. Those within the Church who argue in this fashion often have close ties with those with similar views outside it. These latter groups are guided by a vision opposed to the truth about the human person, which is fully disclosed in the mystery of Christ. They reflect, even if not entirely consciously, a materialistic ideology which denies the transcendent nature of the human person as well as the supernatural vocation of every individual.

The Church's ministers must ensure that homosexual persons in their care will not be misled by this point of view, so profoundly opposed to the teaching of the Church. But the risk is great and there are many who seek to create confusion regarding the Church's position, and then to use that confusion to their own advantage.

9. The movement within the Church, which takes the form of pressure groups of various names and sizes, attempts to give the impression that it represents all homosexual persons who are Catholics. As a matter of fact, its membership is by and large restricted to those who either ignore the teaching of the Church or seek somehow to undermine it. It brings together under the aegis of Catholicism homosexual persons who have no intention of abandoning their homosexual behaviour. **One tactic used is to protest that any and all criticism of or reservations about homosexual people, their activity and lifestyle, are simply diverse forms of unjust discrimination. [emphasis added]**

There is an effort in some countries to manipulate the Church by gaining the often well-intentioned support of her pastors with a view to changing civil-statutes and laws. This is done in order to conform to these pressure groups' concept that homosexuality is at least a completely harmless, if not an entirely good, thing. Even when the practice of homosexuality may seriously threaten the lives and well-being of a large number of people, its advocates remain undeterred and refuse to consider the magnitude of the risks involved.

The Detailed Analysis:

The TCDSB Code of Conduct – The Fiduciary Duties of the Board and its Trustees and the Management of Conflicts of Interest

In my view, the existing *Code of Conduct* does an adequate job of both setting out how pecuniary (monetary) conflicts of interest should be handled, and explaining the statutory requirements of the *Municipal Conflicts of Interest Act* (Ontario) (the “MCIA”). However, this does not tell us the *whole* story. The MCIA deals only with pecuniary conflicts of interest, and clearly supplants or replaces the common law principles that used to apply to them (at least in Ontario, and in respect of elected municipal officers and school board trustees). The common law principles governing non-pecuniary conflicts of interest involving directors and officers of corporations and other fiduciaries remain applicable to school board trustees. At common law, a school board trustee can be found to be disqualified from service on the Board if he or she has a non-pecuniary personal and substantial “interest” that a “reasonably well-informed person would conclude might influence” the exercise of the fiduciary duties owed by the trustee. In my opinion, such an “interest” would certainly include any “personal interest” that would be incompatible with his or her fiduciary duties to the Board and/or its Catholic Electors who adhere to the magisterial teachings of the Catholic Church. It would also include a superior “loyalty” that the trustee is perceived to have to advocacy groups or special interests that are hostile to the Catholic Church, or that seek to frustrate the Trustees in their efforts to carry out the Constitutionally Protected Mandate of the Board. In my opinion, a number of current Trustees of the TCDSB have already engaged in public conduct from which a reasonable inference can be drawn that they dissent from the magisterial teachings of the Catholic Church. Others have engaged in conduct from which a reasonable inference can be drawn that they have a loyalty to homosexual political action groups that are openly hostile to the Catholic Church in general, and to efforts by the Trustees to carry out the Constitutionally Protected Mandate, specifically. Their conduct also has demonstrated that they value this loyalty over their loyalty to the Board and its Catholic Electors who adhere to the magisterial teachings of the Church.

The existing *Code of Conduct* gives this topic very short shrift, and is, with respect, very out of date, given the very relevant 2007 decision of the Alberta Queens Bench in *Calgary Roman Catholic Separate School District No. 1 v. O’Malley*⁵. There are only a few oblique references

The Church can never be so callous. It is true that her clear position cannot be revised by pressure from civil legislation or the trend of the moment. But she is really concerned about the many who are not represented by the pro-homosexual movement and about those who may have been tempted to believe its deceitful propaganda. She is also aware that the view that homosexual activity is equivalent to, or as acceptable as, the sexual expression of conjugal love has a direct impact on society's understanding of the nature and rights of the family and puts them in jeopardy.”

Another useful magisterial document to cite would be the CDF’s *Considerations re Homosexual Unions* (2003), especially the text in II-5, which asserts that, while toleration of evil is sometimes morally acceptable, approval of evil is never justified.

⁵ 2007 ABQB 574 (hereinafter referred to as “O’Malley”). See paragraphs 95-99: [95] Elected officials are expected to be free from conflicts so as to enable them to provide an unbiased, even-handed, and disinterested consideration of anything that comes before the elected body and to co-operate with their colleagues to administer

to the topic are in section 6. I note that it says, at one point: "Where a Trustee.....has any pecuniary interest....**or any other conflict of interest in any matter** [emphasis added] and is present at a meeting of the Board at which the matter is the subject of consideration, the Trustee shall.....". It then goes on to indicate the proper steps to be taken, in all cases.⁶ In the *O'Malley* case, the code of conduct of the Calgary Catholic Board was much more explicit about non-pecuniary conflicts of interest: "Trustees shall be loyal to the interest of the ownership which

the affairs of the elected body in a judicial manner. The Board submitted that a trustee who is in litigation with the very Board of which he is a member is attempting to "serve two masters".

[96] Disqualification at common law was discussed in *Old St. Boniface Residence Assn. Inc. v. Winnipeg (City)*, 1990 CanLII 31 (SCC), [1990] 3 S.C.R. 1170. Sopinka J., speaking for the majority, discussed at p. 1196 the nature of "personal interest" which will disqualify at common law:

I would distinguish between a case of partiality by reason of pre-judgment on the one hand and by reason of personal interest on the other. It is apparent from the facts of this case, for example, that some degree of pre-judgment is inherent in the role of a councillor. That is not the case in respect of interest. There is nothing inherent in the hybrid functions, political, legislative or otherwise, of municipal councillors that would make it mandatory or desirable to excuse them from the requirement that they refrain from dealing with matters in respect of which they have a personal or other interest. It is not part of the job description that municipal councillors be personally interested in matters that come before them beyond the interest that they have in common with the other citizens in the municipality. Where such an interest is found, both at common law and by statute, a member of Council is disqualified if the interest is so related to the exercise of public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of that duty. This is commonly referred to as a conflict of interest.

[97] Therefore, common law disqualification may occur for both pecuniary and non-pecuniary reasons. The interest must be personal and substantial such that a reasonably well-informed person would conclude that it might influence the exercise of the public duty owed by that person. The interest must be more than an interest held in common with other persons of like opinion.

[98] In the matter at hand, the Board argued that there are at least two common law grounds for disqualifying Mr. O'Malley. First, the Board asserted that disqualification is reasonable based on Mr. O'Malley's discussing and voting on the motion to commence legal proceedings against him. Second, the Board took the position that disqualification should follow Mr. O'Malley's having repeatedly sued the very Board of which he was a member.

[99] With respect to the first ground, Mr. O'Malley had a "substantial personal interest" in the November 10, 2005 motion. This personal interest was both pecuniary and non-pecuniary.. He had a non-pecuniary personal interest in continuing in office which would necessarily have influenced his vote irrespective of whether it was consistent with his public duty. In addition, he had a pecuniary interest based on the Board's claim for solicitor and client costs. A reasonably well-informed person would conclude that these interests would influence the exercise of his public duty.

⁶Later in section 6 we see: "No Trustee shall use his or her position, authority or influence for personal....gain.....or for the personal....gain.....of a relative, friend and/or business associate.....A Trustee shall not use his or her position, authority or influence to give any person or organization special treatment that might, or might be perceived to, advance the interests of the Trustee, or the interests of a relative, friend, and/or business associate of the Trustee."

loyalty shall supersede the personal interest of any trustee or any loyalty to any advocacy or special interest groups.”⁷

Of course, the fact that the TCDSB’s *Code of Conduct* does not contain such an explicit clause on the subject does not mean that the Trustees can ignore the common law in respect of non-pecuniary conflicts of interest. Yet, in the last ten years since my 2011 submission to you, I have seen several Catholic Boards in Ontario completely ignore this aspect of the law. In my

⁷See *O’Malley*, paragraphs 109-112:[109] Mr. O’Malley’s steadfast refusal to play by the rules has caused untold turmoil and grief, not to mention the wasted time, money and resources expended to address and respond to his unethical conduct, frivolous lawsuits and unmeritorious complaints. It is clear from authorities such as *Margolis* at p.4 and *Toronto v. Bowes* (1854), 4 Gr. 489, aff’d. (1856), 6 Gr. 1 (C.A.), aff’d. (1858), 11 Moo. P.C. 463 that a school board trustee is a fiduciary. The position of fiduciary imports a high degree of trust requiring a very high standard of care. The need to maintain integrity in public office is of paramount importance and requires that elected officials be held to a very high objective standard of care.

[110] Ms. Moore, the corporate governance expert, testified that, upon reading Mr. O’Malley’s Amended Statement of Defence, she concluded that Mr. O’Malley has a misguided understanding of to whom his fiduciary duties are owed. Ms. Moore testified that the fiduciary duties are owed to the corporate body (the Board) which is, in turn, accountable to the Catholic ownership. Mr. O’Malley wrongly believes that his duties are owed only to the people who voted for him. At p. 11 of her report, Ms. Moore quotes as follows from Carol Hansell’s text entitled *Corporate Governance: what directors need to know* (Toronto: Carswell, 2003):

[...] the courts have been very clear that the fact of a director having been nominated to the board by a particular person does not entitle that director to prefer the interests of that person to the interests of the corporation. *A director must be concerned first and foremost with the interest of the corporation.* As an Ontario court put it, the corporate life of a nominee director who votes against the interests of his or her nominator ‘may be neither happy nor long’, but that director must nevertheless act in the best interests of the corporation. [Emphasis in expert report.]

[111] The Board also relied upon Michael Ng’s text, *Fiduciary Duties: Obligations of Loyalty and Faithfulness*, looseleaf (Aurora, Ont.: Canada Law Book, 2003) at p. 2-6 for the proposition that the standard of faithfulness required of a fiduciary depends on the fiduciary’s role but that, often, codes of professional conduct governing a particular group of fiduciaries inform the standard.

[112] The Board’s Code of Conduct Policy GP-5 (the “Code of Conduct”) sets out the standard of faithfulness and lays out the obligations owed by a trustee of the Board. The Board summarized as follows the provisions of the Code of Conduct which it alleges were breached by Mr. O’Malley:

- (a) The preamble which provides that trustees shall conduct themselves in an ethical and prudent manner and in a manner that reflects respect for the dignity and worth of all individuals;
- (b) Clause 1 of the Code of Conduct which stipulates that trustees shall be loyal to the interest of the ownership which loyalty shall supersede the personal interest of any trustee or any loyalty to any advocacy or special interest groups;.....[emphasis added]

own Board, a Trustee was known to have membership in at least one homosexual political action group, but, to the best of my knowledge and belief, he never formally declared to the Board a conflict of interest on denominational matters, and never absented himself from Board meetings when such matters came up for discussion and in respect of which there were irreconcilable differences between the desires of his special interest group and magisterial teachings of the Catholic Church.

With respect, the conduct of some of your own Trustees in the last ten or so years has been equally problematic. I have observed the following kinds of public conduct, much of which has never been formally acknowledged by the Board, on the record, as reflecting an intolerable personal conflict of interest. Some of your Trustees have engaged in more than one kind:

1. issuing public statements from which a reasonable inference can be drawn that the Trustee dissents from magisterial teachings of the Catholic Church, and therefore has a personal interest of an ideological nature that clearly conflicts with the interests of the Board, having regard to its Constitutionally Protected Mandate;
2. issuing public statements from which a reasonable inference can be drawn that the Trustee has a loyalty to one or more homosexual special interest and advocacy groups that supercedes his or her loyalty to the Board and its Catholic Electors who adhere to the magisterial teachings of the Church;
3. engaging in (and possibly leading or at least co-ordinating one's own political activities with) public political campaigns in which the Trustee invites members of the public to either lobby his or her Trustee colleagues (whether by persuasion or by intimidation) to cast their vote on a Board resolution coming up for a vote in a way that constitutes a breach of their fiduciary duties;
4. issuing, in advance, public statements on how the Trustee will be voting on an upcoming resolution, from which a reasonable inference can be drawn that the Trustee has already "made up his her mind" and will not be listening to contrary views expressed by colleagues with an open mind. This is, in itself, a breach of elected official's fiduciary duties;
5. issuing public statements that amount to counselling Trustees in neighbouring Catholic Separate School Boards to vote a certain way on resolutions of a denominational nature that would constitute a breach of their fiduciary duties. This is improper meddling in the affairs of another Board;
6. lobbying the Minister of Education to interfere in the affairs of the TCDSB that are of a denominational nature, in contravention of both the *Education Act* and Section 93 [I am thinking here of the recent PPM-128 controversy], and counselling the Minister to commit the tort of misfeasance in public office;
7. allowing other persons who have no legal standing to do so, to lobby the Trustee to vote on a resolution coming up for a vote in way that would constitute a breach by the Trustee

of his or her fiduciary obligations, and not reporting such lobbying efforts to the Chair of the Board, forthwith; and

8. failing to formally disclose any of the above-described conduct, as applicable, to the Board at a meeting of the Board. Such a failure, as previously noted, is in itself a breach of a Trustee's fiduciary duties.

In my opinion, it is not unreasonable for the Board to at least demand, without exception, that any Trustee who has engaged in any one or more of these behaviours to comply with the *Code of Conduct* and the requirements of the common law, before any votes are taken on the "Rainbow Flag" and "Critical Race Theory" resolutions. Compliance would require the Trustee to take the steps outlined in section 6:

- (a) prior to the votes being taken, disclose the offending conduct and the personal conflict of interest and the general nature thereof inferred from that conduct. If the Trustee is affiliated with any special interest or advocacy group, such as by way of membership or through donations, or publicly expressed support for the aims, goals, and strategies, that must be disclosed. If the Trustee collaborated with the group in a public campaign to influence decisions of the Board, that, and the details of the nature and extent of such collaboration, must be disclosed;
- (b) refrain from taking part in the discussion of, or vote on the resolutions in respect of which the Trustee has a conflict of interest;
- (c) refrain from discussing the issue with any other person;
- (d) refrain from attempting in any way, whether before, during or after the meeting to influence the voting on such resolution (this is very problematic in the current case, as some Trustees have already done was is clearly prohibited); and
- (e) leave the meeting or the part of the meeting during which the matter is under consideration.

Denominational Rights

The non-pecuniary conflict of interest analysis I have presented here is predicated on the assumption that the Board directly (and its Trustees, indirectly and individually) owe *fiduciary duties* to some entity or some persons. We cannot fully understand how such conflicts of interest should be handled unless we first have a correct understanding of the full nature and scope of the fiduciary relationships between the Board, the Trustees, and their Catholic Electors. In turn, in my view, we cannot have such a correct understanding of these fiduciary relationships unless we know what Denominational Rights are, and who possesses them.

I have always been puzzled that the authors of the 2011 BLG Opinion never got around to discussing either the fiduciary duties of the Board and its Trustees or the fact that the Board's own *Code of Conduct* imposed (and still imposes) on each Trustee an explicit duty to "recognize

and rigorously defend the constitutional right of Catholic Education” (clause 1(d)). Instead, they spent a lot of ink talking about “shields” and “swords” and how Section 93 cannot be used as a “sword” by the Catholic Electors against the Board and its Trustees, before finally pressing their legal opinion that the Board has no legal obligation to assert a Section 93 claim against the provincial government, on behalf of their Catholic Electors, if they do not wish to, and there is nothing the electors can do about it. But as I explain more fully in Appendix “A”, neither I nor Michael Osborne suggested that Section 93 be used as a “sword”. Speaking for myself, all I have ever asserted is that Catholic Electors have recourse to private law causes of action if the Board and its Trustee commit breaches of their fiduciary duties. In the *O’Malley* decision (cited later), the Court appeared to accept the following proposition of law [at paragraph 111]: “[T]he standard of faithfulness required of a fiduciary depends on the fiduciary's role but that, often, codes of professional conduct governing a particular group of fiduciaries inform the standard.” Building on this statement, I have simply added other items to the *list* of things that *inform* the standard Catholic School Boards and their Trustees are required to meet, including, but not limited to, the rights and privileges *referred to* in Section 93. This kind of analysis has nothing to do with using Section 93 as a “sword”, a notion, in any event, for which the authors cited no legal authority.

To be quite specific, I submit that the full and precise scope of the fiduciary duties an Ontario Catholic School Board and its Trustees owe to its faithful Catholic Electors and the standards they must meet are informed by, in addition to the fundamental duties of full disclosure and loyalty common to all fiduciary-beneficiary relationships:

- (a) the magisterial teachings of the Catholic Church, especially the *Code of Canon Law*;
- (b) the Board’s Constitutionally Protected Mandate, as explicated by the Courts;
- (c) the denominational rights of Catholic Electors, as explicated by the Courts;
- (d) the text of any relevant statutory re-statements of the denominational rights and privileges of Catholic Electors, including ss. 1(4) and 1(4.1) of the *Education Act*, the parallel provisions of the amended *Labour Relations Act, 1995* and the *School Board Collective Bargaining Act, 2014*, and section 19 of the *Human Rights Code* (Ontario);⁸

⁸ In essence, a duty to exercise powers under the *Education Act* in a manner consistent with and respectful of the Denominational Rights has been specifically incorporated into the statutory duty in subsection 1(4.1) of the *Education Act* (Ontario), which applies to many persons, including the Trustees of a Catholic Board. See also subsection 1(4).

Constitutional rights and privileges

S. 1(4) This Act does not adversely affect any right or privilege guaranteed by section 93 of the *Constitution Act, 1867* or by section 23 of the *Canadian Charter of Rights and Freedoms*. 1997, c. 3, s. 2 (6).

Same

(4.1) Every authority given by this Act, including but not limited to every authority to make a regulation, decision or order and every authority to issue a directive or guideline, shall be exercised in a manner consistent with and respectful of the rights and privileges guaranteed by section 93 of the *Constitution Act, 1867* and by section 23 of the *Canadian Charter of Rights and Freedoms*. 1997, c. 31, s. 1 (5).

- (e) the text of any industry-wide codes or standards of conduct for school board trustees; and
- (f) the text of the school board's own *Code of Conduct*.

The Catholic Electors of the TCDSB possess the denominational rights and privileges *referred to* but not specifically described in Section 93. These rights and privileges have been further interpreted and explicated by the Supreme Court of Canada and the Ontario Court of Appeal, in various decisions. Electors have often been collectively referred to by the courts as members of the “Class of Persons” who possess these rights. In *A.G. (Que.) v. Greater Hull School Board*,⁹ a 1984 decision of the Supreme Court of Canada, Justices Le Dain and Lamer characterized [at paragraphs 83-84] these rights as “collective rights”, suggesting that “it is in the interests of the class of persons or community as a whole in denominational education that is to be looked at and not the interests of the individual ratepayer.” Accordingly, they recognized that the Trustees of separate school boards like the TCDSB are only the *representatives* of such a class for purposes of the management of denominational schools, and the rights of the class in respect of such management are necessarily to be determined by reference to the powers of management conferred by law on the trustees, through whom the class of persons may exercise their collective rights. This explains why the courts customarily (if inaccurately) refer to the rights or powers of the trustees themselves in considering the rights of a class of persons under Section 93.¹⁰ I submit that they also

For the parallel provisions of the *Human Rights Code*, see the following:

Separate school rights preserved

19. (1) This Act shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. R.S.O. 1990, c. H.19, s. 19 (1).

Duties of teachers

(2) This Act does not apply to affect the application of the *Education Act* with respect to the duties of teachers. R.S.O. 1990, c. H.19, s. 19 (2).

S. 19(2) was intended to ensure that teachers could comply with section 264(1)(c) of the *Education Act* without being accused of contravening the *Human Rights Code*. S. 264(1)(c) says: “It is the duty of a teacher and a temporary teacher, ... to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues.” “Chastity”, of course, is either an element of “purity”, or is one of the “other virtues”. In 2011, I argued that Gay-Straight Alliance groups notoriously disrespect Christian morality, and scoff at any suggestion that persons with a same-sex attraction should cultivate the virtue of chastity. Today, in my view, the homosexual activists groups that promote the “Rainbow Flag” do not hide the fact that they use this symbol to reflect their own similar disdain for the virtue of chastity. One clear secular and legal objection to proposed Rainbow Flag Resolution is that passage of it by the TCDSB would objectively convey to its own teachers an invitation to contravene a provision of the *Education Act*.

See note 16 below for the text of the relevant parallel provisions of the *Labour Relations Act, 1995* and the *School Boards Collective Bargaining Act, 2014*, S.O. 2014, CH 5.

⁹[1984] 2 S.C.R. 575. Hereinafter often referred to as “*Greater Hull*”.

¹⁰I have noticed that the TCDSB's own *Code of Conduct* speaks of, in clause 1(d), “defending the constitutional right of Catholic education”, instead of “defending the constitutional rights of its Catholic Electors”, which would be more accurate.

have legal standing to exercise these rights themselves, without the co-operation or assistance of their trustees,¹¹ particularly in those circumstances when the Board itself has engaged in conduct that is in breach of its corporate fiduciary obligations to its Catholic Electors, and a majority of the elected Trustees are in breach of *their* fiduciary obligations to cast their votes on Board resolutions in such a way as to ensure that the Board does NOT commit a breach of *its* fiduciary obligations to the same Catholic Electors.

In *Calgary Roman Catholic Separate School District No. 1 v. O'Malley*¹², a case that was about a Catholic School Board, but one in which denominational rights and the differences between public boards and separate boards were not in issue, the Alberta Queen's Bench correctly identified the general rule that a "school board trustee is a fiduciary" and owes those fiduciary obligations "to the corporate body (the Board) which is, in turn, accountable to the Catholic ownership." [109-110]

But this does not tell the whole story. The Court went on to quote, approvingly, from the decision of the Ontario Superior Court of Justice in *Hearst (Town) v. District School Board Ontario North East*, [2000] O.J. No. 3419 at paras. 39 and 40: "While they [the trustees] are accountable to their communities, that accountability is both general and specific. From time to time, there will be a conflict between the interests of a specific constituency and the school community in general. That is to be expected. The trustees must make decisions in the best interests of the entire school community while trying to accommodate the specific constituencies." We submit that this appropriately describes to whom a public school board (and, indirectly, their Trustees) owe fiduciary obligations on all questions to be determined, and to whom a separate school board (and, indirectly, their Trustees) owe fiduciary duties on all *non-denominational* questions.

That said, with respect to *denominational* questions, the beneficiaries of the duty of loyalty of an Ontario separate school board and its Trustees form a very different subset of the taxpayers whose children may attend their schools. In that specific context, there is only a single "specific constituency" the Board and its Trustees must serve, in priority to the demands of all others.

The Ontario Court of Appeal proclaimed in the case of *Daly v. Ontario (A.G.)*¹³ the constitutionally protected mandate of an Ontario separate school board to be to transmit the Magisterial teachings of the Catholic Church to its students. In light of this decision, and because the interests of the electors are "collective", there is no choice but to employ a legal fiction that all electors want their Trustees to fulfill that mandate. How could Trustees possibly

¹¹ We note that some of the original Applicants in the *Daly* case (see note 5 below) were not trustees of a Catholic separate school board. Neither the Trial Court nor the Ontario Court of Appeal had any issue with their standing to bring the Application to determine whether or not the Province of Ontario had prejudiced the rights and privileges of Catholic electors.

¹²2007 ABQB 574.

¹³*Daly v. Ontario (A.G.)*, (1999), 44 O.R. (3d) 349 (C.A.); leave to appeal to S.C.C. dismissed October 21, 1999. Herein often referred to simply as "*Daly*".

act in the best interests of both faithful Catholics and those who dissent from the Church's teachings, in respect of a denominational matter, at the same time? Their interests are irreconcilable. The right choice is clear, however, since pursuit of the interests of dissenters has no constitutional or statutory mandate. At best, dissenters seek to impose their personal "religious" beliefs on faithful Catholics, which are protected by the merely individual rights that are listed in the *Charter of Rights and Freedoms*, but which are explicitly subordinated to the denominational rights of faithful Catholic Electors. Ever since the "Elgin County Case", the *Education Act* and the *Charter* have been interpreted by the Courts to prohibit government schools from indoctrinating their students in any particular religious beliefs, with the only exception to this principle being the right of Catholic Electors, established at the time of Confederation, to have taxpayer-funded schools that indoctrinate their students in the precepts of the Catholic Church, as taught by the Magisterium.¹⁴

In *Alberta v. Elder Advocates of Alberta Society*,¹⁵ the Supreme Court of Canada described the fiduciary obligation as "one of utmost loyalty to the beneficiary". The Court went on to say: "As Finn states, the fiduciary principle's function 'is not to mediate between interests...' It is to secure the paramountcy of *one side's* interests The beneficiary's interests are to be protected. This is achieved through a regime designed to secure loyal service of those interests' (P. D. Finn, "The Fiduciary Principle", in T. G. Youdan, ed., *Equity, Fiduciaries and Trusts* (1989), 1, at p. 27 (underlining added); see also *Hodgkinson*, at p. 468, *per* Sopinka J. and McLachlin J. (as she then was), dissenting). Compelling a fiduciary to put the best interests of the beneficiary before their own is thus essential to the relationship." [43-44].

In the past, some Catholic separate school boards and their Catholic Trustees have acted as if they possessed, as a matter of law, the *discretion* to unilaterally *waive* a particular denominational right possessed by their Catholic Electors, on their behalf. In light of the fiduciary nature of their duties, as described above, a number of statutory amendments to the provincial education-related statutes, and the collective nature of the rights of the electors, I doubt very much that they ever had any such authority, and certainly, that they have any such authority now.¹⁶

¹⁴Some Directors of Education in the Catholic system and some of their Trustees seem to have trouble accepting the legal reality that their Boards are prohibited from attempting to indoctrinate students in the teachings of, for example, the United Church of Canada.

¹⁵2011 SCC 24 (CanLII), [2011] 2 SCR 261.

¹⁶Indeed, at one time even some labour arbitrators and the Courts thought that this was true. In *Re Essex County Roman Catholic Separate School Board and Tremblay-Webster et al.*, 1984 CanLII 2138, the Ontario Court of Appeal astonishingly said the following: "Section 93 of the *Constitution Act, 1867* prohibits the provincial Legislature from making laws which prejudicially affect any right or privilege with respect to denominational schools but does not prohibit voluntary collective agreements with respect to those rights and privileges." In other words, the Trustees of a Catholic School Board were not compelled by any law to negotiate with OECA a collective agreement that made a termination of a teacher's employment for denominational cause (e.g. the teacher married outside of the Church) subject to arbitration by a secular arbitrator, but it could choose to do so if it wished. Once it did make this choice, however, it and its Catholic Electors were bound by the terms of the collective agreement. The Trustees had negotiated away the right of the Catholic Electors to have such decisions made without interference from outside parties, and the Ontario Court of Appeal did not have a problem with that.

It is speculation of my part, but I think the purpose of the following subsequent amendments to the *Labour Relations Act* and the *School Boards Collective Bargaining Act, 2014* was to, by statute, reverse the legal effect of the Ontario Court of Appeal's decision in *Re Essex*:

See the *School Boards Collective Bargaining Act, 2014*, S.O. 2014, CH 5

Constitutional rights and privileges

S. 1(3) This Act and the *Labour Relations Act, 1995* do not prejudicially affect any right or privilege guaranteed by section 93 of the *Constitution Act, 1867* or by section 23 of the *Canadian Charter of Rights and Freedoms*, and every authority given by this Act and the *Labour Relations Act, 1995* shall be exercised in a manner consistent with those rights and privileges. [in force since 1998]

Note also Section subsection 3 (1): This Act applies to every school board in Ontario, to the bargaining agents that represent employees of those school boards and to the employees represented by those bargaining agents.

It seems to me that the applied effect of this statute, as revised, is that every Catholic School Board in Ontario, and OECTA are all bound by law, in conducting their negotiations for collective agreements, to respect the rights and privileges of the Catholic Electors. In other words, OECTA cannot ask for provisions that would prejudicially affect the rights and privileges of Catholic Electors, and the Board could not agree to them even if OECTA asked for them. It cannot be reasonably asserted, therefore, that a Catholic Board has the lawful authority to unilateral *waive* such rights and privileges of the Class of Persons who possess them.

Re Essex was bad law and its reversal by the Legislature of Ontario was appropriate. The very notion that, as a matter of constitutional law, a substantive constitutional right is *capable of being waived*, even by the right-holder himself, has been regarded as very dubious in *Charter* jurisprudence. See *R. v. Horner*, 2013 SKQB 340, at paragraphs 29-36 and 54. See also *Syndicat Northcrest v. Amselem*, 2004 SCC 47 (CanLII), at paragraphs 92 and 100. Add to mix the distinguishing factors that Section 93 rights are collective rights, and not an individual right like the *Charter* right to freedom of religion, and the alleged *waiver* is attempted by a mere "proxyholder" of the right-holder, without the prior knowledge and consent of all of the persons in the Class of Persons who possess the rights, the case for the validity of such a waiver by Catholic School Board Trustees is even weaker than in the *Charter* context.

Another applied effect of subsection 1(3) is the indirect amendment of the provisions of the *Labour Relations Act*. This suggests to me that when contemplating whether or not to file and pursue grievances against a Catholic School Board for unfair treatment of a teacher, on behalf of the teacher, OECTA is prohibited from using its authority to discriminate against teachers mistreated because they were perceived by the administration to be "too Catholic" and in favour of teachers who dissent from magisterial teachings of the Church, whether or not their treatment by the administration was justified. This change in the law should also mean, in theory, we should no longer see arbitrator decisions like we saw in the infamous Joanna Manning case (1994). See *Metropolitan Separate School Board v. OECTA* (1994) 41 L.C. (4th) 353 (Ont.). I use the phrase "in theory", because I know from personal experience that such discriminatory conduct on the part of OECTA remains real and systemic. Catholic teachers who adhere to the magisterial teachings of the Church are often mistreated, for that reason, by their supervisors, and when they turn to their union for help, they get "unfair representation".

In the Joanna Manning case, the arbitrator ruled that what is now the TCDSB could not discipline her even though she had written a newspaper article in which she was critical of the Catholic Church's position on the role of women within the Church. The disciplinary action taken against her was a denial of a promotion, and removal from teaching religion in the Board's schools, although she suffered no loss of income in her new assigned position. The arbitrator held that this constituted punishment without just cause. In my view, in this case, the arbitrator's interference in the Board's control over her discipline over denominational issues prejudicially affected the Denominational Rights of the Catholic Electors. Any attempt by OECTA to take a similar case to arbitration today, it seems to me, would be prohibited by the current version of the *Labour Relations Act, 1995*.

Another aspect that is “essential to” the fiduciary-beneficiary relationship is compelling the fiduciary to fulfill its duty of full disclosure of wrongdoing it knows has been committed against the beneficiary. This specific duty flows from the fiduciary’s common law duties of “loyalty, fidelity, and candour.”¹⁷

How Should the Lobbying Efforts of OECTA Church Members and LGBTQ Political Activists be handled by the Board?

In my opinion, one of the reasons why Catholic School Boards in Ontario seem so dysfunctional and are constantly in a state of internal turmoil is their tendency to be far too tolerant of inappropriate interference in denominational issues by “busybodies” -- entities and persons who have no legal standing to even comment on these issues, and Catholic Electors who dissent from the magisterial teachings of the Church. Much time, effort, and emotional energy is wasted on dealing with their unsolicited commentary, when, ultimately, the only basis on which a decision has to be made is whether the passage of a proposed resolution is compatible with the magisterial teachings of the Catholic Church. It seems to me ill-advised and uncharitable to say anything to them that will give them a false hope that the Trustees will take their presentations and petitions into consideration.

I take note that the TCDSB *Code of Conduct* says the following in section 2: “It is imperative that the Trustees act, and be seen to act, in the best interests of the public they serve. Trustees are elected to represent all stakeholders in the TCDSB...” As I have argued previously, this is not precisely accurate, and should be corrected, as it may be a source of a “false hope”. The practical reality is that the children of many non-Catholics attend your schools, and some of their parents think that the Board has no choice but to admit their children to its schools if they prefer them over the public schools. But the constitutional reality is that they attend your schools only “by the grace” of the Catholic community, and, notwithstanding the *Erazo* decision of the Divisional Court in 2016, this has been so since the 1928 *Hirsch* decision of the Privy Council (the highest court in the land at the time).¹⁸ So, while the Minister of Education can reasonably

¹⁷In *Dunsmuir v Royal Group, Inc.*, 2017 ONSC 4391 (CanLII), the Superior Court of Ontario said, at paragraph 134: “A fiduciary who knows about wrongdoing committed against the beneficiary has a duty to tell the beneficiary. In *Canson Enterprises Ltd. v. Boughton & Co.*, 1991 CanLII 52 (SCC), 1991 SCJ 91, the Supreme Court of Canada held that a lawyer breached his duty to his client who was the buyer of land. The land had been subject to a wrongful flip by an intermediate buyer in breach of its duties to the final buyer. The lawyer had acted on the intermediate flip. It is significant that in that case, the lawyer had not been a principal participating in the flip. Rather, he knew about it and as a duty to the ultimate buyer, the lawyer had a duty to disclose to his client the breaches of duty committed against it. Similarly, the fact that Mr. Goegan did not make a personal profit on the Vaughan West land flip is no answer in law to the claim that his knowledge and silence were breaches of his fiduciary duty to disclose the Vaughan West land flip. His common law duties of loyalty, fidelity, and candour required him to disclose to the corporation the conflicts of interest and the misappropriation of corporate opportunities and assets of which he had knowledge from his participation in the transactions. See also *EM Plastic & Electric Product Ltd. v. Hobza*, [1992] OJ No. 4173 (Gen. Div), at paras. 235 and 236, *affirmed*, [1993] OJ No 5078 (CA), *leave to appeal refused*, [2007] SCCA No. 92.”

¹⁸See *Hirsch et al. v. Protestant Bd.School Com'rs of Montreal et al.*, 1928 CanLII 500 (UK JCPC)(“*Hirsch*”). See also *Griffin v. Blainville Deux-Montagnes (Commission scolaire regionale)* (1989), 63 D.L.R. (4th) 37 (Que. S.C.), in which the court refused a request from English-speaking Catholic students for an order directing an English-speaking Protestant dissentient Board to admit them to its schools, on the ground that it lacked jurisdiction under

say that the Board must consider the non-Catholic parents of students to be “stakeholders” of equal status to the Catholic Electors in respect of the non-denominational aspects of your operations, and that consultations with them on such matters should be welcomed and encouraged, they cannot be “stakeholders” in respect of the denominational aspects. Indeed, the only “stakeholders” in respect of the denominational aspects of your operations are the Catholic Electors who adhere to the magisterial teachings of the Catholic Church. Non-Catholic and dissenting Catholic “busybodies” who seek to lobby the Trustees on denominational issues should be politely told that their efforts will not be tolerated.

One of two important legal principles recognized by the Supreme Court of Canada in the *Greater Hull* case [see the case report attached to this emailed letter] is the principle that, where the Trustees of a Catholic Board are exercising a Denominational Right of its Catholic Electors, any attempt by a provincial government to fetter the Trustees’ discretionary powers of decision by requiring them to seek the approval of, or input from, persons who are not their Catholic Electors, is unconstitutional.

By extension of this principle, if consultation with “outsiders” on denominational matters cannot be compelled by government authority, it seems to me that it must be equally true that Trustees commit of breach of a fiduciary duty to the Catholic Electors if they *voluntarily* permit “outsiders” to influence their decision-making. This surely “waters down” or “prejudicially affects” both the exclusive influence that the Catholic Electors have over their Trustees by “right and privilege” and the accountability of the Trustees to the Catholic Electors.

I would put OECTA in same category as the non-Catholic parents of students and the dissenting Catholic Electors. OECTA is a secular union created by the authority of a provincial statute and all of its activities are governed exclusively by the provisions of the *Labour Relations Act, 1995* and the *School Boards Collective Bargaining Act, 2014*; it is not, and cannot be, a Catholic Elector of the TCDSB. It is not a religious organization recognized as an approved “order” or “ministry” or “institute” of the Catholic Church. Why do Catholic Boards continue to tolerate unsolicited lobbying from OECTA on denominational issues? For that matter, why do Catholic

section 93 of the *Constitution Act, 1967* to do so. It reconfirmed that section 93 was intended to protect, in Quebec, the denominational rights of Protestants only. Of course, the same applies in Ontario for Catholics. This means that section 42 of the *Education Act*, on its face, is unconstitutional, and is just waiting for some plaintiff to challenge its constitutionality. The text of section 42 itself admits that *Hirsch* is still good law, as the requirement to admit non-Catholic students explicitly purports to apply only to the high schools. It has just not been updated to reflect the Supreme Court of Canada’s holding in *Reference re Bill 30*, [1987] 1 S.C.R. 1148, at paras. 59-60, to the effect that the rights to full funding and all other denominational rights now extend through the end of high school. It also means that the decision of the Divisional Court of Ontario in *Erazo v. Dufferin-Peel Catholic District SchoolBoard*, 2014 ONSC 2072 (CanLII) is bad law. All five lawyers (including three judges) involved in the case pretended to not know of the existence of the *Hirsch* and *Griffin* decisions. It also means that all those “agreements” between Catholic Boards and the Ministry of Education over the last few decades, which purport to bind the Boards to accept non-catholic students, are probably unenforceable against the Catholic electors of those Boards.

Boards continue to tolerate OECTA interference in the elections of Trustees? Why is OECTA not firmly told that both of these activities are not lawful¹⁹ activities of a union?

How Can We Know What is Magisterial Teaching of the Catholic Church?

When the Ontario Court of Appeal, in the *Daly* case, referred to the “Roman Catholic faith” in proclaiming the Constitutionally Protected Mandate of Ontario Catholic Separate School Boards, it surely did not contemplate the very peculiar religious beliefs of OECTA or indeed of any individual person who claims to be Catholic but dissents from the teachings of the Magisterium.²⁰ If it did, the Denominational Rights of the “class of persons” entitled to assert them would become unintelligible and meaningless. How can the subjective religious views of OECTA’s President become **the** benchmark for all Catholics served by all of the Catholic Boards in Ontario? On this point, I note that the 2011 BLG Opinion tended to express agreement with my view and Michael Osborne’s view that courts hearing Section 93 actions would want to hear evidence of the authoritative teachings of the Catholic Church, and accept that evidence, if presented (page 14 of the BLG Opinion). I trust that the TCDSB now agrees with the view of its own legal counsel that the typical OECTA position on denominational issues that the Board

¹⁹I am using the term “not lawful” here in the limited sense of an “entity’s” lack of legal capacity, which flows from “ultra vires doctrine” familiar to lawyers who understand corporate law and administrative law. As indicated elsewhere in this letter, in Ontario, unions cannot be Catholic Electors (only individuals can be), and, as an “entity”, a teachers’ union arguably gets its authority to “act” exclusively from the *Labour Relations Act, 1995* and the *School Boards Collective Bargaining Act, 2014*. I take the position that neither statute contains any provision that explicitly authorizes such a union, or that could reasonably be *interpreted* as authorizing such a union, from a constitutional law perspective, to interfere in Trustee elections or Trustees’ deliberations on denominational issues. Of course, if such a union actually goes as far as to engage in bribery or intimidation of Trustees, such conduct would also be “unlawful” in a criminal law sense. That OECTA has in the past made monetary and “in kind” contributions to the election campaigns of “favoured” Trustee candidates (favoured if they dissent from magisterial teachings of the Church), and withheld such assistance from “disfavoured” candidates, is well known in the Catholic community. That said, it must be acknowledged that fairly recent amendments to the *Municipal Elections Act, 1996* have now eliminated OECTA’s ability to make direct “contributions” to the election campaigns of candidates in Trustee elections, and severely constrained its ability to even engage in third party advertising during municipal elections.

OECTA is likely to object to my analysis by pointing to the decision of the Supreme Court of Canada in *Lavigne v. Ontario Public Service Employees Union*, [1991] 2 S.C.R. 211, as authority for the proposition that unions have an *inherent* legal capacity to engage in public advocacy on a variety of social and political issues. The Court did endorse this general proposition, but only in a qualified way. It cautioned that its legal capacity to engage in such activity could be constrained by the terms of its constituting documents. The Court was not asked to comment on whether it could be further constrained by the Denominational Rights referred to in Section 93, or in provincial statutes governing the conduct of unions that re-stated those Denominational Rights in order to rebut any inference that the provincial government was enabling other entities to prejudicially affect the rights and privileges of Catholic Electors. I think a reasonable court asked to address this question would conclude that a union’s capacity to engage in such activity is also limited by the superior constitutional rights of Catholic Electors.

²⁰ By contrast, Canadian law seems to me to be fairly clear that, in religious freedom cases involving the *Charter* rights of individuals, the subjective understanding of the individual of his religious obligations is what is relevant (and what a civil court is bound to accept), even if that understanding is not consistent with the “official” teachings of his or her “Church”. See *Syndicat Northcrest v. Amselem*, 2004 SCC 47 (CanLII).

should embrace a “broader view of Catholic values” than what is prescribed by its Magisterium is absurd.

That said, the BLG claim that “the issue of how the content of Catholic doctrine should be proved in court is not settled” (p. 14) was a very uninformed one. The trial court decision in *Loyola High School v. Courshesne*, 2010 QCCS 2631 (CanLII) was released in 2010, and therefore it should have been known to the authors of the 2011 BLG Opinion at the time of its writing. In that case, McGill Professor Douglas Farrow provided expert evidence to the Quebec Superior Court on the nature of the Magisterium of the Catholic Church. At paragraphs 281-285, Justice Gerard Dugre wrote (rough English translation): “As explained by the expert Farrow, in addition to the Pope and the Roman Curia, composed of bishops and cardinals, the Catholic Church has dicasteries, similar to civilian government departments. Among the most important dicasteries is the Congregation for Catholic Education.....Documents produced by these dicasteries are part of the ‘ordinary magisterium’ of the Catholic Church and, as such, have full authority. These texts also had direct application to Catholic schools, including Loyola. The expert Farrow refers to this excerpt of the piece P-11, entitled *The Catholic School*, which reads: ‘28. From the foregoing it appears that at the outset, the school should adjust its training program and methods to the vision of reality on which it is based, which justifies its purpose and which governs all of its activities.’ Finally, as explained by the expert Farrow, statements of the Assembly of Quebec Catholic Bishops (including press releases) are not part of the Magisterium of the Church and therefore are not authority. In any event, it is wrong to pretend that the Assembly of Quebec Catholic Bishops has agreed with the imposition of the ERC program on private Catholic denominational schools. The Court finds the testimony of the expert Farrow concluded that Loyola would be acting contrary to the doctrine of the Catholic Church by teaching the ‘Ethics and Religious Culture’ course with the program mandated by the Minister of Education, Recreation and Sport.”²¹

It therefore seems to me that, as a matter of both Catholic teaching and judicial proceedings involving Denominational Rights, it is now beyond dispute that formal written pronouncements of the Church’s Congregation for the Doctrine of the Faith (“CDF”), the *Catechism*, Papal Encyclicals, and the *Code of Canon Law* constitute magisterial documents, and present the teachings of the Magisterium. It is also beyond dispute that Catholics are required to adhere to such teachings and shun contrary doctrines, and that they have a right, under the laws of the Church, to receive teaching from their Pastors and others having a teaching ministry in the Church that is faithful to the Magisterium. In other words, for a Catholic, there is no such thing as a “right to dissent” from the fundamental contents of faith and morals as taught by the Magisterium of the Catholic Church. Moreover, the laity have a duty to “be on guard, in questions of opinion, against proposing their own view as the teaching of the Church” (Canon 227, *Code of Canon Law*).

Thus, in respect of denominational issues (i.e., issues relating to the Catholicity of the Board’s Schools), no matter how much parents and students dialogue with or complain to the Board, the Trustees have a legal, fiduciary, and constitutional duty to adhere to the teachings of the Magisterium of the Catholic Church. As a matter of administrative law, it would be unlawful for the Trustees to take into consideration the views of Catholics who dissent from Church teaching,

²¹This decision was reversed on appeal, but then re-instated upon further appeal to the Supreme Court of Canada.

or the views of non-Catholics who are allowed to attend its schools only “by the grace” (see *Hirsch*) of the Catholic Board, in deciding whether or not a resolution on a denominational matter should be passed.

What Legal Recourse, if any, do the Catholic Electors have against a Trustee who has committed a breach of fiduciary duty?

In my opinion, Catholic Electors have multiple causes of action against Catholic Boards and their trustees for the kind of breaches of fiduciary duty identified in this letter.

There are many examples of court applications and actions successfully prosecuted by individuals and organizations against school boards and individual trustees (and by the school board itself against individual trustees), in the nature of:

1. applications for judicial review of decisions made or policies enacted by school boards or other school authorities on administrative law grounds [see ss. 2(1) of the *Judicial Review Procedures Act* (Ontario)] . The most prominent recent example is the Supreme Court of Canada’s decision in *Chamberlain v. Surrey School District No. 36*, [2002] 4 S.C.R. 710.
2. applications for a court order compelling a public official to carry out a statutory duty [ss. 2(1) *Judicial Review Procedures Act*; ss. 1(4.1) *Education Act*]. Although the general rule is that a breach of a statutory duty does not give a member of the public a cause of action for damages for the breach *per se*, this general rule does not rule out other causes of action and their associated forms of relief, such as an order compelling the public official to carry out the statutory duty, and an award of damages for deliberate breaches of fiduciary duty.²² In *Odhavji Estate v. Woodhouse*, [2003] 3 S.C.R. 263 (S.C.C.). Iacobucci J. made the following comments (at p. 286):

I wish to stress that this conclusion is not inconsistent with *R. v. Saskatchewan Wheat Pool*, [1983] 1 S.C.R. 205, in which the Court established that the nominate tort of statutory breach does not exist. *Saskatchewan Wheat Pool* states only that it is insufficient that the defendant has breached the statute. *It does not, however, establish that the breach of a statute cannot give rise to liability if the constituent elements of tortious responsibility have been satisfied.* Put a different way, the mere fact that the alleged misconduct also constitutes a breach of statute is insufficient to exempt the officer from civil liability. Just as a public officer who breaches a statute might be liable for negligence, so too might a public officer who breaches a statute be liable for misfeasance in a public office. *Saskatchewan Wheat Pool* would only be relevant to this motion if the appellants had pleaded no more than a failure to discharge a statutory obligation ... [Underline in original, italicized emphasis added].

²² Subject to any statutory provision that might protect a trustee from third party loss or damage claims, or require the board to indemnify the trustee against such liability; subject also to the common law, which will protect a trustee against such liability, provided his or her actions were done in “good faith”. The argument here would be that breaches of fiduciary duty, especially deliberate ones, cannot be done “in good faith”. See *O’Malley*, at paragraphs 121-122.

3. applications for a court order declaring a trustee's seat vacant for violations of a school board's conflict of interest policies, and the common law regarding other forms of conflict of interest. See, for example, the *O'Malley* case, where the board itself took disqualification proceedings against an individual trustee, and *Amaral v. Kennedy*, 2010 ONSC 5776 (CanLII), where disqualification proceedings were taken against a trustee by an individual who was, presumably, an elector. If a Trustee refuses to comply with the requirements of the *Code of Conduct* in connection with a personal/ideological conflict of interest, the Board itself can and should take legal action to have his or her seat declared vacant. However, if a Catholic Board itself refuses to take such action, it seems to me at least arguable that any Catholic Elector has the legal standing to seek a court order declaring the seat to be vacant.²³

Apart from the above, which are more obvious examples, there is also the more controversial possible cause of action known as misfeasance in public office, which, if pursued against school board trustees, would have the advantage of avoiding the awkward corporate law issues that may be present in other proceedings. Trustees may be akin to directors of a corporation, but they are clearly also elected public officials. On the other hand, this "tort" is an intentional tort, which means that the plaintiff would have to prove that the public official actually intended to harm Catholic Electors who want the Catholic schools to adhere to the teachings of the Magisterium. The elements of this intentional tort are well set out in the case of *Pikangikum v. Nault*, 2010 ONSC 5122 (CanLII).²⁴

²³ See the *O'Malley* case report, wherein the Court remarks: "[Mr. O'Malley] was very familiar with the statutory prohibition and its sanction, having, as an elector, brought disqualification proceedings against a Trustee himself; *O'Malley v. Valentine*, [1992] A.J. No. 1401." [at paragraph 79]

²⁴ See the following excerpts from the case report:

"ELEMENTS OF MALFEASANCE IN PUBLIC OFFICE"

[181] Malfeasance in public office is an intentional tort. A tort is an action (other than a breach of contract) by someone that causes damage to someone else for which the injured party may sue for compensation. In this case the action must have been done deliberately, not accidentally.

[182] Deliberate misconduct in these cases consists of:

- (i) an intentional illegal act; and
- (ii) an intent to harm an individual or class of individuals. [*Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 SCR 263 ¶25]

[183] In the case of *Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 S.C.R. 263 The Supreme Court of Canada noted that misfeasance of office can arise in one of two ways, what was called Category A and Category B. (¶ 22).

[184] "Category A involves conduct that is specifically intended to injure a person or class of persons."

[185] “Category B involves a public officer who acts with knowledge both that she or he has no power to do the act complained of and that the act is likely to injure the plaintiff.”

[186] The Band submits that Mr. Nault’s conduct falls within Category A. With respect to Category A, the fact that the public officer acted for the express purpose of harming the party suing is sufficient to satisfy each ingredient of the tort. (¶23)

[187] What are those ingredients?

[188] One may recover damages for malfeasance in public office only if it can be shown that the person being sued:

- was a public official at the time of the alleged wrongdoing
- who caused damage to the party who has sued
- by deliberately engaging in unlawful conduct in the exercise of his public functions. (The act of an individual that is otherwise not actionable does not become so because of the motive or reason for doing so. (*Roncarelli v. Duplessis*, [1959] S.C.J. No.1 pg. 18 citing House of Lords in *Allen v. Flood*))
- with an awareness that his conduct was unlawful and likely to injure or where the official acted with reckless indifference or with wilful blindness as to the likely result of his actions upon the person suing. (*Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 SCR 263 ¶32)

[189] Oliver Wendell Holmes Jr. wrote that even a dog knows the difference between being stumbled over by accident and being kicked deliberately. In this case the person suing must have been kicked deliberately.

[190] The Supreme Court of Canada has told us that:

The tort applies not only to a public officer who wilfully injures a member of the public through intentional abuse of a statutory power but also to a public officer who wilfully injures a member of the public through an intentional excess of power or a deliberate failure to discharge a statutory duty. [*Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 SCR 263 ¶30]

[191] A claim may arise as a result of the misuse of power the official has or as a result of purporting to use power he doesn’t have. (*Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 SCR 263 ¶22)

[192] As already noted the relevant act (or omission, in the sense described) must be unlawful.

[193] Liability may arise as a result of an action or as a result of a failure to act but failure to act can amount to misfeasance in a public office only in those circumstances in which the public officer is under a legal obligation to act.[*Odhavji Estate v. Woodhouse*, 2003 SCC 69 (CanLII), [2003] 3 SCR 263 ¶24] “

All of the above is respectfully submitted.

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Appendix “A”

A Supplemental Commentary on the 2011 BLG Opinion

Here I intend to present, for readers who might be interested in more detailed discussion of the obvious differences between my legal opinions and those of BLG, a significant correction of the 2011 BLG Opinion. I fear that it influenced the TCDSB and other Ontario Catholic separate school boards to wrongly believe that Catholic Electors have *no* legal remedies if a Board and its Trustees refuse “to act in accordance with Catholic doctrine.” I placed this commentary in an Appendix so that readers not so interested are not distracted from the essential arguments I have put forward in this letter.

The first objection I have is that this legal conclusion went far beyond what was necessary to deal with specific controversy at that time. At that time (and perhaps at the time of the more recent case of the Ministry of Education’s attempt to compel Catholic Boards to amend their policies to make them in line with PPM-128) the controversy was specifically about the Board’s lack of interest in challenging a provincial government demand that prejudicially affected the rights and privileges of Catholic Electors. The 2011 BLG Opinion could have specifically dealt with the question at hand without going further to address whether or not a Catholic Board has a legal duty to comply with the magisterial teachings of the Catholic Church that is enforceable by its Catholic Electors. The issue we are dealing with in this letter does not involve government action at all, and the TCDSB may be inappropriately influenced by a 2011 legal opinion that did not adequately deal with the subject of fiduciary duties generally.²⁵

Second, in my view, the authors of the BLG Opinion committed the logical fallacy of “arguing beside the point” by insisting that Section 93 cannot be used as a “sword” against the Board or its Trustees by its own Catholic Electors. My “point” in my legal opinion reviewed by BLG (and I believe this was Mr. Osborne’s “point” as well) was that Section 93, as well as the duties stated in the *Code of Conduct* of the TCDSB, and the statutory restatements of the Section 93 rights and privileges in the *Education Act*, the *Labour Relations Act, 1995* and the *School Board Collective Bargaining Act, 2014* are all elements that *inform* the full and complete scope of the *fiduciary duties* Ontario Catholic separate school boards and their Trustees owe to the beneficiaries of that fiduciary-beneficiary relationship. Instead, BLG operated from the false premise that we were arguing that Section 93 *per se* required a Catholic Board and its Trustees to “act in accordance with Catholic doctrine.” Indeed, if it is BLG’s position that a beneficiary of a

²⁵Unfortunately, the 2011 BLG Opinion is not very helpful to the Board now, as it considers the Rainbow Flag and Critical Race Theory Resolutions in that it provided no guidance whatsoever on the question of the nature and content of any fiduciary duties the Board and its Trustees might owe to its Catholic Electors. This was puzzling, as BLG had full knowledge of the 2007 *O’Malley* decision at the time.

fiduciary relationship who has been victimized by a breach of fiduciary duty has no legal remedy against the fiduciary, that would be a remarkably unintelligible legal conclusion. If Michael Osborne and I argued in favour of the use of any “sword”, the “sword” we had in mind was not a Section 93 proceeding, but rather an action for damages against the Board for breach of fiduciary duty, combined, perhaps, with a claim for injunctive relief. I suggested that another potential “sword” was an application for judicial review of the Board’s decision to take no action on the matter.²⁶

Just so that everyone clearly understands how Section 93 *informs* the Denominational Rights, and in turn, the fiduciary duties they give rise to -----these duties are owed to the “Class of Persons” who are entitled to the rights and privileges *referred* to in Section 93. While 93 *raises* these rights and privileges, which are derived from other sources of the law, to the level of constitutional rights that may be raised as a “shield” (as the BLG Opinion says) against unconstitutional actions taken by and statutes and regulations enacted by the Ontario Government, it surely does not say that these rights and privileges cannot be enforced by their beneficiaries, the Catholic Electors, against the Trustees who themselves, by their own acts or omissions, either prejudicially affect those same rights and privileges, or give permission to parties other than the Provincial Government to act in way that prejudicially affects these rights and privileges.

The Ontario Court of Appeal, in *Daly v. Ontario (Minister of Education)* case [1999 CanLII 3715], re-confirmed what now must be regarded as a “constitutional fact” that was *informed* by Section 93 when it described the “active pursuit of the goal of indoctrinating students in the teachings of the Catholic religion” as the “constitutionally protected aim of the Catholic schools.” It went on to say: “The purpose of granting to Roman Catholics the right to funding for separate schools and the right to elect trustees to manage their own schools was to enable the

²⁶Initially, as I understand it, BLG advised the TCDSB that it had no choice but to give into the Ministry of Education’s demands in respect of the EIE Policy and Gay-Straight Alliance Groups. However, after it reviewed my opinion and that of Michael Osborne, it changed its position to the following: The Board had an arguable case, relying upon the remedy provided in Section 93, to challenge the EIE Policy, but that would be totally up to the Board own’s discretion. In other words, if it chose not to challenge the government’s demands, there was nothing its Catholic Electors could do about it.

Contrary to BLG’s original and revised opinion, Michael Osborne and I had independently come to the same conclusion that the TCDSB had a fiduciary obligation to its Catholic Electors to challenge the Ontario Government, on their behalf, over its attempt to force Catholic High Schools to allow its students to establish student-led Gay-Straight Alliance Groups, even if this meant permitting the student leaders to use these groups to attack the teachings of the Catholic Church on the subject of homosexuality. We said that the TCDSB was obligated make its objections known to the Ontario Government, and then initiate the judicial remedy provided by section 93 if it refused to concede that its demands were *ultra vires* the provincial legislature. Moreover, if the TCDSB refused to take such action, it would be in breach of its fiduciary duties to its Catholic Electors, who would then have recourse to many of the same private law remedies that any beneficiary of a fiduciary relationship would have for a breach of a fiduciary duty, and perhaps others.

teachings of the Roman Catholic faith to be transmitted to the children of Roman Catholics while educating them in secular subjects.”²⁷

²⁷In the trial decision in *Daly v. Ontario (Attorney General)*, Sharpe, J. acknowledged the important differences between the Catholic philosophy of education and the secular vision of education. He said: “Unlike the public schools, which are precluded from attempting to indoctrinate their students with any sectarian religious beliefs (*Canadian Civil Liberties Assn. v. Ontario (Minister of Education)* (1990), 71 O.R. (2d) 341(C.A.) [the “Elgin County Case”], **separate schools have a constitutionally protected mandate to do so.** Separate schools do not aim to teach their students *about* [matters such as life, the meaning of life, and the spiritual life] from a neutral or objective point of view. Separate schools explicitly reject that secular **approach and have consistently defined their mission to be the inculcation of a particular religious faith as the appropriate way for students to confront these issues in their lives. The very notion of religious faith involves an acceptance of the limits of the human intellect and of the need to accept, on faith, certain fundamental precepts as a guide to life.**”

Attorney General of Quebec *Appellant*;

and

Greater Hull School Board, Lakeshore School Board, Lennoxville District School Board, the Greater Quebec School Board, the Protestant School Board of Greater Montreal, the School Trustees for the Municipality of Laurentienne, Quebec Association of Protestant School Boards *Respondents*;

and

Attorney General of Canada *Mis en cause*;

and

Attorney General of Newfoundland *Intervener*.

and between

Attorney General of Quebec *Appellant*;

and

Hubert Lavigne, Paul-Émile Touchette, Maurice Archambault and Gilbert Healy *Respondents*;

and

Attorney General of Canada *Mis en cause*;

and

Attorney General of Newfoundland *Intervener*.

and between

Attorney General of Quebec *Appellant*;

and

Commission scolaire des Manoirs, Commission scolaire de Drummondville, Commission scolaire Jean Chapais, Commission scolaire Outaouais-Hull, les Syndics d'écoles pour la municipalité de Leeds-Sud and the Fédération des commissions scolaires catholiques du Québec *Respondents*;

Le procureur général du Québec *Appelant*;

et

Greater Hull School Board, Lakeshore School Board, Lennoxville District School Board, the Greater Quebec School Board, the Protestant School Board of Greater Montreal, the School Trustees for the Municipality of Laurentienne, Quebec Association of Protestant School Boards *Intimés*;

et

Le procureur général du Canada *Mis en cause*;

et

Le procureur général de Terre-Neuve *Intervenant*.

et entre

Le procureur général du Québec *Appelant*;

et

Hubert Lavigne, Paul-Émile Touchette, Maurice Archambault et Gilbert Healy *Intimés*;

et

Le procureur général du Canada *Mis en cause*;

et

Le procureur général de Terre-Neuve *Intervenant*.

et entre

Le procureur général du Québec *Appelant*;

et

Commission scolaire des Manoirs, Commission scolaire de Drummondville, Commission scolaire Jean Chapais, Commission scolaire Outaouais-Hull, les Syndics d'écoles pour la municipalité de Leeds-Sud et la Fédération des commissions scolaires catholiques du Québec *Intimés*;

and

Attorney General of Canada *Mis en cause;*

and

Attorney General of Newfoundland
Intervener.

File No.: 18011.

1984: June 20, 21; 1984: December 20.

Present: Dickson C.J. and Ritchie*, Beetz, Estey,
McIntyre, Chouinard, Lamer, Wilson and Le Dain JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR
QUEBEC

Constitutional law — Education — Constitutional guarantees — Rights or privileges respecting denominational schools — Act providing for a new system of school financing — Whether provincial provisions intra vires — Constitution Act, 1867, s. 93 — Act respecting municipal taxation and providing amendments to certain legislation, 1979 (Que.), c. 72, ss. 339, 346, 353, 362, 366, 375, 382, 495, 498, 499, 500.

Respondents brought actions in the Superior Court to have ss. 339, 346, 353, 362, 366, 375, 382, 495, 498, 499 and 500 of the *Act respecting municipal taxation and providing amendments to certain legislation* (the Act) declared unconstitutional. The chief feature of these provisions is the creation of a new system of school financing based on government grants: taxation is now only a complementary method subject to new conditions. These provisions, which amend the *Education Act*, apply to all public schools in Quebec, whether denominational or not. They provide in essence: (1) that the Minister of Education must annually make budgetary rules determining the amount of expenses allowable for the grants to be paid to school boards; (2) that the school commissioners and trustees must levy taxes to provide for expenses not covered by government subsidies or grants; (3) that the assessment may not exceed 6 per cent of the net expense of the school board or 25 cents per hundred dollars of assessment; and (4) that in order to levy taxes in excess of these limits the school board must obtain the approval of the electors in a referendum. The Superior Court dismissed respondents' declaratory actions. By a majority judgment, the Court of Appeal reversed that judgment and held the sections

* Ritchie J. took no part in the judgment.

et

Le procureur général du Canada *Mis en cause;*

et

Le procureur général de Terre-Neuve
Intervenant.

N° du greffe: 18011.

1984: 20, 21 juin; 1984: 20 décembre.

Présents: Le juge en chef Dickson et les juges Ritchie*,
Beetz, Estey, McIntyre, Chouinard, Lamer, Wilson et
Le Dain.

EN APPEL DE LA COUR D'APPEL DU QUÉBEC

Droit constitutionnel — Éducation — Garanties constitutionnelles — Droits ou privilèges relatifs aux écoles confessionnelles — Loi établissant un nouveau régime de financement scolaire — Les dispositions provinciales sont-elles intra vires? — Loi constitutionnelle de 1867, art. 93 — Loi sur la fiscalité municipale et modifiant certaines dispositions législatives, 1979 (Qué.), chap. 72, art. 339, 346, 353, 362, 366, 375, 382, 495, 498, 499, 500.

Les intimés ont intenté en Cour supérieure des actions pour faire déclarer inconstitutionnels les art. 339, 346, 353, 362, 366, 375, 382, 495, 498, 499 et 500 de la *Loi sur la fiscalité municipale et modifiant certaines dispositions législatives*. Le trait dominant de ces dispositions est l'établissement d'un nouveau régime de financement scolaire à base de subventions gouvernementales, la taxation n'étant plus qu'un moyen complémentaire soumis à des conditions nouvelles. Ces dispositions, qui modifient la *Loi sur l'instruction publique*, s'appliquent à toutes les écoles publiques du Québec qu'elles soient confessionnelles ou non. Elles prévoient en substance: (1) que le ministre de l'Éducation doit établir annuellement des règles budgétaires pour déterminer le montant des dépenses admissible aux subventions à verser aux commissions scolaires; (2) que les commissaires et les syndicats doivent imposer une taxe pour pourvoir aux dépenses non couvertes par les subventions gouvernementales; (3) que la cotisation ne peut excéder 6 pour 100 des dépenses nettes de la commission scolaire ou un taux de 25 cents du cent dollars d'évaluation et (4) que pour taxer au-delà de ces limites, la commission scolaire doit obtenir l'approbation des électeurs par voie de référendum. La Cour supérieure a rejeté les actions

* Le juge Ritchie n'a pas participé au jugement.

in question *ultra vires*, null and void. This appeal is to determine whether the disputed legislative provisions prejudicially affect the rights and privileges protected by s. 93 of the *Constitution Act, 1867*.

Held: The appeal should be dismissed.

Per Dickson C.J. and Beetz, Estey, McIntyre, Chouinard and Wilson JJ.: The disputed provisions are *ultra vires* the Quebec legislature and must be set aside. Under section 93 of the Constitution, the provinces have exclusive jurisdiction to legislate with respect to education, but they cannot prejudicially affect a right or privilege affecting denominational schools enjoyed by a particular class of persons by law in effect at the time of the Union. In 1867, the right of Protestants and Roman Catholics to direct and control their own denominational schools was recognized by law. As regards financing, the law gave school commissioners and trustees the right to receive grants on a proportionate basis and the right to levy taxes from their respective electors within the limits of "their respective municipalities". These are rights relating to denominational schools and are protected by s. 93. By omitting to state that the grants must be distributed on a proportionate basis and by ordering, in a referendum, the power of certain school boards — such as those of the Island of Montréal — to decide on an expense requiring a tax to be subject to the will of electors not within their districts, the provincial legislature prejudicially affected rights guaranteed by s. 93 of the *Constitution Act, 1867*. The provisions form a whole, and if those which deal with how grants are made and which govern approval by the electors are set aside, the other provisions fall to the ground as well.

Per Lamer and Le Dain JJ.: At Confederation, the Roman Catholics and the Protestants enjoyed the right to have their denominational schools managed by school commissioners or trustees having the power to determine the necessary level of expenditure for the support of such schools and the concomitant power, in order to meet such expenditure, to impose taxes in supplement of other revenue without limitation of amount or the necessity of referral to the ratepayers. It is this right or power of local self government with respect to denominational schools which is protected by s. 93(1) of the *Constitution Act, 1867*. The school commissioners or trustees are not themselves a class of persons contemplated by s. 93(1) but they are the representatives of such a class for

déclaratoires des intimés. Par un arrêt majoritaire, la Cour d'appel a infirmé le jugement et déclaré les articles visés *ultra vires*, nuls et sans effet. Le présent pourvoi vise à déterminer si les dispositions législatives attaquées portent préjudice aux droits et privilèges protégés par l'art. 93 de la *Loi constitutionnelle de 1867*.

Arrêt: Le pourvoi est rejeté.

Le juge en chef Dickson et les juges Beetz, Estey, McIntyre, Chouinard et Wilson: Les dispositions attaquées sont *ultra vires* de la législature du Québec et doivent être annulées. En vertu de l'art. 93 de la Constitution, les provinces ont compétence exclusive pour légiférer en matière d'éducation, mais elles ne peuvent pas porter préjudice à un droit ou privilège relatif aux écoles confessionnelles dont jouissait une classe particulière de personnes en vertu d'une loi en vigueur au moment de l'Union. En 1867, le droit des protestants et des catholiques romains de diriger et de contrôler leurs propres écoles confessionnelles était reconnu par la loi. En matière de financement, la loi conférait, entre autres, aux commissaires et aux syndics d'écoles le droit de recevoir des subventions sur une base proportionnelle et le droit de prélever des taxes de leurs administrés dans les limites de «leurs municipalités respectives». Ces droits constituent des droits relatifs aux écoles confessionnelles et ils sont protégés par l'art. 93. En omettant de décréter que les subventions doivent être distribuées sur une base proportionnelle et en décrétant, en cas de référendum, que le pouvoir de certaines commissions scolaires—par exemple, celles de l'île de Montréal—de décider d'une dépense nécessitant une taxe soit assujéti à la volonté d'électeurs autres que leurs administrés, la législature provinciale a, d'une façon préjudiciable, porté atteinte à des droits garantis par l'art. 93 de la *Loi constitutionnelle de 1867*. Ces dispositions forment un tout et si celles qui posent le principe des subventions et celles qui régissent l'approbation des électeurs sont annulées, les autres dispositions ne peuvent subsister.

Les juges Lamer et Le Dain: Lors de la Confédération, les catholiques romains et les protestants bénéficiaient du droit d'avoir leurs écoles confessionnelles gérées par des commissaires ou des syndics d'écoles qui avaient le pouvoir de déterminer le niveau nécessaire des dépenses pour subvenir aux besoins de ces écoles et, pour faire face à ces dépenses, le pouvoir concomitant de prélever des taxes en plus des autres revenus sans montant limite ou sans qu'il soit nécessaire d'en référer aux contribuables. C'est ce droit ou pouvoir de gestion locale autonome relativement aux écoles confessionnelles que le par. 93(1) de la *Loi constitutionnelle de 1867* protège. Les commissaires et les syndics d'écoles ne constituent pas en eux-mêmes une classe de personnes visée par le

purposes of the management of denominational schools. By imposing the requirement of approval by referendum for taxation beyond the limits prescribed by the Act, the Quebec legislature prejudicially affected this right. Indeed, such a requirement renders the power to tax beyond the limit quite illusory and seriously undermines the power of school commissioners and trustees to provide for and manage denominational schools in the interest of a class of persons.

City of Winnipeg v. Barrett, [1892] A.C. 445; *Brophy v. Attorney-General of Manitoba*, [1895] A.C. 202; *Ottawa Separate Schools Trustees v. Mackell*, [1917] A.C. 62; *Ottawa Separate Schools Trustees v. Ottawa Corporation*, [1917] A.C. 76; *Hirsch v. Protestant Board of School Commissioners of Montreal*, [1928] A.C. 200; [1926] S.C.R. 246; *Roman Catholic Separate School Trustees for Tiny v. The King*, [1928] A.C. 363, referred to.

APPEAL from a judgment of the Quebec Court of Appeal, [1983] C.A. 370, reversing a judgment of the Superior Court, [1981] C.S. 337, 133 D.L.R. (3d) 666, declaring certain provisions of the *Act respecting municipal taxation and providing amendments to certain legislation* constitutional. Appeal dismissed.

Henri Brun, Georges Emery, Q.C., and Jean-K. Samson, for the appellant.

Colin K. Irving, Allan R. Hilton, Sandra J. Simpson and Nigel Campbell, for the respondents Greater Hull School Board *et al.*

Mario Du Mesnil and Roger Thibault, Q.C., for the respondents Lavigne *et al.* and for the respondents Commission scolaire des Manoirs *et al.*

James L. Thistle and Deborah E. Fry, for the interveners.

English version of the judgment of Dickson C.J. and Beetz, Estey, McIntyre, Chouinard and Wilson JJ. delivered by

CHOUINARD J.—This appeal raises the following constitutional question:

Are sections 339, 346, 353, 362, 366, 375, 382, 495, 498, 499 and 500 of the *Act respecting municipal taxation and providing amendments to certain legislation*, L.Q. 1979, c. 72, *ultra vires*, inapplicable or inoperative in

par. 93(1), mais ce sont les représentants de cette classe aux fins de la gestion des écoles confessionnelles. En imposant l'obligation de tenir un référendum pour obtenir l'approbation de taxes qui excèdent les limites fixées par la Loi, le législateur du Québec a porté préjudice à ce droit. Pareille obligation rend tout à fait illusoire le pouvoir de taxer au-delà de la limite et mine sérieusement le pouvoir des commissaires et des syndic d'écoles de fournir et de gérer des écoles confessionnelles selon les intérêts d'une classe de personnes.

Jurisprudence: *City of Winnipeg v. Barrett*, [1892] A.C. 445; *Brophy v. Attorney-General of Manitoba*, [1895] A.C. 202; *Ottawa Separate Schools Trustees v. Mackell*, [1917] A.C. 62; *Ottawa Separate Schools Trustees v. Ottawa Corporation*, [1917] A.C. 76; *Hirsch v. Protestant Board of School Commissioners of Montreal*, [1928] A.C. 200; [1926] R.C.S. 246; *Roman Catholic Separate School Trustees for Tiny v. The King*, [1928] A.C. 363.

POURVOI contre un arrêt de la Cour d'appel du Québec, [1983] C.A. 370, qui a infirmé un jugement de la Cour supérieure, [1981] C.S. 337, 133 D.L.R. (3d) 666, qui avait déclaré constitutionnelles certaines dispositions de la *Loi sur la fiscalité municipale et modifiant certaines dispositions législatives*. Pourvoi rejeté.

Henri Brun, Georges Emery, c.r., et Jean-K. Samson, pour l'appelant.

Colin K. Irving, Allan R. Hilton, Sandra J. Simpson et Nigel Campbell, pour les intimés Greater Hull School Board et autres.

Mario Du Mesnil et Roger Thibault, c.r., pour les intimés Lavigne et autres et pour les intimés Commission scolaire des Manoirs et autres.

James L. Thistle et Deborah E. Fry, pour l'intervenant.

Le jugement du juge en chef Dickson et des juges Beetz, Estey, McIntyre, Chouinard et Wilson a été rendu par

LE JUGE CHOUINARD—Ce pourvoi soulève la question constitutionnelle suivante:

Les articles 339, 346, 353, 362, 366, 375, 382, 495, 498, 499 et 500 de la *Loi sur la fiscalité municipale et modifiant certaines dispositions législatives*, L.Q. 1979, c. 72, sont-ils, en tout ou en partie, *ultra vires*, inappli-

whole or in part in virtue of section 93 of the *Constitution Act, 1867*?

Section 93 is the section which gives the provincial legislatures exclusive jurisdiction over education. It also guarantees certain rights to classes of persons in respect of denominational schools and to both Protestant and Catholic dissentient schools. The subsections of that section which apply for the purposes of this appeal are:

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2) All the Powers, Privileges and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

Applicable Legislation

The disputed sections of the *Act respecting municipal taxation and providing amendments to certain legislation*, which I will call the "1979 Act", are all sections relating to school financing.

Respondents Hubert Lavigne *et al.* and Commission scolaire des Manoirs *et al.* stated in their submission that the fundamental purpose of the *1979 Act*:

[TRANSLATION] . . . is to remove all school boards from the real estate tax field, in order to give towns and other municipalities unimpeded real estate taxation powers.

No one disputed the following passage from the judgment of the trial judge, [1981] C.S. 337, at p. 347:

[TRANSLATION] The chief feature of this legislation is the provision of school financing through a system of grants: taxation is now only a complementary method subject to new conditions.

cables ou invalides, en raison de l'article 93 de la *Loi constitutionnelle de 1867*?

L'article 93 est cet article qui consacre la compétence exclusive des législatures provinciales en matière d'éducation. Il garantit par ailleurs certains droits à des classes de personnes relativement aux écoles confessionnelles de même qu'aux écoles dissidentes tant protestantes que catholiques. Les paragraphes pertinents de cet article pour les fins de ce pourvoi sont:

93. Dans chaque province et pour chaque province, la législature pourra exclusivement légiférer sur l'éducation, sous réserve et en conformité des dispositions suivantes:

(1) Rien dans cette législation ne devra préjudicier à un droit ou privilège conféré par la loi, lors de l'Union, à quelque classe particulière de personnes dans la province relativement aux écoles confessionnelles;

(2) Tous les pouvoirs, privilèges et devoirs conférés ou imposés par la loi dans le Haut-Canada, lors de l'Union, aux écoles séparées et aux syndicats d'écoles des sujets catholiques romains de la Reine, seront et sont par les présentes étendus aux écoles dissidentes des sujets protestants et catholiques romains de la Reine dans la province de Québec;

Les dispositions en cause

Les articles contestés de la *Loi sur la fiscalité municipale et modifiant certaines dispositions législatives*, que j'appellerai la «*Loi de 1979*», sont tous des articles qui portent sur le financement scolaire.

Les intimés Hubert Lavigne et autres, et Commission scolaire des Manoirs et autres, écrivent dans leur mémoire que le but essentiel de la *Loi de 1979*:

. . . est de faire sortir toutes les commissions scolaires du champ de l'impôt foncier pour accorder aux villes et autres municipalités la plénitude du champ foncier de la taxation.

Personne ne conteste le passage suivant du juge de première instance, [1981] C.S. 337, à la p. 347:

Le trait dominant de cette législation est l'établissement du financement scolaire par le système de subventions, la taxation n'étant plus qu'un moyen complémentaire soumis à des conditions nouvelles.

Section 339 of the 1979 *Act* introduced into the *Education Act*, R.S.Q., c. I-14, s. 15.1, which deals with grants to be paid to school boards and imposes on the Minister of Education a duty to annually make, after consultation, budgetary rules determining the amount of expenses allowable for such grants:

15.1 The Minister shall, each year after consultation with the school boards and regional boards, make and submit to the approval of the Conseil du trésor budgetary rules to determine the amount of expenses allowable for grants to be paid to school boards, to regional boards and to the Conseil scolaire de l'Île de Montréal.

The Minister must, in the budgetary rules contemplated in the first paragraph, provide for the payment of equalization grants to school boards, regional boards or the Conseil scolaire de l'Île de Montréal. These equalization grants shall be paid according to the difference between the standardized assessment of taxable property per student of a school board, of a regional board or of the Conseil scolaire de l'Île de Montréal, as the case may be, and that per student of the aggregate of the school boards, of the regional boards or of the Conseil scolaire de l'Île de Montréal, as the case may be, taking into account the size of the revenue from real estate taxes collected within the limits fixed by section 354.1 or 558.1.

Section 346 replaced s. 226 of the *Education Act*, and I quote the first paragraph of the new provision:

226. The school commissioners and trustees must levy taxes for the payment of expenses not otherwise provided for by government subsidies or grants and other revenue. These taxes shall be imposed on all taxable property of the whole school municipality in accordance with Part IV.

This new section contrasts with the old one, in which the first paragraph provided that school commissioners and trustees had a duty to levy taxes to maintain schools under their control. It can thus be seen that the new financing arrangements, instead of being based primarily on taxation as the old, are based on grants, and taxation has become a complementary method. Henceforth, commissioners and trustees shall impose a tax only "for the payment of expenses not otherwise pro-

L'article 339 de la *Loi de 1979* introduit dans la *Loi sur l'instruction publique*, L.R.Q., chap. I-14, l'art. 15.1 qui traite des subventions à verser aux commissions scolaires et qui impose au ministre de l'Éducation l'obligation d'établir annuellement, après consultation, des règles budgétaires pour déterminer le montant des dépenses admissible à ces subventions:

15.1 Le ministre doit établir annuellement, après consultation avec les commissions scolaires et les commissions régionales, et soumettre à l'approbation du Conseil du trésor des règles budgétaires pour déterminer le montant des dépenses admissible aux subventions à verser aux commissions scolaires, aux commissions régionales et au Conseil scolaire de l'île de Montréal.

Le ministre doit prévoir dans les règles budgétaires visées au premier alinéa le versement de subventions de péréquation aux commissions scolaires, aux commissions régionales ou au Conseil scolaire de l'île de Montréal. Ces subventions de péréquation sont versées en fonction de l'écart entre l'évaluation uniformisée des biens imposables par étudiant d'une commission scolaire, d'une commission régionale ou du Conseil scolaire de l'île de Montréal, selon le cas, et celle par étudiant de l'ensemble des commissions scolaires, des commissions régionales et du Conseil scolaire de l'île de Montréal, compte tenu de l'importance des revenus des taxes foncières perçues à l'intérieur des limites fixées par les articles 354.1 ou 558.1.

L'article 346 remplace l'art. 226 de la *Loi sur l'instruction publique* et je cite le premier alinéa du nouveau texte:

226. Les commissaires et les syndics doivent imposer une taxe pour le paiement des dépenses auxquelles il n'est pas autrement pourvu par les subventions gouvernementales et autres revenus. Ces taxes sont imposées sur tous les biens imposables de la municipalité scolaire entière conformément à la Partie IV.

Ce nouvel article contraste avec l'ancien dont le premier alinéa stipulait qu'il est du devoir des commissaires et des syndics d'écoles d'imposer des taxes pour le maintien des écoles sous leur contrôle. D'où l'on voit que le nouveau régime de financement, au lieu d'être fondé principalement sur la taxation comme l'ancien, est à base de subventions, la taxation devenant un moyen complémentaire. Ce n'est que «pour le paiement des dépenses auxquelles il n'est pas autrement pourvu

vided for by government subsidies or grants and other revenue”.

Section 353 of the 1979 *Act* enacts ss. 354.1, 354.2 and 354.3 of the *Education Act*, requiring school boards to submit for approval by the electors in a referendum any assessment which they intend to impose when the total amount of expenses required by that assessment exceeds 6 per cent of the net expense of the school board, or when the taxation rate exceeds 25 cents per hundred dollars of assessment. The first paragraph of s. 354.1 provides:

354.1 Where the total amount of expenses for the payment of which an assessment must be levied under section 226 exceeds six per cent of the net expense of the school board or regional board, or the taxation rate for that assessment exceeds 25 cents per hundred dollars of the standardized assessment of the taxable property included in the real estate base of the school board or regional board, that assessment shall be submitted to the approval of the electors in accordance with sections 396 and following.

It should be mentioned that under s. 354.3, when an assessment is approved by the electors that approval applies for three taxation years.

Section 362 enacts ss. 396 to 399.5 of the *Education Act*, defining the procedures of a referendum.

Section 366 replaces the old ss. 441 to 444 of the *Education Act* by the new ss. 441 to 443, conferring on regional school boards a taxing power analogous to that of school boards and subject to the same conditions.

Sections 375 and 382 make amendments to Part IX of the *Education Act*, titled “Education in the Island of Montréal”. They enact ss. 558.1 to 558.4 and 567 to 567.4, requiring the council in the Island of Montréal to submit for approval by the electors any surtax exceeding the limits indicated—the same as those provided for school boards in the remainder of the province area—and defin-

par les subventions gouvernementales et autres revenus» que dorénavant les commissaires et les syndicats doivent imposer une taxe.

L'article 353 de la *Loi de 1979* édicte les art. 354.1, 354.2 et 354.3 de la *Loi sur l'instruction publique* qui obligent les commissions scolaires à soumettre à l'approbation des électeurs par voie de référendum toute cotisation qu'elles entendent imposer lorsque le montant total des dépenses qui nécessitent cette cotisation excède 6 pour 100 de la dépense nette de la commission scolaire, ou que le taux d'imposition excède 25 cents par cent dollars d'évaluation. Le premier alinéa de l'art. 354.1 stipule:

354.1 Lorsque le montant total des dépenses pour le paiement desquelles une cotisation doit être imposée en vertu de l'article 226 excède six pour cent de la dépense nette de la commission scolaire ou de la commission régionale, ou que le taux d'imposition de cette cotisation excède 25 cents par cent dollars de l'évaluation uniformisée des biens imposables incluse dans l'assiette foncière de la commission scolaire ou de la commission régionale, cette cotisation doit être soumise à l'approbation des électeurs conformément aux articles 396 et suivants.

Il convient de signaler que suivant l'art. 354.3, lorsqu'une cotisation est approuvée par les électeurs, cette approbation vaut pour trois années d'imposition.

L'article 362 édicte les art. 396 à 399.5 de la *Loi sur l'instruction publique* qui définissent les modalités du référendum.

L'article 366 remplace les anciens art. 441 à 444 de la *Loi sur l'instruction publique* par les nouveaux art. 441 à 443 qui confèrent aux commissions scolaires régionales un pouvoir de taxation analogue à celui des commissions scolaires et soumis aux mêmes conditions.

Les articles 375 et 382 apportent des modifications à la partie IX de la *Loi sur l'instruction publique* intitulée: «De l'instruction publique dans l'île de Montréal». Ils édictent les art. 558.1 à 558.4 et 567 à 567.4 qui obligent le conseil scolaire de l'île de Montréal à soumettre à l'approbation des électeurs toute surtaxe qui excède les limites indiquées—les mêmes que celles prévues pour les

ing procedures for a referendum. It should be noted here that, for the Island of Montréal, a general budget is prepared by the council based on budgets from school boards and its own expenses, and this budget is not effective until approved by the Minister of Education. The council has alone the power to levy taxes (s. 566 which is not in issue). If it becomes necessary to impose a surtax which must be submitted to the electors for approval, all the electors on the Island of Montréal may vote. I will return to this point below.

Section 495 of the 1979 Act provides:

495. No school board or regional board may exercise a taxation power except within the limits provided by this act, notwithstanding any general law or special act or any charter conferring such power upon it.

Finally, sections 498, 499 and 500 are transitional provisions designed to allow the new sections on taxation to be implemented.

Conditions for Application of s. 93 Guarantees

There is no disagreement between the parties as to the conditions under which the s. 93 guarantees of the *Constitution Act, 1867* will apply, as stated by the trial judge at p. 342 of his judgment:

[TRANSLATION] 2. In order to claim the protection of this section, the following conditions must of necessity be met:

- (a) there must be a right or privilege affecting a denominational school;
- (b) enjoyed by a particular class of persons;
- (c) by law;
- (d) in effect at the time of the Union;
- (e) and which is prejudicially affected.

It is also well established that, in 1867, all the common schools in Montréal and Québec were denominational. Outside those two cities, dissentient schools were denominational but common schools were not.

commissions scolaires du reste du territoire décrites plus haut—et qui définissent les modalités du référendum. Il faut noter, dès à présent, que pour l'île de Montréal un budget global est préparé par le conseil scolaire à partir des budgets des commissions scolaires et de ses propres dépenses, lequel budget est sans effet tant qu'il n'a pas été approuvé par le ministre de l'Éducation. Seul le conseil scolaire peut imposer des taxes (art. 566, lequel n'est pas attaqué). S'il devient nécessaire d'imposer une surtaxe qui doit être soumise à l'approbation des électeurs, c'est l'ensemble des électeurs de l'île de Montréal qui est appelé à voter. Je reviendrai sur ce sujet plus loin.

L'article 495 de la *Loi de 1979* stipule:

495. Une commission scolaire ou une commission régionale ne peut exercer un pouvoir de taxation que dans les limites prévues par la présente loi, malgré toute loi générale ou spéciale ou charte qui lui confère un tel pouvoir.

Enfin, les art. 498, 499 et 500 sont des dispositions transitoires qui visent à permettre la mise en œuvre des nouveaux articles relatifs à la taxation.

Les conditions d'application des garanties de l'art. 93

Il n'y a pas de désaccord entre les parties quant aux conditions d'application des garanties de l'art. 93 de la *Loi constitutionnelle de 1867* ainsi exposées par le juge de première instance à la p. 342 de son jugement:

2. Pour réclamer la protection de cet article, les conditions suivantes doivent nécessairement être réunies:

- a) qu'il s'agisse d'un droit ou privilège relatif à une école confessionnelle;
- b) dont jouissait une classe particulière de personnes;
- c) en vertu d'une loi;
- d) en vigueur au moment de l'Union
- e) et auquel on porte préjudice.

Il est bien établi par ailleurs qu'en 1867 toutes les écoles communes de Montréal et de Québec étaient confessionnelles. En dehors de ces deux villes, les écoles dissidentes étaient confessionnelles mais les écoles communes ne l'étaient pas.

The propositions I have just stated proceed from decisions of the Privy Council, in particular the following cases: *City of Winnipeg v. Barrett*, [1892] A.C. 445; *Brophy v. Attorney-General of Manitoba*, [1895] A.C. 202; *Ottawa Separate Schools Trustees v. Mackell*, [1917] A.C. 62; *Ottawa Separate Schools Trustees v. Ottawa Corporation*, [1917] A.C. 76; *Hirsch v. Protestant Board of School Commissioners of Montreal*, [1928] A.C. 200; *Roman Catholic Separate School Trustees for Tiny v. The King*, [1928] A.C. 363.

Judgments of the Superior Court and the Court of Appeal

The Superior Court judgment dismissed the declaratory actions of respondents.

By a majority judgment, the Court of Appeal, [1983] C.A. 370, reversed the trial judgment and held the sections in question *ultra vires*, null and void.

Appellant's First Argument

The Attorney General submitted, as his first argument, that the measures introduced by the 1979 Act are not at variance with s. 93, because they do not apply to the object of that section, which is denominational schools. He submitted:

[TRANSLATION] This measure does not affect the guarantee in s. 93(1) of the *Constitution Act, 1867*. Its real object is the way in which a taxing power is exercised, whereas the object of the 93(1) guarantee is denominational schooling. This is the first argument on which our appeal is based.

He went on to say:

[TRANSLATION] The provisions in question [...] do not affect the guarantee in s. 93(1) of the *Constitution Act*, for the simple reason that their object has no connection with the object of s. 93(1).

Further, he stated:

[TRANSLATION] The disputed provisions [...] actually apply to the way in which a taxing power is exercised. They provide that the province's school commissioners must obtain the approval of their electors before they can tax beyond a given financing level.

Les propositions que je viens d'énoncer découlent de la jurisprudence du Conseil privé, notamment des arrêts suivants: *City of Winnipeg v. Barrett*, [1892] A.C. 445; *Brophy v. Attorney-General of Manitoba*, [1895] A.C. 202; *Ottawa Separate Schools Trustees v. Mackell*, [1917] A.C. 62; *Ottawa Separate Schools Trustees v. Ottawa Corporation*, [1917] A.C. 76; *Hirsch v. Protestant Board of School Commissioners of Montreal*, [1928] A.C. 200; *Roman Catholic Separate School Trustees for Tiny v. The King*, [1928] A.C. 363.

Le jugement de la Cour supérieure et l'arrêt de la Cour d'appel

Le jugement de la Cour supérieure a rejeté les actions déclaratoires des intimés.

Par un arrêt majoritaire, la Cour d'appel, [1983] C.A. 370, a infirmé le jugement de première instance et a déclaré les articles visés *ultra vires*, nuls et sans effet.

Le premier moyen de l'appelant

Le procureur général soumet, et c'est sa prétention première, que les mesures mises en place par la *Loi de 1979* ne vont pas à l'encontre de l'art. 93 parce qu'elles ne visent pas son objet qui est la confessionnalité. Il écrit dans son mémoire:

Cette mesure n'affecte pas la garantie du paragraphe 93(1) de la *Loi constitutionnelle de 1867*. Elle a pour objet réel la façon d'exercer un pouvoir de taxer, alors que la garantie de 93(1) a pour objet la confessionnalité. C'est là la prétention première sur laquelle se fonde notre appel.

Il écrit encore:

Les dispositions en cause [...] n'affectent pas la garantie du paragraphe 93(1) de la *Loi constitutionnelle* pour la raison essentielle que leur objet n'a aucun rapport avec l'objet du paragraphe 93(1).

On peut lire plus loin:

Les dispositions contestées [...] portent réellement sur le mode d'exercice d'un pouvoir de taxation. Elles stipulent que les commissaires d'écoles de la province doivent obtenir l'approbation de leurs électeurs avant de pouvoir surtaxer au-delà d'un niveau donné de financement.

The provisions of s. 93(1) of the *Constitution Act, 1867* are concerned with denominational schools. Their object is to protect certain denominational schools against anything threatening their denominational status.

Without discussing the argument submitted in support of this claim in detail, I consider that it cannot be allowed. Denominational status does not exist in a vacuum.

Section 93 guarantees the rights and privileges relating to denominational schools.

In *Hirsch* in this Court, [1926] S.C.R. 246, Anglin C.J., who was not overruled by the Privy Council on this point, wrote at p. 269:

From what has been said it is apparent that we would regard legislation designed to impair the right of Protestants, as a class of persons in the province of Quebec, to the exclusive control, financial and pedagogic, of their schools, as *ultra vires* of the provincial legislature.

In *Tiny* the Privy Council wrote at p. 375:

Unless the legislatures of Ontario and Quebec were debarred from prejudicially affecting the rights and privileges which the religious minorities possessed in regard to their denominational schools in regard to maintenance and support, the protection given by the section would be illusory.

In their analysis of *Les problèmes constitutionnels posés par la restructuration scolaire de l'île de Montréal*, Québec, Department of Education, 1972, at p. 22, the writers F. Chevette, H. Marx and A. Tremblay, based on precedent and in the context of effective protection, wrote:

[TRANSLATION] It is clear that the spirit of s. 93 seeks to guarantee the denominational status of education as that status existed in 1867, that is, in relation to education provided in dissentient schools in the province and in the schools of Montréal and Québec. In this regard, the ultimate aim of the section is a religious one, and that aim was undoubtedly given constitutional form. The question remains whether only that aim was so treated, or whether certain concrete means of achieving it were as well, namely a number of powers and administrative devices to ensure that the denominational status of education would be respected and maintained in

Les dispositions du paragraphe 93(1) de la *Loi constitutionnelle de 1867* portent quant à elles sur la confessionnalité. Elles ont pour objet de protéger certaines écoles confessionnelles contre ce qui mettrait en péril leur confessionnalité.

Sans entrer dans le détail de l'argumentation soumise à l'appui de cette prétention, je suis d'avis qu'elle ne peut être retenue. La confessionnalité n'existe pas dans un vacuum.

Ce sont les droits et privilèges relatifs aux écoles confessionnelles que garantit l'art. 93.

Dans l'arrêt *Hirsch* en cette Cour, [1926] R.C.S. 246, le juge en chef Anglin, qui sur ce point n'est pas contredit par le Conseil privé, écrit à la p. 269:

[TRADUCTION] Il ressort de ce qui précède que nous considérons que la loi destinée à amoindrir le droit des protestants, comme classe de personnes dans la province de Québec, au contrôle exclusif, financier et pédagogique de leurs écoles, est *ultra vires* de la législature de la province.

Dans l'arrêt *Tiny* le Conseil privé écrit à la p. 375:

[TRADUCTION] À moins qu'il ne soit interdit aux législatures de l'Ontario et du Québec de préjudicier aux droits et privilèges en matière de financement dont jouissent les minorités religieuses relativement à leurs écoles confessionnelles, la protection que prévoit l'article serait illusoire.

S'appuyant sur la jurisprudence et dans l'optique d'une protection effective, les auteurs F. Chevette, H. Marx et A. Tremblay écrivent dans leur étude sur *Les problèmes constitutionnels posés par la restructuration scolaire de l'île de Montréal*, Québec, ministère de l'Éducation, 1972, à la p. 22:

Il est certain que dans son esprit l'article 93 vise à garantir la confessionnalité de l'enseignement telle que cette confessionnalité se présentait en 1867, c'est-à-dire au niveau de l'enseignement dispensé dans les écoles dissidentes de la province et dans les écoles de Montréal et de Québec. À ce titre l'objectif final de cet article est de nature religieuse et il ne fait pas de doute que cet objectif ait été constitutionnalisé. Reste la question de savoir si c'est cet objectif final seul qui l'a été, ou si ne l'ont pas été aussi certains moyens concrets d'y parvenir, c'est-à-dire un certain nombre de pouvoirs et de structures administratives assurant que la confessionnalité de

practice. There is also no doubt of the answer to this question: constitutional form was also given to a number of means of achieving the result, and the wording of s. 93 itself seems clear in this regard, since it speaks of any "Right or Privilege with respect to Denominational Schools" rather than referring merely to "denominational schools".

It should be noted that in themselves, and viewed in isolation, these means are not necessarily religious in nature, for they may include financial powers, the power to hire teachers and so on; however, such means should still be related to the denominational status of education and connected directly with maintaining it.

Denominational status applies in its context, and though some legislation which does not prejudicially affect a right or privilege conferred by law at the time of the Union is conceivable, other legislation will have such an effect.

The legislature is not divested of the power to legislate in respect of the schools referred to in s. 93. In *Barrett*, the Privy Council wrote at p. 459:

With the policy of the Act of 1890 their Lordships are not concerned. But they cannot help observing that, if the views of the respondents were to prevail, it would be extremely difficult for the provincial legislature, which has been entrusted with the exclusive power of making laws relating to education to provide for the educational wants of the more sparsely inhabited districts of a country almost as large as Great Britain, and that the powers of the legislature, which on the face of the Act appear so large, would be limited to the useful but somewhat humble office of making regulations for the sanitary conditions of school-houses, imposing rates for the support of denominational schools, enforcing the compulsory attendance of scholars, and matters of that sort.

Similarly, in *Hirsch* it wrote at p. 215:

While s. 93 of the Act of 1867 protects every right or privilege with respect to denominational schools which any class of persons may have had by law at the Union, it does not purport to stereotype the educational system of the Province as then existing. On the contrary, it expressly authorizes the Provincial Legislature to make laws in regard to education subject only to the provisions of the section; and it is difficult to see how the Legisla-

l'enseignement serait en pratique respectée et maintenue. La réponse à cette question ne fait pas de doute non plus; on a aussi constitutionnalisé un certain nombre de moyens d'y parvenir et le texte même de l'article 93 semble clair à ce sujet puisqu'il parle de «droit ou privilège relativement aux écoles confessionnelles» au lieu de parler plus simplement «d'écoles confessionnelles».

Remarquons qu'en eux-mêmes et considérés isolément ces moyens n'ont pas nécessairement une nature religieuse, car il pourra éventuellement s'agir de pouvoirs financiers, du pouvoir d'engager des maîtres, etc. Mais il demeure que ces moyens doivent être relatifs à la confessionnalité de l'enseignement et reliés directement au maintien de celle-ci.

La confessionnalité s'exerce dans un cadre et si certaines législations qui ne préjudicient pas à un droit ou privilège conféré par la loi lors de l'Union sont concevables, d'autres y porteront préjudice.

La législature n'est pas privée du pouvoir de légiférer en regard des écoles visées par l'art. 93. Dans l'arrêt *Barrett*, le Conseil privé écrit à la p. 459:

[TRADUCTION] Leurs Seigneuries ne s'intéressent pas à la politique de la Loi de 1890. Toutefois, elles ne peuvent s'empêcher de remarquer que, si les opinions des intimés devaient s'appliquer, il serait extrêmement difficile pour la législature de la province, qui a le pouvoir exclusif d'adopter des lois relatives à l'éducation, de combler les besoins en matière d'éducation des districts les moins peuplés d'un pays presque aussi grand que la Grande-Bretagne et que les pouvoirs de la législature qui, d'après la Loi, paraissent tellement étendus seraient limités à la tâche utile, mais plutôt humble, d'établir des règlements portant sur les conditions d'hygiène dans les écoles, sur le prélèvement d'impôts pour le financement des écoles confessionnelles, sur le respect de la présence obligatoire des enseignants et sur des questions de ce genre.

De même dans l'arrêt *Hirsch*, il est écrit à la p. 215:

[TRADUCTION] Bien que l'art. 93 de la Loi de 1867 protège chaque droit ou privilège relatif aux écoles confessionnelles que la loi conférait à toute classe de personnes lors de l'Union, il ne prétend pas stéréotyper le système d'éducation de la province qui existait à ce moment-là. Au contraire, il autorise expressément la législature de la province à légiférer en matière d'éducation sous réserve seulement des dispositions de l'article;

ture can effectively exercise the power so entrusted to it unless it is to have a large measure of freedom to meet new circumstances and needs as they arise.

However, a statute adopted for the purpose of suspending some commissioners and replacing them with others for an indefinite period, unless the first complied with a regulation regarding the language of instruction, has been held unconstitutional: see *Ottawa Separate Schools Trustees v. Ottawa Corporation*, *supra*.

Accordingly, the question is what rights the law conferred on school boards and trustees of corporations at the time of the Union, in particular over financing, grants and taxation. It will then be necessary to determine whether the disputed provisions prejudicially affect these rights.

The Law in 1867

The law in Quebec at the time of the Union was c. 15 of the Consolidated Statutes for Lower Canada, 1861, titled the *Act respecting Provincial Aid for Superior Education,—and Normal and Common Schools* (the “1861 Act”). Under this Act, two systems of education existed, one for the cities of Montréal and Québec and the other for the remainder of the province (ss. 27 *et seq.* and ss. 128 *et seq.* of the 1861 Act).

In Montréal and Québec common schools existed open to all children between the ages of five and sixteen. These schools were directed and controlled by two groups of commissioners, one Catholic and the other Protestant. All these schools were denominational.

The commissioners were not elected but appointed by the Municipal Council.

In *Hirsch*, *supra*, the Court observed at p. 212:

The Roman Catholics in Montreal or Quebec formed a class of persons who had the right and privilege of having their schools controlled and managed by Commissioners of that religious persuasion and their teachers examined by Examiners of the same persuasion; and like

et je peux difficilement voir comment la législature peut exercer d'une manière efficace le pouvoir qui lui a été conféré si elle n'a pas une grande marge de manœuvre pour s'adapter aux circonstances et aux besoins nouveaux lorsqu'ils se présentent.

Mais une loi ayant pour objet de suspendre les commissaires et de les remplacer par d'autres pour une période indéfinie, faute par les premiers de se conformer à un règlement relatif à la langue d'enseignement, a été jugée inconstitutionnelle: voir *Ottawa Separate Schools Trustees v. Ottawa Corporation*, précité.

Il importe donc de déterminer quels droits la loi conférait aux commissions scolaires et aux corporations de syndicats au moment de l'Union, plus particulièrement en matière de financement, de subventions et de taxation. Il faudra voir ensuite si les dispositions attaquées affectent ces droits de façon préjudiciable.

La loi en 1867

La loi au Québec au moment de l'Union était le chap. 15 des Statuts Refondus pour le Bas Canada de 1861 intitulé: *Acte concernant l'allocation provinciale en faveur de l'éducation supérieure,—et les écoles normales et communes* (la «Loi de 1861»). En vertu de cette loi, il existait deux systèmes d'éducation, l'un pour les villes de Montréal et de Québec et l'autre pour le reste de la province (art. 27 *et suiv.* et art. 128 *et suiv.* de la *Loi de 1861*).

À Montréal et à Québec il existait des écoles communes auxquelles avaient accès tous les enfants âgés de cinq à seize ans. Ces écoles étaient dirigées et contrôlées par deux groupes de commissaires, l'un catholique et l'autre protestant. Toutes ces écoles étaient confessionnelles.

Les commissaires n'étaient pas élus mais nommés par le conseil municipal.

Dans l'arrêt *Hirsch*, précité, on peut lire à la p. 212:

[TRADUCTION] Les catholiques romains à Montréal ou à Québec formaient une classe de personnes qui avaient le droit et le privilège d'avoir des écoles dirigées et contrôlées par des commissaires de cette confession, et d'avoir des enseignants dont les compétences sont véri-

privileges belonged to the Protestants of each city with regard to the schools controlled by the Protestant Board of Commissioners.

Outside Montréal and Québec there were common schools in each municipality, which were also directed and controlled by school commissioners. These were elected. According to the Privy Council decision in *Hirsch, supra*, these schools were non-denominational.

In these municipalities the members of a minority religious group had the right to create one or more dissentient schools directed and controlled by trustees elected by them. These dissentient schools were denominational.

The right of Protestants and Catholics to direct and control their own denominational schools was therefore recognized by law at the time of the Union.

The financing came from three sources: government grants, taxes and school fees. It is not necessary to deal with the fees for the purposes of this appeal.

A common schools fund existed, and school commissioners and trustees were entitled to receive a proportionate share of this.

Section 24(1) provided:

24. It shall be the duty of the Superintendent of Education—

1. To receive from the Receiver General all sums of money appropriate for Common School purposes, and to distribute the same among the School Commissioners and Trustees of the respective Municipalities, according to law, and in proportion to the population of the same, as ascertained by the then last Census;

With regard to the trustees of dissentient schools, s. 55(2) provided:

2. Such Trustees shall have the same powers and be subject to the same duties as School Commissioners, but for the management of those Schools only which shall be under their control; and such dissentient inhabitants may, by the intervention of the Trustees, establish, in the manner provided with regard to other Schools, one or more Schools, which shall be subject to the same

fiées par des examinateurs de la même confession; les protestants de chaque ville ont des privilèges semblables en ce qui a trait aux écoles contrôlées par les commissions scolaires protestantes.

À l'extérieur de Montréal et de Québec il existait des écoles communes dans chaque municipalité, lesquelles étaient également dirigées et contrôlées par des commissaires d'écoles. Ceux-ci étaient élus. Suivant l'arrêt *Hirsch*, précité, du Conseil privé, ces écoles étaient non-confessionnelles.

Dans ces municipalités les membres d'un groupe religieux minoritaire avaient le droit de créer une ou des écoles dissidentes dirigées et contrôlées par des syndics élus par eux. Ces écoles dissidentes étaient confessionnelles.

Le droit des protestants et des catholiques de diriger et de contrôler leurs propres écoles confessionnelles était donc reconnu par la loi au moment de l'Union.

Quant au financement, il provenait de trois sources: les subventions gouvernementales, les taxes et les frais de scolarité. Il n'est pas nécessaire de parler de ces derniers frais pour les fins de ce pourvoi.

Il existait un fonds des écoles communes duquel les commissaires et syndics d'écoles avaient le droit de recevoir une part proportionnelle.

Le paragraphe 1 de l'art. 24 stipulait:

24. Il sera du devoir du surintendant de l'éducation:

1. De recevoir du receveur-général toutes sommes d'argent affectées aux fins des écoles, et d'en faire la distribution entre les commissaires d'école et les syndics des diverses municipalités d'après les dispositions de la loi et proportionnellement au chiffre de leur population, telle que constatée par le dernier recensement pour le temps;

Pour ce qui est des syndics des écoles dissidentes, le par. 2 de l'art. 55 disposait:

2. Tels syndics seront soumis aux mêmes devoirs et auront les mêmes pouvoirs que les commissaires d'école, mais pour la régie des écoles sous leur contrôle seulement; et les dits habitants dissidents pourront établir, par l'intermédiaire des dits syndics, en la manière prescrite quant aux autres écoles, une ou plusieurs écoles, qui seront soumises aux mêmes dispositions, devoirs et

provisions, duties and supervision, and they shall be entitled to receive from the Superintendent or from the School Commissioners, a sum out of the general or local School Fund, proportionate to the dissentient population they represent;

Reference should also be made to s. 57(3), which for the same trustees and the same dissentient schools, established a proportionality on the basis not of population but of the number of children attending the schools:

3. The said Trustees shall be a Corporation for the purposes of their own dissentient Schools and School Districts, and shall be entitled to receive, from the Superintendent of Education, shares of the General School Fund, bearing the same proportion to the whole sums allotted from time to time to such Municipality as the number of children attending such Dissentient Schools bears to the entire number of children attending School in such Municipality at the same time, and a similar share of the building fund;

The commissioners and trustees had a duty to levy taxes in an amount equal to the grants received from the common schools fund. They further had the power to levy any additional sum. This is indicated in ss. 73 and 74:

73. It shall be the duty of the School Commissioners and of the Trustees of Dissentient Schools, in their respective Municipalities, to cause to be levied by assessment and rate, in each Municipality, a sum equal to that allowed out of the Common School Fund (for such Municipality,) and to report their proceedings in this respect to the Superintendent of Education; and to enable them to receive from the said Superintendent their share of the Common School Fund, they must furnish him with a declaration from their Secretary-Treasurer, that he has actually and *bonâ fide* received, or that he has placed in the hands of the School Commissioners or Trustees for the purposes of this Act, a sum equal to the said share accruing to such Commissioners or Trustees.

74. The School Commissioners or Trustees of Dissentient Schools may cause to be levied by assessment and rate, such additional sum beyond that which they are directed to levy by the next preceding section as they think it necessary to raise for the support of the Schools under their control; and this provision extends to the Cities of Quebec and Montreal.

surveillance, et ils auront droit de recevoir du surintendant ou des commissaires d'école leur part du fonds général ou local des écoles, en proportion du chiffre de la population dissidente qu'ils représentent;

Il faut citer en outre le par. 3 de l'art. 57 qui, pour les mêmes syndics et les mêmes écoles dissidentes, établissait la proportionnalité sur la base non pas de la population mais sur la base du nombre d'enfants fréquentant les écoles:

3. Les dits syndics seront une corporation pour les fins de leurs propres écoles dissidentes et arrondissements d'école, et auront droit de recevoir du surintendant de l'éducation des parts du fonds général des écoles ayant la même proportion vis-à-vis du montant entier des sommes accordées de temps à autre à la dite municipalité que le nombre des enfants fréquentant les dites écoles dissidentes a vis-à-vis du nombre entier des enfants assistant à l'école à la fois dans la dite municipalité, et une semblable part du fonds de construction;

Les commissaires et les syndics avaient l'obligation de prélever des taxes pour un montant égal aux subventions reçues à même le fonds des écoles communes. Ils avaient en outre le pouvoir de prélever toute somme additionnelle. Ce sont les art. 73 et 74:

73. Il sera du devoir des commissaires d'école et des syndics des écoles dissidentes, dans leurs municipalités respectives, de faire prélever, par voie de répartition et cotisation dans chaque municipalité, une somme égale à celle allouée à telle municipalité sur le fonds commun des écoles, et de faire rapport de leurs procédés à cet égard au surintendant de l'éducation; et les commissaires d'école, pour recevoir leur part du fonds commun des écoles du surintendant de l'éducation, devront lui fournir une déclaration du secrétaire-trésorier, portant qu'il a actuellement et de bonne foi reçu, ou qu'il a mis entre les mains des commissaires ou syndics d'école pour les fins de cet acte, une somme égale à la part afférente aux dits commissaires ou syndics.

74. Les commissaires d'école ou les syndics des écoles dissidentes feront prélever, par voie de répartition et cotisation, telle somme additionnelle en sus de celle qu'il leur est prescrit de prélever par la section précédente, qu'ils croiront nécessaire pour le soutien des écoles sous leur contrôle; et cette disposition s'applique aussi aux cités de Québec et Montréal.

Under section 131, school commissions in Montréal and Québec were also entitled to receive a share of the common schools fund; however, they did not impose a tax corresponding to the grants made to them. Instead, the treasurer of the city was required, from the funds held by him, to "pay to the respective Boards of School Commissioners of such City, and in proportion to the population of the religious persuasion represented by such Boards respectively, a sum equal in amount to that apportioned to such City out of the Common School Fund [...]".

However, as provided in s. 74 cited above, Montréal and Québec commissioners had the power to levy "such additional sum [...] as they think it necessary to raise for the support of the Schools under their control".

Those, then, were the rights of the school commissioners and trustees over financing, grants and taxation which respondents alleged were prejudicially affected by the 1979 Act.

Issue

Based on the submissions of the parties, and the judgments of the Court of Appeal and the Superior Court, I may summarize the objections made by respondents to this statute as follows:

1. they no longer have the right to determine the level of their expenses themselves: it is the Minister of Education who in his sole discretion, after merely consulting with school commissioners, sets the level of the expenses which can be covered by grants;

2. the Act does not provide for grants as of right;

3. the right to grants being made on a proportional basis has been abolished;

4. the power to tax beyond the given ceiling is limited, if not completely abolished for all practical purposes, because of the requirement that the approval of the electors be obtained by referendum.

Suivant l'article 131, les commissions scolaires de Montréal et de Québec avaient, elles aussi, le droit de recevoir une part du fonds des écoles communes. Mais elles n'imposaient pas de taxe correspondant aux subventions qui leur étaient afférentes. Au lieu et place, le trésorier de la cité était tenu, à même les deniers de sa caisse, «de payer aux bureaux respectifs des commissaires d'écoles de telle cité, et proportionnellement au chiffre de la population de la croyance religieuse représentée par les dits bureaux respectivement, une somme égale à celle afférente à la dite cité sur les fonds des écoles communes, [...]».

Cependant, les commissaires de Montréal et de Québec avaient, comme le stipule l'art. 74 précité, le pouvoir de prélever «telle somme additionnelle [...] qu'ils croiront nécessaire pour le soutien des écoles sous leur contrôle».

Tels étaient donc les droits des commissaires et des syndic d'écoles en matière de financement, de subvention et de taxation que les intimés disent affectés de façon préjudiciable par la *Loi de 1979*.

Le fond du litige

M'inspirant des mémoires des parties, de l'arrêt de la Cour d'appel et du jugement de la Cour supérieure, je résume ainsi les griefs des intimés à l'encontre de cette loi:

1. Ils n'ont plus le droit de déterminer eux-mêmes le niveau de leurs dépenses. C'est le ministre de l'Éducation qui établit à sa seule discrétion, après simple consultation avec les commissions scolaires, le niveau des dépenses qui devront être couvertes par des subventions.

2. La loi ne pourvoit pas à des subventions de plein droit.

3. Le droit à ce que les subventions soient octroyées sur une base proportionnelle a été supprimé.

4. Le pouvoir de taxer au-delà du plafond indiqué est restreint, sinon inexistant à toutes fins pratiques, à cause de l'obligation d'obtenir l'approbation des électeurs par voie de référendum.

The first objection contains two propositions which need to be treated separately. It is true that the level of expenses which will be covered by grants is set by the Minister of Education in his sole discretion, after merely consulting with school boards. It is the Minister who determines the total amount allocated, which he submits to the Conseil du trésor for approval, and expenditure of which will eventually be authorized by the legislature. The Court was not shown that the situation under the *1861 Act* was different. That Act is silent as to how the common schools fund was to be made up, and one has to conclude that it was fixed by the government and voted on by the legislature.

On the other hand, what the Minister fixes in his budgetary rules is the amount of the expenses which will be eligible for grants, not the amount of the expenses of school boards and trustees. The latter are free to set their expenses at the level they consider necessary, but they will have to impose taxes for any amount exceeding the grants. I will of course return to the question of the taxing power. This first objection is without foundation.

The second objection is also invalid, in my opinion. The *1979 Act* does not use the same language as the *1861 Act*. The latter imposed on the Superintendent of Education a duty to distribute (s. 24(1)) and conferred on commissioners and trustees a right to receive their share (ss. 55(2); 57(3); 131; 133). However, when s. 15.1 of the *Education Act* says that the Minister shall make budgetary rules to determine the amount of expenses allowable for grants to be paid to school boards, to regional boards and to the Conseil de l'île de Montréal, this includes them all and means that grants must be paid to them.

Respondents' third objection must be upheld. As we have seen, the relevant sections of the *1861 Act* all spoke of proportionality. In sections 24(1), 55(2) and 131 the proportion is based on population, while in s. 57(3) it is based on the number of children attending school. Given the existence of these provisions, it is difficult to determine which should prevail. F. Chevette, H. Marx and A.

Le premier grief renferme deux propositions qu'il faut dissocier. Il est vrai que c'est le ministre de l'Éducation qui établit à sa seule discrétion, après simple consultation avec les commissions scolaires, le niveau des dépenses qui devront être couvertes par des subventions. C'est le ministre en somme qui détermine le montant global alloué qu'il soumet à l'approbation du Conseil du trésor et dont la dépense sera éventuellement autorisée par la législature. Il ne nous a pas été démontré qu'il en était autrement en vertu de la *Loi de 1861*. Cette dernière loi est muette au sujet de la détermination du fonds des écoles communes et il faut conclure que c'était le gouvernement qui l'établissait et la législature qui le votait.

Par ailleurs, ce que le ministre établit par ses règles budgétaires, c'est le montant des dépenses qui sera admis aux subventions et non pas le montant des dépenses des commissions scolaires et des syndicats. Ces derniers sont libres d'établir leurs dépenses au niveau qu'ils jugent nécessaire quitte à taxer pour ce qui excède les subventions. Bien entendu, je reviendrai plus loin sur le pouvoir de taxer. Ce premier grief est mal fondé.

Le second grief est également mal fondé à mon avis. La *Loi de 1979* n'emploie pas le même langage que la *Loi de 1861*. Cette dernière loi imposait au surintendant de l'éducation le devoir de distribuer (art. 24, par. 1) et conférait aux commissaires et aux syndicats le droit de recevoir leur part (art. 55, par. 2; 57, par. 3; 131; 133). Mais, quand l'art. 15.1 de la *Loi sur l'instruction publique* dit que le ministre doit établir des règles budgétaires pour déterminer le montant des dépenses admissible aux subventions à verser aux commissions scolaires, aux commissions scolaires régionales et au conseil de l'île de Montréal, cela les comprend tous et veut dire que des subventions doivent leur être versées.

Sur le troisième grief il faut donner raison aux intimés. Comme on l'a vu, les articles pertinents de la *Loi de 1861* parlaient tous de proportionnalité. Aux articles 24, par. 1, 55, par. 2 et 131 la proportion est fonction de la population, tandis qu'à l'art. 57, par. 3 elle est fonction du nombre d'enfants qui fréquentent l'école. En présence de ces textes il est difficile de déterminer laquelle doit

Tremblay, in their study cited above, appear to adopt the latter position when, discussing dissentient schools, they cite s. 57(3). At page 44 of their study, they write:

[TRANSLATION] The 1861 Lower Canada statute gave the trustees of dissentient schools a right to a share in public funds proportional to the number of students attending those schools in relation to the total number of students in a given school municipality.

This position seems more plausible in light of, for example, s. 90 of the *1861 Act*, which makes it a condition of receiving a grant that a school is attended by at least fifteen children. This establishes a connection between the grant and attendance.

In any case, I do not think that this point is conclusive. Proportionality is more significant. Whether on the basis of total population or that of school attendance, the principle of a fair and non-discriminatory distribution is recognized.

The *Act respecting grants to school boards*, R.S.Q., c. S-36, which provides for grants to be made for special purposes such as the costs of administration and maintenance and payment of teaching personnel, fixes such grants on a basis of so much per student.

I do not doubt that the legislator intended that the Minister's budgetary rules should be based on proportionality, and the grants are established on a proportional basis, as was indicated at the hearing. However, while the *1861 Act* provided this expressly, it is not stated by s. 15.1 of the *Education Act*. In my opinion, it is a right conferred by law at the time of the Union, which is protected by s. 93 of the *Constitution Act, 1867*.

The fourth objection relates essentially to the referendum. While the *1861 Act* authorized all school commissions, including those of Montréal and Québec, to levy any additional sum (s. 74), under the *1979 Act* a school board may still levy any amount which it considers necessary, but beyond the ceiling indicated above the tax required

prévaloir. F. Chevrette, H. Marx et A. Tremblay dans leur étude précitée, semblent adopter la dernière hypothèse alors que traitant des écoles dissidentes ils citent le par. 3 de l'art. 57. Ils écrivent à la p. 44 de leur étude:

La loi du Bas-Canada de 1861 donnait en effet aux syndics des écoles dissidentes le droit à une part des fonds publics proportionnelle au nombre d'élèves fréquentant ces écoles par rapport au nombre total d'élèves dans une municipalité scolaire donnée.

Cette hypothèse paraît plus plausible en regard par exemple de l'art. 90 de la *Loi de 1861* qui pose comme condition pour recevoir une allocation, qu'une école ait été fréquentée par au moins quinze enfants. On établit par là un rapport entre l'allocation et la fréquentation.

Quoi qu'il en soit, je ne crois pas que cette question soit déterminante. Ce qui importe davantage c'est la proportionnalité. Qu'elle soit sur la base de la population totale ou sur la base de la clientèle scolaire, le principe est reconnu d'une répartition équitable et sans discrimination.

La *Loi sur les subventions aux commissions scolaires*, L.R.Q., chap. S-36, qui pourvoit à des subventions pour des fins particulières tels les frais d'administration et d'entretien, la rémunération du personnel enseignant, établit ces subventions sur une base de tant par élève.

Je ne doute pas que ce soit l'intention du législateur que les règles budgétaires du ministre respectent la proportionnalité et que les subventions sont établies proportionnellement comme il nous a été indiqué à l'audience. Mais, alors que la *Loi de 1861* le stipulait expressément, l'art. 15.1 de la *Loi sur l'instruction publique* ne le dit pas. C'est là à mon avis un droit conféré par la loi lors de l'Union et que protège l'art. 93 de la *Loi constitutionnelle de 1867*.

Le quatrième grief se rapporte en somme au référendum. Alors que la *Loi de 1861* autorisait toutes les commissions scolaires, y compris celles de Montréal et de Québec, à prélever toute somme additionnelle (art. 74), par l'effet de la *Loi de 1979* une commission scolaire peut encore prélever toute somme qu'elle estime nécessaire mais au-

must be submitted to the electors for approval in a referendum.

This duty to hold a referendum is challenged on three grounds.

(a) There was no such condition in 1867 limiting the taxing power of commissioners and trustees. The mere fact of imposing it has the effect of prejudicially affecting their power.

(b) The procedure is so cumbersome and costly, apart from the risk that the electors may well be unwilling to approve a surtax affecting them, that in practice it would be almost unrealistic to think of using it, and this accordingly constitutes an impediment to the taxing power.

(c) Any elector would be entitled to vote in such a referendum, whether or not his religious affiliation is that of the school board in question.

The principle of a referendum itself is not in my view such as to constitute an infringement of the taxing right, making the legislation unconstitutional. There is no limit on the taxing right. It is only that the legislator has thought it proper to confer a supervisory power on persons who, in fact, are members of the class of persons whose rights are protected. I adopt the following passage from the reasons of Vallerand J.A., dissenting in the Court of Appeal (at p. 385):

[TRANSLATION] It is true that beyond certain taxing limits the impugned legislation provides for recourse to a referendum, and that appellants argued that this is such a serious obstacle that for all practical purposes it constitutes an impediment. I cannot share their anxiety. In fact, I have the impression that the alleged constitutional guarantees are being claimed for representatives and mandataries against their electors and mandators, who are the sole beneficiaries of those guarantees.

In a very comprehensive study, *De la notion de droit collectif et de son application en matière scolaire au Québec*, September 1984, prepared for the Centre de recherche en droit public, Faculté de droit, Université de Montréal, its director, Professor Pierre Carignan, comments on the Court of Appeal's decision.

delà du plafond déjà indiqué, la taxe requise doit être soumise à l'approbation des électeurs par voie de référendum.

Cette obligation de tenir un référendum est attaquée sous trois rapports:

a) Aucune telle condition ne venait, en 1867 contrôler ainsi le pouvoir de taxer des commissaires et des syndics. Le seul fait de l'imposer a pour effet d'affecter leur pouvoir de façon préjudiciable.

b) La procédure est si lourde et si coûteuse, sans compter le risque que les électeurs soient peu enclins à approuver une surtaxe qui les affecte, qu'il serait à peu près irréaliste de songer à y recourir en pratique, ce qui constitue en conséquence une entrave au pouvoir de taxer.

c) Aurait droit de vote à un pareil référendum tout électeur, peu importe qu'il soit de la dénomination religieuse ou non de la commission scolaire concernée.

Le principe même d'un référendum n'est pas à mon avis de nature à constituer une violation du droit de taxer qui entraîne l'inconstitutionnalité de cette législation. Il n'y a pas de limite au droit de taxer. Il y a seulement que le législateur a jugé à propos de conférer un contrôle aux personnes qui, en définitive, sont les membres de cette classe de personnes dont les droits sont protégés. Je fais mien le passage suivant des motifs du juge Vallerand, dissident en Cour d'appel (à la p. 385):

Il est vrai qu'au-delà de certaines frontières fiscales la loi reprochée prescrit le recours au référendum et que les appelants ont voulu trouver là un obstacle à ce point sérieux qu'il constitue à toutes fins pratiques un empêchement. Je ne puis partager leur angoisse. A vrai dire j'ai l'impression qu'on revendique de prétendues garanties constitutionnelles pour les élus et mandataires à l'encontre de leurs électeurs et mandants qui seuls pourtant en sont les bénéficiaires.

Dans une étude très fouillée, *De la notion de droit collectif et de son application en matière scolaire au Québec*, Septembre 1984, préparée pour le Centre de recherche en droit public, Faculté de droit, Université de Montréal, le professeur Pierre Carignan, qui en est le directeur, commente l'arrêt de la Cour d'appel.

He asks himself the following question at p. 130:

[TRANSLATION] Did the Quebec National Assembly, by reducing the taxing power of school boards, prejudicially affect a right enjoyed by a particular class of persons by law at the time of the Union with respect to denominational schools?

At pages 131-32 he writes:

[TRANSLATION] There are various aspects of the question above stated. For the purposes of this study, its interest lies in the fact that, in answering it, the collective nature of the constitutionally entrenched rights has to be kept in mind. With this in mind Trotier J., of the Superior Court, gave a negative answer. So did Vallérand J.A. in the Court of Appeal, but his brothers Malouf and Kaufman J.J.A. opted for the affirmative. In his reasons, Malouf J.A. recognized that the rights at issue were collective in nature. He considered that commissioners and trustees represent classes of persons. Having said that, however, he appears to have reasoned as if they were the real beneficiaries of the constitutional protection. The reduction in the latter's taxing powers led him to conclude that the disputed provisions were unconstitutional. In the case of Kaufman J.A., it seems even clearer that he regarded the constitutional protection as pertaining to the boards themselves, even as capable of being maintained against the electors. In his view, the requirement of approval by the electors infringed on the constitutionally entrenched rights of the commissioners and trustees.

There is then this conclusive passage, at pp. 132-33:

[TRANSLATION] This position is, to say the least, surprising. The constitutional protection exists for the benefit of religious communities. More specifically, it benefits Roman Catholics and Protestants in the cities of Montréal and Québec and dissentients outside those cities. Accordingly, commissioners and trustees are only the representatives of the real beneficiaries. Moreover, if one refuses to lift the veil of legal entity and regards the school boards as the ultimate holders of the taxing right, since the latter do not constitute a class of persons they are not in a position to invoke the constitutional protection.

The judges in the majority on the Court of Appeal did not specifically rule on respondents' second ground of challenge to the referendum, namely the cumbersome and costly nature of the procedure and the small likelihood of its success.

À la page 130 il se pose la question suivante:

En réduisant le pouvoir de taxation des organismes scolaires, l'Assemblée nationale du Québec a-t-elle porté atteinte de façon préjudiciable à un droit qu'une classe particulière de personnes possédait en vertu de la loi au moment de l'avènement de la confédération relativement à des écoles confessionnelles?

Aux pages 131 et 132 il écrit:

La question posée plus haut présente diverses facettes. Pour les fins de la présente étude son intérêt réside en ceci qu'il importe, en y apportant une réponse, de garder à l'esprit le caractère collectif des droits constitutionnalisés. Tenant compte de ce caractère, monsieur le juge Trotier, de la Cour supérieure, a répondu par la négative. Ainsi en est-il, en cour d'appel, de l'honorable juge Vallérand, mais ses collègues, les honorables juges Malouf et Kaufman ont opté pour l'affirmative. Dans ses notes, l'honorable juge Malouf admet le caractère collectif des droits en jeu. Pour lui, en effet, commissaires et syndics représentent des classes de personnes. Mais cette admission faite, il paraît raisonner comme s'ils étaient les véritables bénéficiaires de la protection constitutionnelle. Du fait de la réduction de leur pouvoir de taxation, il conclut à l'inconstitutionnalité des dispositions contestées. Quant à l'honorable juge Kaufman, il semble encore plus clair qu'il reconnaît la protection constitutionnelle aux organismes eux-mêmes et cela à l'encontre même des électeurs. En effet, selon lui, l'appel à l'approbation des électeurs porte atteinte aux droits constitutionnalisés des commissaires et des syndics.

Suit aux pages 132 et 133 ce passage concluant:

Cette position est, pour le moins, surprenante. En effet, la protection constitutionnelle joue en faveur de collectivités religieuses. Plus précisément, elle bénéficie aux catholiques romains et aux protestants dans les villes de Montréal et de Québec et aux dissidents en dehors de ces villes. Commissaires et syndics ne sont donc que les représentants des véritables bénéficiaires. D'ailleurs, si, refusant de lever le voile de la personnalité morale, on voyait dans les organismes scolaires les titulaires ultimes du droit de taxation, ces derniers, ne constituant pas une classe de personnes, ne sauraient invoquer la protection constitutionnelle.

Les juges de la majorité de la Cour d'appel ne se sont pas prononcés de façon spécifique sur le deuxième rapport sous lequel les intimés attaquent le référendum, à savoir la lourdeur et le coût de la procédure ainsi que son peu de chance de succès.

The trial judge, who heard the evidence presented by respondents in this regard and not rebutted, wrote the following at p. 350 of his judgment:

[TRANSLATION] The cost will undoubtedly be high, and it will be a source of inconvenience to school administrators, but the National Assembly probably considered that greater democratization of relations between governors and governed justified this.

Although the effect of the provisions in these sections is to reduce administrative autonomy, they do not in our opinion constitute the "prejudicial effect" referred to in s. 93. The fiscal field (grants and taxation) remains the same: the taxing right has not been abolished, but its exercise is entrenched in a procedure which the sovereign power has a right to impose.

The trial judge noted that the referendum would be a source of inconvenience, but he nevertheless concluded that such a constraint did not prejudicially affect the rights guaranteed to respondents. Not all interferences will make legislation constitutionally invalid.

In *Ottawa Separate Schools Trustees v. Ottawa Corporation*, *supra*, it states at p. 81:

It is possible that an interference with a legal right or privilege may not in all cases imply that such right or privilege has been prejudicially affected.

In *Tiny*, *supra*, there is the following passage at p. 389:

It is indeed true that power to regulate merely does not imply a power to abolish. But the controversy with which this Board has to deal on the present occasion is a long way from abolition. It may be that the new laws will hamper the freedom of the Roman Catholics in their denominational schools. They may conceivably be or have been subjected to injustice of a kind that they can submit to the Governor-General in Council, and through him to the Parliament of Canada. But they are still left with separate schools, which are none the less actual because the liberty of giving secondary and higher education in them may be abridged by regulation.

The school boards retain the power of taxing without limit, subject to the requirement that they submit the tax to a referendum in certain cases,

Le juge de première instance qui a entendu la preuve offerte par les intimés à ce sujet, non contredite du reste, écrit ce qui suit à la p. 350 de son jugement:

Certes, le coût en sera élevé et il sera source d'inconvénients pour les administrateurs scolaires, mais l'Assemblée nationale a probablement considéré qu'une plus grande démocratisation des rapports entre administrateurs et administrés le justifiait.

Même si les dispositions de ces articles entraînent une réduction d'autonomie administrative, elles ne constituent pas à notre avis le «préjudice» prévu à l'article 93. Le champ fiscal (subvention et taxation) demeure le même: le droit de taxer n'est pas prohibé, mais son exercice est enchâssé dans une modalité que le pouvoir souverain a droit d'imposer.

Le juge de première instance constate que le référendum sera source d'inconvénients mais il n'en conclut pas pour autant que cette contrainte affecte de façon préjudiciable les droits garantis des intimés. Tous les inconvénients ne vont pas entraîner l'invalidité constitutionnelle d'une disposition législative.

Dans l'arrêt *Ottawa Separate Schools Trustees v. Ottawa Corporation*, précité, on peut lire à la p. 81:

[TRADUCTION] Un empiétement sur un droit ou un privilège peut ne pas toujours signifier qu'il y a eu atteinte préjudiciable à ce droit ou privilège.

Dans l'arrêt *Tiny*, précité, on trouve le passage suivant, à la p. 389:

[TRADUCTION] En effet, il est vrai que le simple pouvoir de réglementer ne sous-entend pas le pouvoir d'abolir. Toutefois, la controverse avec laquelle cette commission est aux prises en l'espèce est loin de l'abolition. Il se peut que les nouvelles lois entravent la liberté des catholiques romains face à leurs écoles confessionnelles. Il se peut bien qu'ils aient été l'objet d'un type d'injustice dont ils peuvent se plaindre au gouverneur général en conseil et par son entremise au Parlement du Canada. Toutefois, ils conservent des écoles séparées qui sont néanmoins réelles parce que la liberté d'y offrir un enseignement secondaire et supérieur peut être limitée par règlement.

Les commissions scolaires conservent le pouvoir de taxer sans limite sujet à soumettre la taxe à un référendum dans certains cas, mais il n'a pas été

but it was not shown that this was impractical and constituted a denial of the right.

The same cannot be said of the third ground of challenge to the referendum, namely that in some cases any elector would be entitled to vote, whether or not he was of the religious affiliation of the school board in question.

At page 349, the trial judge wrote:

[TRANSLATION] Furthermore, all electors would be entitled to vote in such a referendum. For the meaning of the word "elector", reference is made to s. 82 of the *Education Act*:

(...)

- (1) to be at least 18 years of age and a Canadian citizen;
- (2) to be domiciled in the school municipality or to be the owner of real estate or of a building and to be entered as such on the valuation roll; and
- (3) not to be affected by any legal incapacity other than minority.

(...)

Thus, Bill 57 would give the right to vote to persons who are not property owners and do not pay taxes. Some electors might even be of a religious affiliation other than the school board which had ordered such a referendum to be held.

The trial judge disposed of this argument as follows, at p. 350:

[TRANSLATION] Moreover, the argument of plaintiffs regarding the persons allegedly entitled to vote in the referendum has to be qualified. They omitted to cite s. 83 of the *Education Act*, which is none other than the old s. 56(3) of the 1861 Act, and which contains a limitation on the electoral qualification made by s. 82 cited above:

83. In any municipality in which there are school trustees, no dissident may vote at the election of school commissioners and only dissidents may vote at the election of school trustees.

The same will be true for the referendum, and the same limitation is provided for. The new s. 567 confirms this:

When a tax is submitted to the approval of the electors, the vote shall be taken in accordance with sections 567.1 to 567.4 and sections 83 to 88, 90 to 143, 537 and 538 apply, *mutatis mutandis*, when the vote is held.

démontré que celui-ci était impraticable et avait pour effet de nier le droit.

Il en va autrement du troisième aspect contesté du référendum qui fait qu'en certains cas aurait droit de vote tout électeur, peu importe qu'il soit de la dénomination religieuse ou non de la commission scolaire concernée.

Le juge de première instance écrit à la p. 349:

Au surplus, tous les électeurs auraient droit de voter à un tel référendum. Pour connaître la signification du mot «électeur», ils en réfèrent à l'article 82 de la *Loi sur l'instruction publique*:

(...)

1. avoir au moins 18 ans et être citoyen canadien;
2. être domicilié dans la municipalité scolaire, ou être propriétaire d'un bien-fonds ou d'un bâtiment et être inscrit comme tel au rôle d'évaluation; et
3. n'être frappé d'aucune incapacité légale autre que la minorité.

(...)

Ainsi, la Loi 57 donnerait le droit de vote à des personnes qui ne sont pas propriétaires et ne paient pas de taxes. Il peut même arriver que certains électeurs soient d'une croyance religieuse autre que la commission scolaire qui aurait décrété la tenue d'un tel référendum.

Le juge de première instance dispose de ce moyen en ces termes, à la p. 350:

De plus, l'argument des demandeurs relatif aux personnes qui auraient droit de vote au référendum mérite d'être nuancé. Ils omettent de citer l'article 83 de la *Loi sur l'instruction publique* qui n'est autre que l'ancien article 56 paragr. 3 de la loi de 1861 et qui comporte une restriction au sens électoral établi par l'article 82 ci-haut cité:

Art. 83: Dans toute municipalité où il y a des syndics d'écoles, les dissidents ne peuvent voter à l'élection des commissaires d'écoles et peuvent seuls voter à l'élection des syndics d'écoles.

Or, ce sera la même chose pour le référendum et la même restriction est prévue. Le nouvel article 567 le confirme:

Quand la taxe est soumise à l'approbation des électeurs, le vote est pris suivant les articles 567.1 à 567.4, et les articles 83 à 88, 90 à 143, 537 et 538 s'appliquent, en les adaptant, lors de la tenue du vote.

Before examining this reasoning by the trial judge, one point should be made. The judge referred only to s. 567, which applies to the Island of Montréal. It should be noted that the situation is no different in the remainder of the Province. Section 396 of the *Education Act*, enacted by s. 362 of the 1979 Act, is to the same effect as s. 567, and provides *inter alia* that when a tax is submitted to the approval of the electors s. 83 regarding dissentients applies.

The reason given by the trial judge is a valid one in the case of dissentients, who will be the only ones entitled to vote in a referendum affecting their schools; but it does not solve the problem as regards Catholic and Protestant school boards.

To take an example, an Island of Montréal school board might decide on an expenditure making it necessary to impose a tax exceeding the ceiling. The Island of Montréal has a single budget, including the budgets of all school boards (s. 519 of the *Education Act*). In the case of a referendum, the electoral list is prepared for the whole Island of Montréal (s. 567.1). Section 567.3 provides:

567.3 The following shall be printed on the ballot papers:

Do you approve the levy of a tax at the rate of (x) cents per hundred dollars of the standardized assessment of the taxable property of the island of Montreal?

1	YES
2	NO

NOTE: That rate corresponds to (y) per cent of the net expenses of the Conseil scolaire de l'île de Montréal for the school year (*insert here the taxation year*).

This means that the increase in tax occasioned by a particular school board is subject to approval by all the electors in the Island of Montréal. It follows that the school board in question may have its decision rejected or approved by the vote of electors who are not subject to its administration. This in my opinion is a prejudicial invasion of the powers guaranteed by s. 93 of the *Constitution Act, 1867*. Under the 1861 Act, school commissioners and trustees had the power to levy taxes "in their respective municipalities". Catholic and

Avant d'examiner ce motif du juge de première instance il convient d'apporter une précision. Le juge ne cite que l'art. 567 lequel s'applique à l'île de Montréal. Je signale que pour le reste du territoire la situation n'est pas différente. En effet l'art. 396 de la *Loi sur l'instruction publique* édicté par l'art. 362 de la *Loi de 1979* est au même effet que l'art. 567 et porte notamment que quand la taxe est soumise à l'approbation des électeurs l'art. 83 relatif aux dissidents s'applique.

Le motif retenu par le juge de première instance vaut pour les dissidents qui seuls auront le droit de voter au référendum concernant leurs écoles. Mais cela ne solutionne pas la difficulté en ce qui touche les commissions scolaires catholiques et protestantes.

Je prends pour exemple une commission scolaire de l'île de Montréal qui déciderait d'une dépense nécessitant l'imposition d'une taxe qui excède le plafond. Il n'y a pour l'île de Montréal qu'un seul budget qui englobe les budgets de toutes les commissions scolaires (art. 519 de la *Loi sur l'instruction publique*). Dans le cas d'un référendum la liste électorale est dressée pour toute l'île de Montréal (art. 567.1). L'article 567.3 dispose:

567.3 Les bulletins de vote portent les inscriptions suivantes:

Approuvez-vous l'imposition d'une taxe au taux de (x) cents par cent dollars de l'évaluation uniformisée des biens imposables de l'île de Montréal?

1	OUI
2	NON

NOTE: Ce taux correspond à un taux de (y) pour cent des dépenses nettes du Conseil scolaire de l'île de Montréal pour l'année scolaire (*inscrire ici l'année scolaire*).

Ceci signifie que l'augmentation de taxe occasionnée par une commission scolaire donnée est soumise à l'approbation de tous les électeurs de l'île de Montréal. Il s'ensuit que la commission scolaire en cause peut voir sa décision rejetée ou approuvée par l'effet du vote d'électeurs qui ne sont pas de ses administrés. C'est là à mon avis une atteinte préjudiciable aux pouvoirs garantis par l'art. 93 de la *Loi constitutionnelle de 1867*. Les commissaires et les syndics d'écoles avaient en vertu de la *Loi de 1861* le pouvoir de prélever des

Protestant commissioners in Montréal and Québec and the trustees of dissentient schools had the power to levy such taxes on their Catholic or Protestant populations, as the case might be. It is a prejudicial invasion of the rights and privileges of classes of persons encompassed by s. 93 to subject the exercise of the power of a school board to decide on an expense requiring a tax, to the approval of all electors in the Island of Montréal, whatever school board they belong to and whatever their religious affiliation.

For this reason, the provisions regarding the referendum must be held *ultra vires* and void.

Appellant's Alternative Argument

The Attorney General submitted the following alternative argument:

[TRANSLATION] If the impugned provisions [. . .] were unconstitutional, this could only be the case with respect to Catholics and Protestants exercising the right of dissent, and those in the territories of Québec and Montréal in 1867, with respect to elementary schools.

As a result, he argued, if some or all of the provisions of the 1979 Act were to be held contrary to s. 93, the unconstitutionality should take the form of making those provisions inapplicable or inoperative, not invalid.

In my opinion, it is not necessary for the purposes of this appeal to determine whether the provisions of s. 93 apply, in respect of Québec and Montréal, only at the level of elementary education and in the territories of those two cities, as they existed in 1867. If this were in fact true, how could the confusion ever be sorted out? On this point I agree with counsel for respondents Greater Hull School Board *et al.*, who wrote in their submission:

In these circumstances, if the legislation offends against the provisions of Section 93, but only in respect of certain levels of schools or geographic areas, it would be for the National Assembly to decide whether, given the scope and intent of the legislation, it should be re-enacted in some more limited form.

taxes «dans leurs municipalités respectives». Les commissaires catholiques et protestants à Montréal et à Québec et les syndics d'écoles dissidentes avaient le pouvoir de prélever telles taxes de leurs administrés catholiques ou protestants selon le cas. C'est une atteinte préjudiciable aux droits et privilèges des classes de personnes visées à l'art. 93 que de soumettre l'exercice du pouvoir d'une commission scolaire de décider d'une dépense nécessitant une taxe, à l'approbation de tous les électeurs de l'île de Montréal quelle que soit la commission scolaire à laquelle ils appartiennent et quelle que soit leur dénomination religieuse.

Pour ce motif les dispositions relatives au référendum doivent être déclarées *ultra vires* et nulles.

Moyen subsidiaire de l'appelant

Le procureur général soumet le moyen subsidiaire suivant:

Si les dispositions incriminées [. . .] étaient inconstitutionnelles, ce ne pourrait être qu'à l'égard des catholiques et des protestants ayant exercé le droit de dissidence, de même qu'à ceux des territoires de Québec et de Montréal de 1867, relativement aux écoles élémentaires.

En conséquence, dit-il, si les dispositions de la Loi de 1979 ou certaines d'entre elles devaient être jugées contraires à l'art. 93, l'inconstitutionnalité devrait prendre la forme d'une inapplicabilité et d'inopposabilité et non d'une invalidité.

Il n'est pas nécessaire à mon avis, pour les fins de ce pourvoi, de déterminer si les dispositions de l'art. 93 s'appliquent, quant à Québec et Montréal, uniquement au niveau élémentaire d'enseignement et aux territoires de ces deux villes, tels qu'ils étaient délimités en 1867. En fût-il ainsi en effet, comment démêler l'écheveau? Sur ce point je suis d'accord avec les procureurs des intimés Greater Hull School Board et autres, qui écrivent dans leur mémoire:

[TRANSLATION] Dans ces circonstances, si la loi contrevient aux dispositions de l'article 93, mais seulement en ce qui a trait à certains niveaux d'écoles ou certaines régions géographiques, il appartiendrait à l'Assemblée nationale de décider si, compte tenu de la portée et de l'intention de la loi, elle doit être adoptée de nouveau dans une forme plus limitée.

Conclusion

Because the disputed provisions omit to state that the grants must be distributed on a proportionate basis, and because in a referendum the will of a school board may be subject to the will of electors not within their districts, I conclude that these provisions must be found to be *ultra vires* and void. The provisions form a whole, and if those which deal with how grants are made and which govern approval by the electors are set aside, the other provisions fall as well.

To the constitutional question I would answer: ss. 339, 346, 353, 362, 366, 375, 382, 495, 498, 499 and 500 of the *Act respecting municipal taxation and providing amendments to certain legislation*, 1979 (Que.), c. 72, are *ultra vires* and void in whole.

I would dismiss the appeal with costs.

The reasons of Lamer and Le Dain JJ. were delivered by

LE DAIN J.—I agree with the reasons for judgment of Mr. Justice Chouinard except for his conclusion concerning the validity of the requirement of referendum, apart from the question of who is eligible to vote. In my opinion, the requirement of approval by referendum for taxation in excess of 6 per cent of net expenditure or 25 cents per one hundred dollars of valuation prescribed in ss. 353 and 375 of the *Act respecting municipal taxation and providing amendments to certain legislation*, 1979 (Que.), c. 72 (the “*Act of 1979*”), prejudicially affects, within the meaning of s. 93(1) of the *Constitution Act, 1867*, the right which the classes of persons in question had by law at Confederation to provide by taxation for the support of denominational schools.

Under the provisions of *An Act respecting Provincial Aid for Superior Education,—and Normal and Common Schools*, C.S.L.C. 1861, c. 15 (the “*Act of 1861*”), and in particular ss. 73 and 74 thereof, the classes of persons in question enjoyed the right to have their denominational schools managed by school commissioners or trustees

Conclusion

Parce que les dispositions contestées omettent de décréter que les subventions doivent être distribuées sur une base proportionnelle et parce qu'au cas de référendum la volonté d'une commission scolaire peut être assujettie à la volonté d'électeurs autres que ses administrés, je conclus que ces dispositions doivent être déclarées *ultra vires* et nulles. Ces dispositions forment un tout et si celles qui posent le principe des subventions et celles qui régissent l'approbation des électeurs sont annulées, les autres dispositions ne peuvent subsister.

À la question constitutionnelle je réponds: les art. 339, 346, 353, 362, 366, 375, 382, 495, 498, 499 et 500 de la *Loi sur la fiscalité municipale et modifiant certaines dispositions législatives*, 1979 (Qué.), chap 72, sont *ultra vires* et nuls pour le tout.

Je suis d'avis de rejeter le pourvoi avec dépens.

Version française des motifs des juges Lamer et Le Dain rendus par

LE JUGE LE DAIN—Je suis d'accord avec les motifs de jugement du juge Chouinard, sauf pour ce qui est de sa conclusion sur la validité de l'obligation de tenir un référendum, indépendamment de la question de savoir qui a le droit de vote. À mon avis, on préjudicie, au sens du par. 93(1) de la *Loi constitutionnelle de 1867*, au droit que la loi conférait aux classes de personnes en question à l'époque de la Confédération d'assurer une assiette fiscale aux écoles confessionnelles en imposant l'obligation de tenir un référendum pour obtenir l'approbation de la taxation qui excède 6 pour 100 de la dépense nette ou 25 cents par cent dollars d'évaluation aux termes des art. 353 et 375 de la *Loi sur la fiscalité municipale et modifiant certaines dispositions législatives*, 1979 (Qué.), chap. 72 (la “*Loi de 1979*”).

En vertu des dispositions de l'*Acte concernant l'allocation provinciale en faveur de l'éducation supérieure,—et les écoles normales et communes*, S.R.B.C. 1861, chap. 15 (la “*Loi de 1861*”), et en particulier ses art. 73 et 74, les classes de personnes en question bénéficiaient du droit d'avoir leurs écoles confessionnelles gérées par des commissaires

having the power to determine the necessary level of expenditure for the support of such schools and the concomitant power, in order to meet such expenditure, to impose taxes in supplement of other revenue without limitation of amount or the necessity of referral to the ratepayers. It is this right or power of local self government with respect to denominational schools which, in my opinion, is protected by s. 93(1) of the *Constitution Act, 1867*, and is prejudicially affected by the requirement of approval by referendum.

I would agree that school commissioners or trustees are not themselves a class of persons contemplated by s. 93(1) of the *Constitution Act, 1867*, but they are the representatives of such a class for purposes of the management of denominational schools, and the rights of the class in respect of such management at Confederation are necessarily to be determined by reference to the powers of management conferred by law on school commissioners and trustees, through whom the class exercises its rights. It is for this reason that it is customary to refer, as in the reasons for judgment of the majority in the Quebec Court of Appeal, to the rights or powers of the school commissioners or trustees themselves in considering the rights of a class of persons under s. 93(1). See *Ottawa Separate Schools Trustees v. Ottawa Corporation*, [1917] A.C. 76, at pp. 80-81.

I would also agree that the rights contemplated by s. 93(1) of the *Constitution Act, 1867*, may be characterized as "collective rights", as suggested by Professor Carignan in his study, *De la notion de droit collectif et de son application en matière scolaire au Québec*, which is referred to by Mr. Justice Chouinard, although such characterization does not necessarily by itself yield obvious answers to the issues that arise under this provision of the Constitution. What the characterization does suggest, however, is that it is the interests of the class of persons or community as a whole in denominational education that is to be looked at and not the interests of the individual ratepayer. While the requirement of approval by referendum for taxation beyond severely limited amount may be said

ou des syndic d'écoles qui avaient le pouvoir de déterminer le niveau nécessaire des dépenses pour subvenir aux besoins de ces écoles et, pour faire face à ces dépenses, le pouvoir concomitant de prélever des taxes en plus des autres revenus sans montant limite ni sans qu'il soit nécessaire d'en référer aux contribuables. C'est ce droit ou pouvoir de gestion locale autonome relativement aux écoles confessionnelles qu'à mon avis, le par. 93(1) de la *Loi constitutionnelle de 1867* protège et auquel l'obligation de tenir un référendum pour obtenir une approbation porte préjudice.

Je suis d'accord pour dire que les commissaires ou les syndic d'écoles ne constituent pas eux-mêmes une classe de personnes visée par le par. 93(1) de la *Loi constitutionnelle de 1867*, mais ce sont les représentants de cette classe aux fins de la gestion des écoles confessionnelles et il faut nécessairement déterminer les droits de la classe à cet égard au moment de la Confédération par référence aux pouvoirs de gestion conférés en droit aux commissaires et syndic d'écoles par l'intermédiaire desquels la classe exerce ses droits. C'est pourquoi on parle habituellement, comme dans les motifs de jugement de la majorité en Cour d'appel du Québec, des droits ou pouvoirs des commissaires ou syndic d'écoles eux-mêmes quand on examine les droits d'une classe de personnes en vertu du par. 93(1). Voir *Ottawa Separate Schools Trustees v. Ottawa Corporation*, [1917] A.C. 76, aux pp. 80 et 81.

Je suis aussi d'accord pour dire qu'on peut qualifier les droits visés par le par. 93(1) de la *Loi constitutionnelle de 1867* de «droits collectifs», comme le suggère le professeur Carignan dans son étude, *De la notion de droit collectif et de son application en matière scolaire au Québec*, citée par le juge Chouinard, bien que cette qualification ne fournisse pas nécessairement en soi des réponses évidentes aux questions que soulève cette disposition de la Constitution. Ce que cette qualification suggère par contre, c'est qu'on doit prendre en considération les intérêts de la classe de personnes ou de la collectivité globalement en matière d'éducation confessionnelle et non les intérêts de chaque contribuable. Bien qu'on puisse dire que l'obligation de tenir un référendum pour obtenir l'appro-

to enlarge the democratic rights of the individual member of the class and to be a measure for the protection of his or her pocketbook, it is a measure or requirement which, because of its cost and uncertainty of outcome as indicated in the evidence, is prejudicial to the effective management of denominational schools in the interests of the class as a whole. In some cases the cost of holding a referendum could largely offset the additional revenue to be derived from the proposed taxes. The requirement of a referendum seriously undermines the responsibility of school commissioners or trustees for determination of the necessary level of expenditure for the schools under their jurisdiction by putting beyond their effective control the necessary power of taxation to meet such expenditure. Indeed, I agree with the conclusion that the requirement of approval by referendum renders the power to tax beyond the limit prescribed quite illusory. What is in issue here is not the theoretical scope of the democratic rights of a class of persons, viewed in the abstract, but the effective power of school commissioners and trustees to provide for and manage denominational schools in the interests of the class.

The learned trial judge was of the view that by the application of s. 93(2) of the *Constitution Act, 1867*, and the legislation in Upper Canada respecting separate schools at Confederation, the apparently unlimited and unqualified power of taxation conferred by s. 74 of the *Act of 1861* in Quebec was in fact qualified by a right of direct participation or consultation possessed by ratepayers which could be analogized to the requirement of approval by referendum laid down by the *Act of 1979*. With great respect, I am unable to agree with this conclusion. My own conclusion on this question may be briefly indicated. Section 93(2) of the *Constitution Act, 1867*, extends to the "Dissentient Schools" in Quebec, whether Roman Catholic or Protestant, all the "Powers, Privileges and Duties" which were conferred or imposed by law at Confederation on Roman Catholic "Separate Schools and School Trustees" (a further indication in the Constitution that the rights of the class are to be determined by reference to the rights or

bation de la taxation au-delà d'un montant strictement fixé élargisse les droits démocratiques de chaque membre de la classe et revienne à protéger son portefeuille, c'est une mesure ou une obligation qui, à cause du coût et du résultat incertain de l'opération comme l'indique la preuve, porte préjudice à la gestion efficace des écoles confessionnelles selon les intérêts de l'ensemble de la classe. Dans certains cas, le coût de la tenue d'un référendum pourrait largement absorber le revenu additionnel provenant des taxes proposées. L'obligation de tenir un référendum mine sérieusement la responsabilité des commissaires ou syndics d'écoles quant à la détermination du niveau nécessaire des dépenses pour les écoles qui relèvent de leur compétence en mettant hors de leur contrôle réel le pouvoir de taxation nécessaire pour faire face à ces dépenses. Je suis bien d'accord avec la conclusion que l'obligation de tenir un référendum pour obtenir l'approbation rend tout à fait illusoire le pouvoir de taxer au-delà de la limite prescrite. Ce qui est en litige ici, ce n'est pas la portée théorique des droits démocratiques d'une classe de personnes, dans l'abstrait, mais le pouvoir réel des commissaires et syndics d'écoles de fournir et de gérer des écoles confessionnelles selon les intérêts de la classe.

Le savant juge de première instance était d'avis qu'en appliquant le par. 93(2) de la *Loi constitutionnelle de 1867* et les lois du Haut-Canada relatives aux écoles séparées en vigueur à la Confédération, le pouvoir de taxation apparemment illimité et inconditionnel accordé par l'art. 74 de la *Loi de 1861* au Québec était en fait limité par un droit de participation ou de consultation directes appartenant aux contribuables qu'on pourrait rapprocher de l'obligation de tenir un référendum pour obtenir l'approbation, imposée par la *Loi de 1979*. Avec égards, je ne suis pas d'accord avec cette conclusion. Ma propre conclusion sur ce point peut se résumer ainsi. Le paragraphe 93(2) de la *Loi constitutionnelle de 1867* étend aux «écoles dissidentes» du Québec, qu'elles soient catholiques romaines ou protestantes, tous les «pouvoirs, privilèges et devoirs» conférés ou imposés par la loi lors de la Confédération «aux écoles séparées et aux syndics d'écoles» des catholiques romains (une autre indication dans la Constitution

powers of school trustees). Section 7 of *An Act to restore to Roman Catholics in Upper Canada certain rights in respect to Separate Schools*, 1863 (Can.), 26 Vict., c. 5 (the “Act of 1863”), conferred on the trustees of separate schools an unqualified power to provide for such schools by school rates or subscriptions and provided further that they should have, in respect of separate schools, all the “powers” possessed by the trustees of common schools under the Act relating to common schools. Section 27(10) of *An Act respecting Common Schools in Upper Canada*, C.S.U.C. 1859, c. 64 (the “Act of 1859”), imposed a “duty” on the trustees of common schools to provide for the salaries of teachers and all other expenses of the schools “in such manner as may be desired by a majority of the freeholders and householders . . . at the annual school meeting, or at a special meeting called for that purpose”. It was apparently the words quoted that led the learned trial judge in the present case to conclude that the power to tax conferred by s. 74 of the *Act of 1861* in Quebec was in fact qualified by the right of the members of the class to vote upon proposed taxation at an annual or special meeting. Section 27(10) of the *Act of 1859* respecting common schools in Upper Canada went on, however, to confer on the trustees of common schools (and by operation of s. 7 of the *Act of 1863* respecting separate schools, on the trustees of the latter) an unqualified power to “assess and cause to be collected an additional rate, in order to pay the balance of the Teacher’s salary and other expenses of such school”. It is this power, and not the “duty” referred to earlier, that in my opinion was made applicable to the trustees of separate schools by the reference in s. 7 of the *Act of 1863* to the “powers” of the trustees of common schools. In any event, the words “in such manner as may be desired by a majority of the freeholders and householders” do not qualify the power to supplement revenue by taxation, but would appear rather to refer to determination of the forms or modes of raising revenue (subscription, fees or taxes) to be adopted for the support of the schools. Cf. *Brophy v. Attorney-General of Manitoba*, [1895] A.C. 202, at p. 224. It is the power in s. 27(10) of the *Act of 1859* respecting common schools to levy an

que les droits de la classe doivent être déterminés par rapport aux droits ou pouvoirs des syndics d’écoles). L’article 7 de l’*Acte pour réintégrer les catholiques romains du Haut-Canada dans l’exercice de certains droits concernant les écoles séparées*, 1863 (Can.), 26 Vict., chap. 5 (la «*Loi de 1863*»), conférait aux syndics des écoles séparées un pouvoir illimité de subvenir aux besoins de ces écoles par des taxes d’écoles ou des souscriptions et il prévoyait en outre qu’ils devaient avoir tous les «pouvoirs» à l’égard des écoles séparées que les syndics des écoles communes possédaient en vertu de l’Acte concernant les écoles communes. Le paragraphe 27(10) de *An Act respecting Common Schools in Upper Canada*, C.S.U.C. 1859, chap. 64 (la «*Loi de 1859*»), imposait l’«obligation» aux syndics des écoles communes de payer le salaire des enseignants et toutes les autres dépenses des écoles [TRADUCTION] «de la manière que peut souhaiter une majorité des propriétaires fonciers . . . à la réunion annuelle de l’école ou à une réunion spéciale convoquée à cette fin». C’est apparemment ces citations qui ont amené le savant juge de première instance en l’espèce à conclure que le pouvoir de taxation conféré par l’art. 74 de la *Loi de 1861* au Québec était en fait limité par le droit des membres de la classe de voter sur la taxation proposée à une réunion annuelle ou spéciale. Le paragraphe 27(10) de la *Loi de 1859* relative aux écoles communes du Haut-Canada conférait également aux syndics des écoles communes (et selon l’art. 7 de la *Loi de 1863* relative aux écoles séparées, aux syndics de ces dernières) un pouvoir illimité [TRADUCTION] «d’évaluer et de faire prélever une cotisation additionnelle pour payer le solde du salaire de l’enseignant et les autres dépenses de cette école». C’est ce pouvoir et non «l’obligation» mentionnée précédemment qui, à mon avis, devenait applicable aux syndics des écoles séparées par la mention à l’art. 7 de la *Loi de 1863* des «pouvoirs» des syndics des écoles communes. De toute façon, les mots [TRADUCTION] «de la manière que peut souhaiter une majorité des propriétaires fonciers» ne limitent pas le pouvoir d’augmenter le revenu par la taxation, mais sembleraient plutôt renvoyer à la détermination du processus ou des modalités à adopter pour rassembler le revenu nécessaire (souscription, droits ou

“additional rate” which corresponds to the power conferred by s. 74 of the *Act of 1861* in Quebec to raise an “additional sum” by taxation. It follows, in my opinion, that s. 93(2) of the *Constitution Act, 1867*, did not have the effect of qualifying the power to tax conferred by the *Act of 1861* by imposing a duty upon school commissioners and trustees to obtain the prior approval of the ratepayers for proposed taxation.

For these reasons and for the reasons of Mr. Justice Chouinard, with the exception expressed herein, I would dispose of the appeal as proposed by him.

Appeal dismissed with costs.

Solicitors for the appellant: Henri Brun, Georges Emery and Jean-K. Samson, Ste-Foy.

Solicitors for the respondents Greater Hull School Board et al.: Clarkson, Tétrault, Montréal.

Solicitors for the respondents Lavigne et al. and the respondents Commission scolaire des Manoirs et al.: Mario Du Mesnil, Montréal; Roger Thibaudeau, Québec.

Solicitor for the intervener: Ronald G. Penney, St. John's.

taxes) pour subvenir aux besoins des écoles. Cf. *Brophy v. Attorney-General of Manitoba*, [1895] A.C. 202, à la p. 224. C'est le pouvoir énoncé au par. 27(10) de la *Loi de 1859* relativement aux écoles communes de prélever une «cotisation additionnelle» qui correspond au pouvoir conféré par l'art. 74 de la *Loi de 1861* au Québec de prélever une «somme additionnelle» par voie de taxation. Il s'en suit, à mon avis, que le par. 93(2) de la *Loi constitutionnelle de 1867* n'avait pas pour effet de limiter le pouvoir de taxation conféré par la *Loi de 1861* en imposant aux commissaires et syndics d'écoles l'obligation d'obtenir l'approbation préalable des contribuables relativement à un projet de taxation.

Pour ces motifs et pour les motifs exprimés par le juge Chouinard, avec la restriction énoncée aux présentes, je suis d'avis de trancher le pourvoi comme il le propose.

Pourvoi rejeté avec dépens.

Procureurs de l'appelant: Henri Brun, Georges Emery et Jean-K. Samson, Ste-Foy.

Procureurs des intimés Greater Hull School Board et autres: Clarkson, Tétrault, Montréal.

Procureurs des intimés Lavigne et autres et des intimés Commission scolaire des Manoirs et autres: Mario Du Mesnil, Montréal; Roger Thibaudeau, Québec.

Procureur de l'intervenant: Ronald G. Penney, St. John's.

Ms. Rizzo:

It has come to my attention that in the debate over LGBTQ issues in the TDCSB there has been a very ugly email hate campaign attacking LGBTQ youth and their staff supporters carried out by an organized group.

Some of what I've seen would be more typical of hateful Nazi propaganda against minorities than something acceptable in Canada. I'm sure you've seen some of this anti LGBTQ material. It would be beneath the dignity of the TDCSB to listen to it or accept it.

In spite of this group's influence, LGBTQ youth in the TDCSB need and deserve your support, respect, recognition and consideration as equals in our society. This is an issue of basic human rights.

The upcoming vote should reflect these human rights and not hatred or discrimination.

Sincerely
D Murray
Willowdale

Hello Mrs. Rizzo,

We have heard that the issue regarding ending the International Program has been raised again by one of the trustees.

The TCDSB has policies and procedures in place that must be followed. Policy states a school community can only be surveyed every three years and it has only been two. Also requests need to be presented at board before November 1st if they are within the 3-year threshold.

We ask that school communities be treated equally and not allow some to jump or bypass policy.

Thank you for your attention.

Stay safe.

Mary Ma

Dear Maria Rizzo,

I am emailing you today to express the importance of acknowledging June as Pride month and flying the Pride flag.

High School is already an incredibly judgemental environment. Students are constantly under pressure from peers, from their families and from themselves to be whom they believe they are required to be. These years are some of the most formidable years for adolescence where they are the most impressionable and delicate. To thrust them in an environment that has condemned them for things they cannot change instills fear in their everyday lives. It is documented that LGBTQ youths are more susceptible to bullying, violence, and discrimination. It's documented that queer youth experience higher rates of mental illness and suicides.

Flying the Pride flag won't change *everything*, but **denying** to acknowledge a community that lives in **fear** and is **suffering** under your roof's won't change *anything*.

The Catholic religion claims to be rooted in LOVE. I hope you can prove this to be true.

Thank you for your time,
Marissa Bondi
(alumni of Cardinal Carter Academy of the Arts)

May 05, 2021

Dear Trustee's

His Excellency Cardinal Thomas Collins has released a statement with guidance against flying the Pride flag in Catholic schools.

The statement approves of flying only the Canadian flag as a prudent way to keep the school boards out of battles over diverse causes.

The Cardinal says the cross indicates inclusion and acceptance for all, and that **no other secular symbols besides the cross are necessary for Catholic institutions:**

"There is a belief among some that unless one embraces secular symbols, one cannot be inclusive or accepting. This is simply not true. Where there are cases of injustice and mistreatment of any student, whether they are bullied or rejected due to their sexual orientation, appearance, race, sex or any other reason, we must seize the moment, address the situation and ensure that we lead by example, as we foster a culture of care and love for every individual. That truth is perfectly represented in our most fundamental Catholic symbol: the cross."

This is to remind, you took an oath to protect the Catholic faith in Catholic schools and that you have an obligation to support the Cardinal's statement with their votes on flying the flag.

Voting to raise a secular symbol over a Catholic school violates the choice of parents who send their children to schools where they can expect things will be done in a Catholic way. As the statement says:

"Parents make a clear choice when they decide that their children will attend a Catholic school.

They rightly expect that trustees, principals, teachers – all partners in education – will ensure that Catholic teaching is presented, lived and infused in all that we do."

- This is to let you know that the Cardinal has instructed that the Pride flag is unnecessary for Catholic schools.
- **We are asking you to vote against flying the pride flag in schools.**

Thank you and keep safe.

For and on behalf of:
UNITED HINDU CONGRESS CANADA.

V. Sharma
President.

Good afternoon to all

First of all I want to thank you all for the great job and passion in put forth for the TCDSB.

I came about an article in one of our local papers and read about a motion that is being brought up at the board meeting tomorrow night. If memory serve me right and I hope it still does. Doesn't the board policy say that a community survey can only be done every 3 years. And that if a community was to have a survey done before it needs to be present to the board by November 1. It has only been 2 years since the last survey. In the article a parent said that her child who is 5 years old doesn't speak a word. How long was she in the IL program? I can tell you that the IL program is very good. But I'm not here to speak about this. I'm here to let you all know that I strongly believe that if something is run equally all around it runs the best.

Has a parent I'm getting tired and annoyed of these surveys. You all know that we want the IL program. So why inconvenience us. The program has been around for decades if the few parents that don't want it in those schools in the article then they can move schools.

I hope you take inconsideration that you can't vote in favor of this motion. The Board policy states what it states and all school community should be treated equal.

Thank you all for hearing my opinion in this matter enjoy the rest of your evening.

Joseph Aprile



05 May 2021

An open letter to the Toronto Catholic District School Board Trustees

Dear Trustees:

The last 14 plus months have been anything but easy for members of society all the world over. The trauma and stress sadly have yet to conclude or end.

Our children have especially suffered from little or no in-person schooling, greatly restricted social interaction, and limited access to the Sacraments of our faith. Our children witness their stressed parents, and in some cases, the death of a loved one due to the pandemic either directly or as a consequence of limited proactive medical care or available elective surgery.

Our children and their parents look to you to safeguard the treasures of our Catholic faith through your example as trustees. There is too much confusion about what our faith teaches and upholds due to secular influences that embrace human values that often directly conflict with the teachings of our Lord and the ten commandments.

It is and continues to be important to teach our children to respect and not discriminate against others who hold values and beliefs different from their own. This is known as freedom of speech and expression. Conversely, our children need to know right from wrong through the eyes of our Lord to protect and uphold the salvation of their very own souls and that of others. If this is not the primary goal of our Catholic school system along with a good education, and if not through the board actions or lack thereof one could and perhaps should ask – why then do we have a separate Catholic school system vs the public secular one?

The month of June is marked with two celebrations remembered using a flag. The first is one from our faith perspective - The Sacred Heart of Jesus representing and reminding us about the love of Jesus for us and inviting us to return to him to receive his life-giving love and salvation.

The other flag – the rainbow flag- represents people who hold a different set of values and beliefs that frankly directly conflict with his Sacred Heart and Catholic church teachings.

I implore you as trustees to abide by your promise and commitment when you became a trustee to uphold and protect Catholic teachings and beliefs by choosing to fly the Sacred Heart of Jesus flag.

Our students, families and the larger community need to be reminded of the love and spiritual protection available through the Sacred Heart now as never before in modern-day times. We are a community and world in need of the Lord's blessings and help. Please do your part to help convey this soul saving message.

Yours in Christ

Paul Ritchi
Founder and General Commissioner
Federation of North-American Explorers

Cc Cardinal Thomas Collins

Good evening trustees,

My name is Maurice Lelli. I was born in St. Etienne, France and my first language was French.

At my elementary school in France, there was a quote that spread across the center of the three-storey structure, that read:

“L'ignorance est la plus grande maladie du genre humain” *Voltaire* (French philosopher)

“Ignorance is the greatest disease of mankind”



My father took a picture of this and made sure that my sisters and I understood the importance of this. Imagine, he was a coal miner for 16 years and with very little formal education - no fault of his own, and yet he knew how important this was.

From France, we moved to Italy, my parents' hometown, where I then learned Italian. After a few years, we moved to Canada where I obviously had to learn English. I am also quite fluent in Spanish, thanks to my knowledge of Italian, being the two most similar Latin-based languages.

I am the president and CEO of a medium-sized nutraceutical company and we do business in the U.S. and in Europe. We manufacture nutraceutical products, mostly in Italy where I am able to utilize - to my advantage, my fluency in Italian. The company V.P. / liaison whom I deal with in Italy, is also French-born and speaks 5 languages. She communicates with me in three different languages because she knows I can understand and makes for a healthy working relationship. In the U.S., they often request English-Spanish labels on our products and most of the key personnel are also fluent in Spanish.

What I would like to point out is that perhaps we shouldn't jump to conclusions when addressing our children's education and most importantly, their future. The policies and procedures for proposing any changes that may impact over 1,200 children, needs to be followed accordingly, not as per the existing unsubstantiated direction taken by an individual who is not representing the majority of the families in these two schools. Also, the current I.L. policy states that a school can only be surveyed every three years and we just completed a survey in January 2019. Parents are tired of being surveyed again and again because of a few parents who claim to represent the entire community.

In the motion being presented tonight, it indicates that the program takes away from the 300-minute day. Teachers do not teach 300 minutes continuously, as no child has that attention span. The day consists of both instruction and independent work, as it should. This is common knowledge.

In the previous meeting we had about two years ago at SFX, I provided various documented studies on the importance of children learning multiple languages from an early age. It was concluded that those who learned multiple languages were able to develop parts of their brain that actually put them at a noticeable advantage well into university and beyond, over children who had learned only one language.

Yes, your children may not come out of this program being fluent in another language, but at least you should be happy to know that they are developing parts of their brain that will improve their cognition, focus, planning, personality, and proper social behavior, just by taking one I.L. program. Imagine!

If we've learned anything from this pandemic, it's that the world has become much smaller. In the corporate world, if you check the **About us** page on most large corporation websites, you will notice multiple head quarters spread around the globe. Your children may ultimately be working for or even running their own international corporation. Why not?

These are just a few examples I can give and trust me, I can go on and on.

In ending, I would like to emphasize that I specifically chose SFX for my daughter because of the IL program. She's now 10 and has made friends, so impossible for me to even remotely consider moving her to another school. Parents who are not happy with this program have the option of moving their children to a non-IL school. I don't see why I should, when I specifically chose this school.

Thank you for your time.

Dear Trustee

I 'm writing to you for the matter of saving International Language Program during the extended day. Once again, a program so valuable is in jeopardy. I understand that TCDSB has policies and procedures in place that must not be broken. I asked that school communities be treated fairly and not allow some policy to be detour. The policy states that a school community has be surveyed every three years. If I recall well the last survey took placed only two years ago. I'm asking you to maintain the International Language Program alive.

Thank you for your support

Brigida Napolitano

Hello,

I am writing this email to ask you support the international languages program. It seems every few years I hear similar rumblings about the program and I am quite tired of it if I am being honest. This program is beneficial to all students and is an integral part of many communities. Why this is being disputed is something I will never understand. It is incredibly frustrating and disheartening. I hope you help support this program. Especially now during a pandemic is not the time to bring this into question. Parents have enough to worry about; I don't want to worry about this as well.

Thank you for listening,

Nahuel Barrios

Dear Trustee Rizzo,

The TCDSB has policies and procedures in place that must not be broken. We ask that school communities be treated equally and not allow anyone to bypass policy.

The policy states a school community can only be surveyed every three years and it has only been two.

Also, the survey requests need to be presented at board before November 1st if they are within the 3-year threshold.

Thank you for your support
Angelo D



Dear Dr. Browne, Associate Director Koenig, Chair Martino and Board of Trustees,

I would like to start by thanking the Trustees for their continued support of the International Language program. This evening on the agenda is a motion and a board report challenging policy S.P.05 which references the International Language Program.

We are six weeks to the end of the school year and there is a request that four schools be surveyed. They have not followed the above stated process. It does not seem just or fair this has been brought forward in the middle of a pandemic, weeks before the end of the school year.

A survey was concluded of all TCDSB schools in January 2019 and as you know the return rate was the highest ever in recorded history - 25,000 families.

We are not saying that no one has the right to be surveyed we are asking that policy be adhered to at this time.

In regards to the request that the threshold be changed it is critical to refer to the Governance and Policy Committee whose mandate it is to review and recommend to board.

The review of the current policy is in consultation and began in January 2021 and the process must take its course.

For your information, last week several pro-IL parents registered to delegate on this issue. They were from the same schools delegating against today. These delegates were denied based on the new delegation policy T.14 that was revised on April 22, 2021.

My question to the Trustees is: if policies are in place and you insist they be adhered to; then why are you even considering supporting this motion or adopting this board report?

I know your intentions are not to pick and choose what policies you want to comply with but to implement them fairly for all concerned. I hope you know how disturbing, discriminating and contradictory it would be for all school communities if you chose to ignore the review of the policy and process undertaken to date. If you have policies and procedures they need to be observed. I urge this board to set a positive example and follow the policies and procedures set out by this board until they are changed.

Please respect and comply with your existing policies until such time as the present policy review is complete. It is only fair to do so. Every school community should be treated equitably.

Thank you again for your support of the International Language Program.

Val Di Gregorio

President

CUPE Local 3155

Dear Trustee Rizzo,

Per TCDSB policy, a school can only be surveyed every 3 years. At this time, only 2 have passed. Beyond that, I have concerns about getting rid of a program that is essential to student success in a multilingual world.

I hope that at tomorrow's board meeting you will not be supporting the motion by Trustee Di Giorgio that is in favor of dropping the International Languages program.

Sincerely,

Zorana

Hello Ms. Rizzo,

Please do your part in helping to save the International Languages program. This is a program that was started by parents, and parents have supported it throughout its many years. Less than three years ago parents came together once again to make sure their beloved program stayed. I was one of those parents.

My understanding is that another survey cannot go out in less than three years, so this seems like it's trying to skip around policy simply because it is a pandemic. Well parents have noticed and this is not okay.

Many of us are essential workers, and having to balance work, plus virtual learning of our children is a lot. This is not the time to bring this up. First because of the pandemic, and secondly because it is breaking procedure. As a continuant and a concerned parent, I ask you to put policy first. I ask you to think about the community you were voted in to advocate for. We want this program to stay. We believe in community-based education. We believe in this program, and study after study backs us up.

Do the right thing,
Enri

Hello Mr. Martino,

Policies are important, and even though we are in a pandemic it does not mean we can allow certain communities to jump or skip over them just because. I'm asking that you support International Languages. Not only because the parents spoke less than three years ago and strongly supported the program, but because in the midst of the pandemic adding something else to parents ' plate is irresponsible. We are stressed enough, to have to fight for something we already saved and enthusiastically saved is too much.

We elect our trustees to trust us with what we want for our kids. We trust that they'll follow procedures. Please do what you were elected to do and promise to uphold the bylaws already in place.

Best,
Ash Barrios



ONTARIO PROVINCIAL COUNCIL
of
The Catholic Women's League of Canada

2021-05-05

Attention: Trustees of the Toronto Catholic District School Board

On behalf of the Ontario Provincial Council of The Catholic Women's League of Canada I wish to express support for the reflection from the Archdiocese of Toronto on inclusivity in the catholic schools of Toronto.

Cardinal Collins expresses Catholic teachings with eloquence and grace. As Catholics we are taught to love our neighbours and to treat every individual as a child of God. The symbol of the cross highlights inclusivity and non-judgmental attitudes. It is a symbol of unconditional love. I want to thank Cardinal Collins for such a wonderful reminder of that teaching.

Members of The Catholic Women's League of Canada in Ontario fully support the church and the communities it serves, especially Catholic education in the province.

Respectfully,

Colleen Perry

Colleen Perry
President, Ontario Provincial Council of the
Catholic Women's League of Canada
presidentontario@gmail.com

Good evening trustees and members of the board,

My name is Philip, I'm currently going into my fourth year as a French major with the intention of applying for my master's in education, and during my school years, I was blessed to have been able to participate in the IL program. Given my experience with the program, I'm struggling to comprehend why the board is even thinking of liquidating it.

Not every student is the same, not every student is cut out for learning and thriving in math and science or whatever the topic may be. Many students thrive in learning language, therefore by taking away the IL program you are discriminating against the students who wish to learn language, as well as disadvantaging those students in their academics. Additionally, language is culture, so when learning a language, you are simultaneously learning about the roots and traditions of a said culture. This notion is important because Toronto is one of the most multicultural cities on the globe today, not only this but Canada, the country we live in, is one of the most diverse countries in the world. Our country and cities are comprised of many different people from many different cultures and in the past, the misunderstanding of these cultures has led to prejudice, stereotyping, and sadly, racism.

The skills and knowledge offered by the IL program are more important than ever in the world today because topics such as racism, discrimination, and cultural division are more prevalent than ever. The knowledge students receive about the people that surround them is so important because it can help eliminate the problems I mentioned above, and if the TCDSB are an institution that pride themselves on equality and social justice as they mention in their mission and values, then they should not be considering removing this program as its removal will only further increase the divide between cultures.

In addition to this, the IL program equips students with great communication skills in a third language! Language allows students to communicate in more ways than one and to associate with people from more cultures than their own, bridging the divide between cultures and strengthening their bonds for the future, yet an institution which is responsible for the education of the future of our world (the students) wishes to close the door for these students to learn a new language and about the reality of the world they live in, in turn fuelling prejudice, stereotyping and racism. It makes me sad to think that this is the institution I might be working for when I become a teacher, one that would support misunderstanding among different cultures.

On another note, when I was reading through tonight's agenda, a trustees motion mentions that the IL program deprives their children of the 300 mandated minutes of core curriculum teaching a day. That is false. When I was in school, not too long ago, none of my teachers ever taught for 300 minutes in a day. Kids are unable to sit and focus for 300 minutes and you need to consider the 300-minute day consists of independent work periods where no instruction is being given. As per the dictionary, instruction means teaching and/or educating, therefore, when students are completing work on their own, they are not receiving instruction.

Furthermore, the TCDSB surveyed the parents 2 years ago regarding the IL program and is it not true that the last survey displayed a large majority of the parents were in favour of continuing the program? So, after examining the latter facts, only one question remains, why are we discussing surveying again only two years after. If the majority of the parents want to continue the program, then as a democratic institution, the decision is final and already made, the IL program continues and the minority must adhere to the results of the surveys and that is final, shouldn't it be?

Respectfully,
Philip

Wednesday, May 5th, 2021
Student Trustees 2010-2021

Dear TCDSB Community,

A decade ago, I sat on the Toronto Catholic District School Board as a Student Trustee and implored that the TCDSB adopt board-wide policies to protect and support 2SLGBTQ students, ensuring that every student has the right to a safe learning environment. Further to this, the members of CSLIT, and the 1000+ student participants of the 'Voices That Challenge' Conference, advocated that the Board educate staff members in supporting students targeted by harassment and victimization based on their gender expression and sexual identity, and implement Gay-Straight Alliances to recognize, honour and cherish 2SLGBTQ students and their allies.

A decade later, I am deeply saddened that supports for and celebrations of 2SLGBTQ students remain hardly existent in TCDSB schools. 2SLGBTQ students are a very welcome and proud part of my faith community. As Catholics and people of faith, we are called to affirm the inherent dignity of every human being.

I strongly support the recommendation to proclaim Pride Month at the TCDSB, and believe this is an important step in enacting the Catholic graduate expectation to "promote equality, democracy, solidarity, for a just, peaceful, and compassionate society."

In solidarity,
Natalie Rizzo (Student Trustee 2010-2011)

However incompatible you may believe Pride Month to be with the Catholic faith, you cannot deny the simple truth that there are hundreds of students in our schools who identify with the 2SLGBTQ+ community. They exist. They have families.

And it would misunderstand many of them to say that they disrespect our faith. They respect it, and in fact respect it so deeply that they seek to find fulfillment in their faith with who they are and how they love.

Their hope is to be seen, valued, and nurtured by our educational system. I ask that you grant our students this hope, and vote in favour of the motion.

Signed,
Enrique Olivo (Student Trustee 2013-2014)

How can we support our students to succeed? How can we ensure that our students access education in a safe, just and equitable manner? These questions are fundamental to the work of this school board and call upon our responsibility as members of the Catholic community to advocate for those most marginalized, silenced, and oppressed.

Today, this includes addressing the systemic oppression of students who identify as part of the 2SLGBTQ+ community. During my term as a student trustee, safe spaces for these students were sparse and were not institutionally supported across the Board – it was dependent on, for example, if a student’s school had a Gay-Straight Alliance or if a student could travel to the CEC once a month for CSLIT’s Equity Subcommittee meetings.

As a former student trustee, I strongly support this motion put forward by the 2SLGBTQ+ Advisory Committee as a symbol to TCDSB students who identify as part of this community – we are here for you, we see you, we support you, and we want you to succeed. I urge all members of our Board to see this motion with compassion, empathy, and kindness.

Signed,
Allison Gacad (Student Trustee 2015-2016)

Inclusion and belonging are both integral parts to the continued wellbeing of TCDSB students. In order for students to feel safe in their schools, they must also feel loved and accepted. To this extent, it was imperative for us to make equity and inclusion a key pillar of our platform and term.

During our term, an inclusion and belonging retreat was held for all students in the TCDSB. We invited members of school GSA clubs to participate and any student that was committed to addressing the barriers many 2SLGBTQ+ students face within their schools. The aim of these GSA clubs is to raise awareness and build safe school environments for *all* students. However, many of these initiatives were student-led and require the support of the administration to remain safe spaces for all students. As *Discerning Believers* rooted in the Catholic faith, we strongly believed that it was our duty to use our term as Student Trustees and CSLIT co-chairs with the aim of creating a more inclusive environment for 2SLGBTQ+ students.

We support every 2SLGBTQ+ student and it is our hope the Board implements the appropriate measures to ensure they feel safe, loved, proud, and accepted.

Signed,
Karina Dubrovskaya (Student Trustee 2015-2017)
Rhea Carlisle (Student Trustee 2016-2018)

During my time as a Student Trustee, I often noticed the hesitancy regarding affirming empathy and inclusion towards students of the 2SLGBTQ community. The first year after my term, I was absolutely disheartened to hear a trustee compare homosexuality to bestiality and pedophilia. These words sent a wrong message and affected various students and staff at the TCDSB.

The motion before you stands at a defining moment. This time, the TCDSB can choose to move forward and embrace the diversity of its student population.

Students spend an enormous amount of time at school. Because of this, school almost becomes an extension of their home. It's imperative for trustees to support this motion as it will indicate greater support, empathy, and love for 2SLBTQ+ students.

Signed,
Joel Ndongmi (Student Trustee 2017-2019)

Although my term has not come to an end yet, I have seen enough. Only a few months into my term, the one meeting I was alone, a trustee compares being a 2SLGBTQ+ member to pedophilia, cannibalism, auto-erotic asphyxiation and other criminal acts. I cried.

The Catholic Social Teaching of Solidarity teaches us that we are one human family whatever our national, racial, ethnic, economic, and ideological differences. We are our brothers' and sisters' keepers, wherever they may be. Loving our neighbour has global dimensions in a shrinking world. At the core of the virtue of solidarity is the pursuit of justice and peace. Blessed Pope Paul VI taught that "if you want peace, work for justice."¹ The Gospel calls us to be peacemakers. Our love for all our sisters and brothers demands that we promote peace in a world surrounded by violence and conflict. As *reflective, creative and holistic thinkers*, we are called on by God to solve problems and make responsible decisions with an informed moral conscience for the common good.

In my Student Trustee candidacy speech, I said: "I can never create change if I don't dare to try. I want to be able to get *our* voices heard at the board level because we don't help run the TCDSB, we **ARE** the TCDSB. We are what makes all of this happen, and that's why our voice is so important, so please, allow me to be the amplifier that makes your voice louder and louder until it can't be ignored.", and that is what I'm doing now.

Our students matter. They're the reason we do what we do as a school board so let them know they are supported, valued and accepted here by supporting this motion.

Signed,
Kathy Nguyen (Student Trustee 2019-2021)

The 2SLGBTQ+ Community deserves our support, our respect and our love.

It has been almost one year since I was first elected to be the Student Trustee for the Toronto Catholic District School Board. One year since I made my promise to fight for the inclusion and the acceptance of all our students. This promise was difficult to uphold because we kept heading in the wrong direction, and often contradicted our mission statement: “The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ.”

The 2SLGBTQ+ Community has been a long-standing marginalized group within our school board, and their voices have never been close to acknowledged until the present day. We state that our mission is to build an all-inclusive environment, but seem to leave the 2SLGBTQ+ Community out of the conversation every time. How do you think students feel, when the people who were supposed to fight for them, end up being the oppressors? How do you think students react when they feel like their learning space is unsafe and is constantly on the lookout for hate? These are the same thoughts I constantly have day-to-day.

We have an opportunity to move past our mistakes and lead our school board in the right direction, where 2SLGBTQ+ students don’t have to question their safety and the right to be themselves. Recognizing Pride Month and flying the Pride flag is the bare minimum our board can currently accomplish for all the hate we have bestowed. What you decide at the meeting will inevitably impact all students and it is your choice if you want this effect to be positive or negative. I have one year left as Student Trustee, and I hope this is a conversation we don’t need to debate on for the coming year.

We are for the students, not just one specific group, but all.

Please support the recommendations.

Signed,
Keith Baybayon (Student Trustee 2020-2022)

Yours in Leadership,
Past and Present Student Trustees

06 May 2021

Dear Trustees of the Toronto Catholic District School Board,

As the largest parents stakeholder group in the province, with over 90K+ supporters, many of whom are members of the Toronto Catholic District School Board community, we are writing to ask you **not to vote in favour of raising the Pride flag over TCDSB schools or to celebrate Pride month during the month of June.**

We represent parents and families who seek to reinforce parental rights and parental choice in a culture that increasingly disregards them.

Parents -Catholic and non-Catholic- who choose to send their children to Catholic schools expect that their children will be receiving an education consistent with Catholic moral teaching. They rely on all partners within the system to keep the Catholic faith at the forefront of everything they do, and not to introduce ideologies from external groups that confuse children about what the Catholic moral teaching. If Trustees choose to promote moral teachings contrary to the faith, they are also violating parental choice.

As the spiritual authority for the Toronto Archdiocese, Cardinal Thomas Collins released a statement on May 4, 2021 that indicates what symbol he believes both unifies the community and symbolizes inclusivity:

“In that regard, the appropriate symbol that represents our faith, and the inclusion and acceptance of others, is the cross, which is visible at the entrance of every Catholic school.”

It is unnecessary to have other secular symbols of inclusivity, such as the Pride flag, according to the Cardinal’s statement: **“There is a belief among some that unless one embraces secular symbols, one cannot be inclusive or accepting. This is simply not true.”**

The Cardinal’s statement approves of flying only the Canadian flag as a prudent way to keep the school boards out of battles over diverse causes.

“Practically, we also know that there are any number of groups working to advocate for many diverse causes. For this reason, many school boards wisely fly only the Canadian flag out of a sense of equity for all.”

Please, trustees, accept the guidance that has been offered by the Cardinal.

When trustees are asked the question in candidate interviews, “What would you do if you didn’t know the answer to a religious problem?” the answer that we hear time and time again is “I would ask the diocese.” It’s time to recognize that the oath you took as trustees binds you now to stand by the authoritative teaching of the Church on this matter.

Please be courageous and put the faith first when you vote, and don't play politics with our children. Support parents who choose Catholic education for their children and choose you to steward it. Don't fly the Pride flag or celebrate Pride Month this June.

Best regards,

A handwritten signature in blue ink that reads "Teresa Pierre". The signature is written in a cursive, flowing style.

Teresa Pierre, Ph.D., President
Parents as First Educators

Good afternoon Ms. Rizzo and Mr. Dipasquale,

My child currently attends a school in ward 9 (St. Pat's) and I am a teacher in ward 5 (Marshall McLuhan). As a parent and a teacher, I implore you to support the initiative to fly the Pride flag and show our students and staff that they are welcome. This board has shown many times how unwelcoming it can be to LGBTQ+ individuals (I refer not only the debacles that have occurred at board meetings, but personal experience as a parent of an LGBTQ+ child who attended a TCDSB school). It is imperative that EVERY person feels welcome and supported by the board.

Respectfully,
Alice Franco

To: Toronto Catholic District School Board Trustees

On behalf of the Lift Jesus Higher Rally, the largest Catholic laity-run single-day event in the country, we wanted to encourage Toronto Catholic Trustees to hear the call from Cardinal Collins to protect Catholic schools by not raising the Pride flag in June.

The message of Christianity is one of love and inclusion, and there is no better symbol for this than the Cross, as the Archdiocese pointed out in a statement of May 4.

A secular symbol, such as the Pride flag, references sexual relationships the Church does not agree with, and is not appropriate as a symbol for Catholic schools.

We concur with the Cardinal that the wisest policy for Catholic schools is to fly only the Canadian flag, so as to favor no one advocacy group over another:

Practically, we also know that there are any number of groups working to advocate for many diverse causes. For this reason, many school boards wisely fly only the Canadian flag out of a sense of equity for all.

We recommend that the Toronto Catholic Trustees vote against flying the Pride flag in June and instead, adopt a policy of flying only the Canadian flag (and provincial, and Vatican, if desired).

Sincerely yours,



Suresh Dominic

Tel: 647-243-9441

Email: contact@LJHR.ca

Website: www.LJHR.ca

Metro Toronto Convention Centre
North Building
255 Front Street West,
Toronto, Ontario
M5V 2W6

 [@ljhrtoronto](https://www.instagram.com/ljhrtoronto)



[#ourrally #ljhtoronto](#)



<https://www.facebook.com/ljhtoronto>



REPORT TO

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

CAPITAL PRIORITIES 2021-2022 (ALL WARDS)

According to the grace of God given to me, like a skilled master builder I laid a foundation, and someone else is building on it. Each builder must choose with care how to build on it. 1 Corinthians 3:10.

Created, Draft	First Tabling	Review
May 4, 2021	May 13, 2021	Click here to enter a date.

J. Howley, Sr. Manager, Planning & Accountability
 B. Leporati, Sr. Coordinator, Planning Services
 M. Loberto, Superintendent, Planning and Development Services
 D. Friesen, Superintendent, Capital Development, Asset Management and Renewal

RECOMMENDATION REPORT

Vision:

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

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.



Brendan Browne, PhD
 Director of Education

D. Koenig
 Associate Director
 of Academic Affairs

D. Boyce
 Associate Director of
 Facilities, Business and
 Community Development

A. EXECUTIVE SUMMARY

On March 24, 2021, the Ministry of Education announced the 2021-2022 Capital Priorities Program (CPP). The CPP provides school boards with the opportunity to identify and address their most urgent pupil accommodation needs, including accommodation pressures, replacing schools in poor condition, and creating childcare spaces in schools. School boards can submit their ten most urgent capital priority needs projects for funding consideration.

On April 28, 2021, the Board approved a set of ranking criteria to determine capital priority projects. All TCDSB schools have been evaluated using these criteria.

This report recommends that business cases for the following ten Capital Priorities be submitted to the Ministry of Education for funding consideration (E = Elementary, S = Secondary)

Rank	School	Project
1	NOTRE DAME (S)	Replacement School
2	ST MONICA (E)	Replacement School
3	ST CYRIL (E)	Replacement School
4	ST RAPHAEL (E)	Replacement School
5	OUR LADY OF THE ASSUMPTION (E)	Replacement School
6	CHAMINADE (S)	Replacement School
7	ST JEROME (E)	Replacement School
8	ST MARTIN DE PORRES (E)	Replacement School
9	ST MICHAEL/ST PAUL AT DUKE OF YORK (E)	Replacement School
10	ST GREGORY (E)	Addition/Retrofit

The submission deadline for business cases for the top ten capital priorities is **May 21, 2021**.

The cumulative staff time required to prepare this report was 9 hours.

B. PURPOSE

This report seeks approval of the priority ranked list of schools identified for the Capital Priorities Program Funding request. Business cases supporting the capital needs of each project must be submitted to the Ministry of Education prior to the deadline of May 21, 2021.

C. BACKGROUND

1. *On March 24, 2021, Ministry of Education Memorandum 2021: B05 was released, which announced the launch of 2021-22 Capital Priorities Program, including Child Care Capital Funding (Appendix ‘A’). Similar to previous iterations of the Capital Priorities Program (CPP), funding for Capital Priorities projects will be allocated on a business case basis for new schools, retrofits, and additions to be completed by the 2024-2025 school year.*
2. *On April 22, 2021, the report “Capital Priorities Criteria 2021-2022” recommended a set of evaluation criteria to be applied in the evaluation of capital projects to be submitted to the Ministry of Education for funding consideration through the Capital Priorities program. Arising from the discussion during the Board meeting, Trustees requested that staff consider additional evaluation criteria as well as minor changes to the presented weighting allocations.*
3. *At the April 28, 2021, meeting of the Special Board, the report “Capital Priorities Criteria 2021-2022 Addendum” (Appendix ‘B’) was considered. Arising from this report, the Board approved the following.*

“1. That the following matrix be utilized in the identification of capital projects to be submitted to the Ministry of Education by May 21, 2021:

	<i>Criteria</i>	<i>Original Weight</i>	<i>Revised Weight</i>
1	<i>Partnership Opportunities</i>	<i>15%</i>	<i>10%</i>
2	<i>Capacity - Amount of Portables in use</i>	<i>15%</i>	<i>15%</i>
3	<i>Capacity - 2024-2025 Utilization Rate</i>	<i>20%</i>	<i>20%</i>

4	<i>Capacity – Lack of space at nearby schools</i>	15%	10%
5	<i>Property/Lot Size</i>	5%	10%
6	<i>Facility Condition Index</i>	15%	15%
7	<i>Previous Completed Pupil Accommodation Review</i>	15%	10%
8	<i>*New Previously Approved and Unfunded Top 10 Capital Priority</i>	0%	5%
9	<i>*New Equity</i>	0%	5%
	<i>Total</i>	<i>100%</i>	<i>100%</i>

2. That a further report be prepared for consideration at the May 13, 2021 Corporate Services meeting identifying the ten priority capital projects to be submitted to the Ministry of Education for funding consideration;

3. That the Pupil Accommodation Ratio be reduced by 5% and given to schools, depending on the school's Heating Ventilation and Air Conditioning (HVAC), across the system that do not have mechanical ventilation; and

4. That for Criteria #2 – Capacity – Amount of Portables in use, Staff also consider whether Gymnasiums and libraries are being utilized”

4. The FCI of a school strictly relates to as built components regardless of system types. Whether a school has or does not have mechanical ventilation does not impact the overall FCI calculation. ***Given the current COVID-19 pandemic and the importance of air quality, the new criterion considering mechanical ventilation was added to the evaluation matrix at a 5% weighted factor. Schools with no mechanical ventilation receive full points in this category, and schools with partial mechanical ventilation receive 3 points.*** The Previous Completed Pupil Accommodation Review (unfunded Capital resolution) criterion was reduced to 5% to include consideration of HVAC systems.
5. ***As directed by the Board, consideration was given to the use of gymnasiums and libraries as teaching spaces.*** Although these spaces are often used for specialised programming, the main purpose of the space remains available for school use. Gymnasiums and libraries are considered additional teaching spaces, however, these rooms are not rated in the overall capacity of the

building. Therefore, the *Utilization Rate of the school accounts for use of these spaces*. No adjustment was made to the matrix for this suggestion.

6. *The final matrix, as applied, is provided below:*

	Criteria	Revised Weight
1	Partnership Opportunities	10%
2	Capacity - Amount of Portables in use	15%
3	Capacity - 2024-2025 Utilization Rate	20%
4	Capacity – Lack of space at nearby schools	10%
5	Property/Lot Size	10%
6	Facility Condition Index	15%
7	Previous Completed Pupil Accommodation Review (Unfunded Capital Resolution)	5%
8	Previously Approved and Unfunded Top 10 Capital Priority	5%
9	Equity Lens	5%
10	<i>*New Lack of Mechanical Ventilation</i>	5%
	Total	100%

D. EVIDENCE/RESEARCH/ANALYSIS

1. *All schools have been assessed and ranked applying the Board approved criteria.* Application of the matrix results in the following top ten capital priorities:

Rank	School
1	NOTRE DAME (S)
2	ST MONICA (E)
3	ST CYRIL (E)
4	ST RAPHAEL (E)
5	OUR LADY OF THE ASSUMPTION (E)
6	CHAMINADE (S)
7	ST JEROME (E)
8	ST MARTIN DE PORRES (E)
9	ST MICHAEL/ST PAUL AT DUKE OF YORK (E)
10	ST GREGORY (E)

The scoring matrix for the top ten capital priorities is provided as *Appendix 'C'* of this report.

2. ***Business cases, for the top ten capital priorities must be submitted by May 21, 2021.*** Business cases are comprised of relevant facility and enrolment data, as well as detailed description of the proposed scope of work. A space plan template for each project is also allowable in an effort to expedite the capital process in the event funding is provided.

E. STAFF RECOMMENDATION

1. That business cases for the following ten capital priorities be submitted to the Ministry of Education for funding consideration by **May 21, 2021**.

Rank	School	Project
1	NOTRE DAME (S)	Replacement School
2	ST MONICA (E)	Replacement School
3	ST CYRIL (E)	Replacement School
4	ST RAPHAEL (E)	Replacement School
5	OUR LADY OF THE ASSUMPTION (E)	Replacement School
6	CHAMINADE (S)	Replacement School
7	ST JEROME (E)	Replacement School
8	ST MARTIN DE PORRES (E)	Replacement School
9	ST MICHAEL/ST PAUL AT DUKE OF YORK (E)	Replacement School
10	ST GREGORY (E)	Addition/Retrofit

Ministry of Education**Ministère de l'Éducation**

Capital and Business Support
Division

Division du soutien aux immobilisations
et aux affaires

315 Front Street West
15th Floor
Toronto ON M7A 0B8

315, rue Front ouest
15^e étage
Toronto (ON) M7A 0B8

2021: B05

Date: March 24, 2021

Memorandum to: Directors of Education
Children's Service Leads, Consolidated Municipal Service
Managers (CMSMs) and District Social Services Administration
Boards (DSSABs)
Secretary/Treasurers of School Authorities

From: Didem Proulx
Assistant Deputy Minister
Capital and Business Support Division

Subject: **Launch of 2021-22 Capital Priorities Program including Child
Care Capital Funding**

Schools and child care centres are integral institutions in their respective communities. The Ministry of Education is committed to working closely with school boards to ensure infrastructure investments meet the needs of the community and deliver good value for the Ontario taxpayers.

2021-22 Capital Priorities Program

We are pleased to announce the launch of the 2021-22 Capital Priorities Program, providing school boards with an opportunity to identify and address their most urgent pupil accommodation needs, including:

- accommodation pressures;
- replacing schools in poor condition;
- supporting past consolidation decisions;
- providing facilities for French-language rights holders in under-served areas; and
- creating new licensed child care spaces in schools.

Summary of the 2021-22 Capital Priorities Program

- The submission deadline for all capital funding requests is **May 21, 2021**.
- School boards will have the opportunity to submit up to 10 of their most high and urgent Capital Priorities for ministry funding consideration.
- The 2021-22 Capital Priorities projects are expected to be completed and open no later than the 2024-25 school year.
- School boards have an opportunity to request child care capital funding for Capital Priorities projects, if the local CMSM or DSSAB support the need and confirm the proposed new space will not result in an operating pressure for the CMSM or DSSAB.
- **NEW:** Based on recommendations from the LEAN Review of the Capital Approval Process to enhance efficiencies, school boards will have the option to submit a facility space template for ministry approval as part of the funding request; however, it will only be eligible for new school build projects.
- School boards are encouraged to standardize the design of new school construction. The ministry will be exploring ways to leverage this opportunity going forward.
- School boards are encouraged to identify opportunities to use modular construction methods for any one of their project submissions. The ministry will work with those boards to further develop those opportunities, as appropriate.
- School boards are encouraged to identify opportunities to work together on joint-use school project submissions.
- All public announcements regarding capital investments in the publicly funded education system, including those previously funded, are joint communications opportunities for the provincial government, the school board, the CMSM or DSSAB, and/or community partners.
- Information sessions will be offered to school board staff to provide support on the completion of business cases. Further information will be sent to school boards in the coming weeks.

Project Submissions

As with previous rounds of the Capital Priorities Program, funding for Capital Priorities projects will be allocated on a business case basis for new schools, retrofits, and additions that need to be completed by the 2024-25 school year. School boards are invited to identify up to their ten most urgent Capital Priorities projects and submit the associated business cases through the School Facilities Inventory System (SFIS) in order to be considered for funding approval. School boards will be able to access Capital Priorities submission templates through SFIS beginning on March 24, 2021.

There are **two template reports** that are required to be submitted per submission:

1) Business Case - Part A (Written Report)

School boards are required to provide a written description of the project, including detailed information on the rationale, proposed scope of work and demonstrate why alternate options are not feasible.

2) Business Case - Part B (Excel Template)

- **Enrolment and School Capacity Data Form (Required For All Submissions)**

School boards are required to provide an overview of current and projected accommodation needs for the proposed capital project, including schools within the local proximity of the selected project site.

- **Space Template Form for New School Build Projects Including Child Care Centres (Optional)**

School boards have the option to submit a facility space template for requests associated with new school builds (including child care). The template will be reviewed in conjunction with all other materials submitted with the request. If the project is approved by the ministry, the school board may also receive approval for its space template, allowing the school board to immediately attain the services of an architect for this project. The Space Template has been modified to collect room details for any Child Care Centre spaces.

- **Joint Submission - Capital Funding for Child Care Form (If Applicable)**

With support from their local CMSM or DSSAB, school boards have an opportunity to request capital funding for the creation of new child care space as part of their Capital Priorities submission.

For all child care project requests submitted through Capital Priorities, school boards and CMSMs or DSSABs are required to complete a Joint Submission - Capital Funding for Child Care template to request Early Years Capital Program (EYCP) funding. Requests for capital funding must be signed by both the school board and the CMSM or DSSAB.

For information regarding the child care project submissions, please see Appendix B.

Other Considerations for Project Submissions

School Board Considerations

In addition to project specific assessments as detailed in Appendix A, the following school board performance measures will also be considered for all Capital Priorities project categories:

- School board's demonstrated willingness to participate with co-terminus school boards in joint-use school opportunities;
- School board's ability to build to ministry benchmark costs as evidenced by past projects;
- School board's ability to deliver projects within target timeframes as evidenced by past projects;
- School board's history of meeting the ministry's capital accountability measures;
- Accuracy of enrolment projections for previously approved projects; and
- Number of projects the school board currently has underway.

Joint-Use Capital Projects

The ministry encourages all school boards to consider collaborative capital project arrangements between school boards. This includes maximizing the opportunities of co-location, particularly in rural, northern or smaller communities.

The ministry will be reviewing all capital proposals submitted by boards for ministry funding to ensure joint-use opportunities between school boards have been explored before funding is granted.

School boards seeking Capital Priorities funding approval must:

- Document efforts made to explore joint-use opportunities for each capital project funding request as part of the business case submissions; and
- Demonstrate a willingness to participate with co-terminus school boards in joint-use school opportunities.

For joint-use school proposals, all participating boards must:

- Include the project as part of their Capital Priorities submission; and
- Explain the role of the joint-use nature of the project on expected improvements to student programming and operational efficiency.

Pilot of Modular Construction Projects

As part of their written submission, school boards are asked to identify whether they are interested having a project participate in the pilot program. Proposals should illustrate the benefits of the using modular construction over traditional construction to address their pupil accommodation needs.

Communications Protocol

School boards are reminded to follow the ministry's communications protocol requirements for all ministry funded major capital construction projects as outlined in Appendix D. This includes the placement of Ontario Builds signage of project sites within 60 days of receiving funding approval notification.

Should you have any questions related to the communication requirements, please contact MinistryofEducation@ontario.ca.

Ministry Contact

Capital Priorities Program

If you have any Capital Priorities Program questions, or require additional information, please contact the Capital Analyst assigned to your school board or:

- Patrizia Del Riccio, Manager, Capital Program Branch at 416-885-2950 or Patrizia.DelRiccio@ontario.ca or
- Sophie Liu, Manager, Capital Program Branch at 647-402-9597 or Sophie.Liu@ontario.ca or
- Paul Bloye, Director, Capital Program Branch at 416-325-8589 or at Paul.Bloye@ontario.ca.

Child Care Program

If you have any child care program questions, or require additional information, please contact Jeff O'Grady, Manager, Capital Policy Branch at 416-918-1879 or at Jeff.OGrady@ontario.ca.

We look forward to working with you to identify and develop your capital projects.

Other Capital Initiatives:

The 2021-22 Capital Priorities Program is one of the key initiatives under a broader, more ambitious agenda on capital, intended to better support infrastructure investments in the education sector including the following:

Lean Review of Capital Approval Process

The ministry has undertaken a review of its Capital Accountability Process with the intent to identify opportunities to help expedite responses to school boards. Thank you to all of the school boards that participated in the review and provided feedback and suggestions.

The ministry is streamlining and improving the capital approvals process to reduce response timelines. The ministry has already implemented a number of internal changes to its process with a number of more visible changes planned, including:

- the creation of different streams for different types of approvals with service delivery standards for each stream;
- establishing clear expectations for project submissions with templates, guidelines and process maps; and
- increasing transparency and accountability through a request tracking tool available to school boards.

The ministry is taking an agile approach to implementing the various elements of the new process, with a view to test, learn and adapt the processes to improve outcomes.

Update of Modular Construction Pilot

As part of the 2019-20 Capital Priorities program, the ministry announced a Modular Construction

Pilot as a means to better understand innovative opportunities to deliver projects in a more cost effective, expeditious manner. The ministry engaged Infrastructure Ontario to assess potential design and delivery efficiencies in the education sector with a focus on modular construction designs and practices.

Some key findings to successful implementation of modular construction included having design certainty with minimal changes, establishing a pipeline of projects for volume and, to some degree, utilizing a centralized approach for procurement and delivery.

With these learnings, the ministry continues to be interested in potential projects for a Modular Construction Pilot. School boards are requested to indicate whether they are interested having a project participate in the pilot program, to build schools using state of the art modular build technology to reduce time to completion.

Design Standards

The ministry is exploring the potential of design standards and as a means to making school construction more efficient. By using design standards that are tailored to schools, the ministry can achieve key design principles that will lay the groundwork for successful design, including:

- Cost-effective design that supports ministry guidelines, standards, and programs;
- Sustainable design that ensures effective and efficient service delivery;
- Adaptable and flexible design that responds to changing service needs;
- Safe, accessible and inclusive design; and
- Increased opportunities for modular construction, which will help shorten project delivery timelines to ensure schools can be built, and needs can be met, faster.

Urban Development

The ministry recognizes that intensification in high density urban areas poses unique challenges. Finding suitable land for the construction of a school is challenging and expensive. The ministry encourages school boards to pursue opportunities to explore new, innovative ways of thinking about school construction – such as “vertical schools”. The ministry asks that schools boards facing these concerns contact the ministry to discuss further.

We look forward to working with you on advancing these and numerous other initiatives that are part of the ministry’s ambitious capital agenda to ensure funding, programs and supports continue to meet the needs of students and school boards across the province.

Sincerely,

Original signed by:

Didem Proulx
Assistant Deputy Minister
Capital and Business Support Division

Appendices:

Appendix A: Eligibility and Evaluation Criteria

Appendix B: Child Care Capital Project Submission Requirements

Appendix C: Communications Protocol Requirements

- c. Senior Business Officials
 - Superintendents and Managers of Facilities Managers of Planning
 - Early Years Leads
 - CAOs of Consolidated Municipal Service Managers CAOs of District Social Services
 - Administration Boards
 - Parm Bhatthal, Director, Field Services Branch, Ministry of Education

Appendix A: Eligibility and Evaluation Criteria

Eligible Project Categories

Projects eligible for funding consideration for this round of the Capital Priorities Program must meet one or more of the following category descriptions:

1) Accommodation Pressure:

Projects will accommodate pupils where enrolment presently is or is projected to persistently exceed capacity at a school or within a group of schools, and students are currently housed in non-permanent space (e.g., portables).

Assessment of projects will include reviewing school-level capacity of impacted schools, including those in close proximity, historical enrolment trends, enrolment forecasts, and geographic distribution of students.

- Priority consideration for funding purposes will be given to projects with a utilization equal to or greater than 100% (including area schools) in the 5th year after the proposed school opening date as per the business case template.

2) School Consolidation and Facility Condition:

Projects that support the reduction of excess capacity in order to decrease operating and renewal costs, and/or address renewal need backlogs. These projects may also provide other benefits such as improved program offerings, accessibility or energy efficiency.

Projects associated with consolidations and/or closures that require a Pupil Accommodation Review (PAR) that has yet to be completed will not be eligible for funding purposes.

Note: School boards will be asked to confirm that schools identified to be closed as part of the proposed solution will be closed and removed from the school board's assets within two years of completion of the approved project.

Assessments will be based on the projected operating and renewal savings and the removal of renewal backlog needs relative to the project cost.

- Priority will be given to projects with an expected Internal Rate of Return equal to or greater than 2.5%. This will be calculated using the expected cost of the project compared to the expected savings resulting from proposed solution as per the business case template.

3) French-language Accommodation:

Projects will provide access to French-language facilities where demographics warrant. Such projects will only be considered for funding if the school board can demonstrate that a French-language population is not being served by existing French-language school facilities.

Note: Project requests associated with French-language facilities in existing geographic areas experiencing accommodation pressures will be reviewed for funding consideration based on

the Accommodation Pressure criteria identified above.

Assessment of projects will include enrolment forecasts, geographic distribution of students, reviewing school-level capacity of impacted schools, including those in close proximity and potential alternative solutions.

Ineligible Projects

Projects matching the following descriptions will not be considered for Capital Priorities funding purposes:

- Projects addressing an accommodation pressure as a result of a specialized or alternative program such as French Immersion;
- Projects for additional child care space that is not associated with a capital priorities school project (i.e., child care only project requests);
- Projects associated with consolidations and/or closures where a Pupil Accommodation Review has not been completed;
- Requests for Land Priorities funding for site acquisitions;
- Projects addressing the renewal needs of a facility; and
- Projects addressing school board administrative space.

The ministry will expect that school boards will explore various options before submitting their business cases for a specific option. School boards must be able to identify the cost differentiation and considerations of various options within its submitted business case.

Previously Approved Capital Priorities Projects and Scope Change Requests

If school boards are considering a scope change for a previously approved capital priorities project, they may be required to resubmit the project through the Capital Priorities Program. Please contact your Capital Analyst for further clarification.

Appendix B: Child Care Capital Project Submission Requirements

Child Care Eligibility

The ministry will consider funding child care centre capital projects in schools where there is a need for new child care construction and/or renovations to existing child care spaces for children 0 to 3.8 years of age. School boards will need to have the support of the corresponding Consolidated Municipal Service Manager (CMSM) or District Social Services Administration Board (DSSAB) regarding the eligibility and viability requirements to build or renovate child care rooms in the identified school.

When selecting a school for child care centre capital, school boards and CMSMs and DSSABs should consider available operating funding, cost effectiveness of the capital project, school capacity, location, long-term viability, age groups, accommodation pressures/service gaps, demand, local child care plan, etc. prior to signing the Early Years Joint Submission.

When considering long-term school viability, school board planners and CMSMs and DSSABs must consider at least the next five years and use population projections as well as other local data to inform submission decisions including an assessment of:

- Cost effectiveness of the project, including anticipated additional site, construction, labour/material or municipal costs associated with the project.
- Whether the school has existing child care centre space.
- The average daily enrollment and the on-the-ground capacity of the school.
- Current utilization rates, and historical/forward trend analysis.
- School board capacity to support cost overages and implementation.

Child Care Operational and Accountability Requirements

Approved new construction of child care rooms must meet the following operational and accountability requirements:

- The child care centre rooms are viable within existing CMSM or DSSAB operating funding.
- The physical space will be owned by the school board and leased to the child care operator or CMSM or DSSAB. School boards are not to charge operators beyond a cost-recovery level.
- School boards should operate on a cost-recovery basis and recover their accommodation costs (e.g., rent, heating, lighting, cleaning, maintenance, and repair costs) directly from child care operators and/or CMSMs and DSSABs as per the school board's usual leasing process. School boards should not absorb additional school board facility costs (e.g., custodial, heat, and lighting) and renewal costs (e.g., windows) through ministry funding, such as the School Facility Operations or Renewal Grant. School boards are not expected to take on additional costs to support facility partnerships, although school boards will continue to use their discretion in supporting partnerships based on their student achievement strategy.
- School boards are required to follow the capital construction approval process for the new construction and/or renovations of child care centre rooms as per the ministry's Capital Accountability Requirements.
- School boards will require an Approval to Proceed (ATP) before the child care capital

project can be tendered.

- School boards, CMSMs and DSSABs and/or child care operators should contact their child care licensing representative as soon as possible as all child care centre capital projects require a floor plan approval letter issued by the Ministry of Education's Child Care Quality Assurance and Licensing Branch prior to receiving an ATP or starting construction. In order to streamline the floor plan approval process, school boards, CMSMs and DSSABs and/or child care operators should note to their child care licensing representative if the child care floor plan has been used in the past (i.e., a repeat child care floor plan design) or if the child care floor plan will be used for multiple child care sites in the near future.
- Child care centre space will not count as loaded space.
- School boards will be held accountable for implementing appropriate measures to ensure that the cost and scope of approved child care centre capital projects are within the approved project funding.
- Rooms must be built in accordance with the Child Care and Early Years Act, 2014 (CCEYA).
- It is expected that all new child care centre rooms funded under this policy will be built to accommodate a maximum group size (at 2.8m² per child, as per the CCEYA) for each age grouping for children 0 to 3.8 years (e.g., 10 infant spaces, 15 toddler spaces, 24 preschool spaces, and 15 family age grouping spaces), and that child care centre rooms will be for exclusive use during the core school day. Although unobstructed space requirements are per child, infant, toddler and family age group sizes require additional space for separate sleep areas, change area, etc. these should be considered when developing child care floor plans. Consideration should also include the long-term use of the room, including the ability to convert to serve other child care age groups in future.
- It is important that school boards and CMSMs and DSSABs are taking into consideration licensed child care operator viability, and flexibility where appropriate, when determining appropriate mix of age groupings. Programs created will support continuity of services for children and families in order to accommodate children as they age out of programs. For example, if a toddler room is included in the child care capital project proposal a preschool room should also be available, unless a family age grouping room is in place.
- For the purpose of this policy, an eligible child care operator:
 - has a purchase of service agreement with the CMSM or DSSAB; or
 - is a licensed child care centre that is eligible to receive fee subsidy payments from the CMSM or DSSAB.
- Capital funding for a child care centre cannot be used to address other school board capital needs. Funding will not be provided for school-age child care spaces (except spaces within a family age grouping room) as the ministry will not fund exclusive space for before and after school child care programs.

Appendix C: Communications Protocol - Public Communications, Events and Signage

Acknowledgement of Support

School boards are required to acknowledge the support of the Government of Ontario in proactive media-focused communications of any kind, written or oral, relating to the agreement or the project. This could include but is not limited to:

- Reports
- Announcements
- Speeches
- Advertisements, publicity
- Promotional materials including, brochures, audio-visual materials, web communications or any other public communications.

This is not required for:

- Minor interactions on social media, including social media such as Twitter
- Reactive communications, such as media calls.

All public events and announcements regarding capital investments in the publicly funded education system are considered joint communications opportunities for the provincial government, the school board, as well as Consolidated Municipal Service Managers and District Social Service Administration Boards (CMSMs and DSSABs); and/or community partners.

Issuing a Media Release

When issuing a media release or other media-focused communication, school boards, CMSMs/DSSABs, and or community partners must:

- Recognize the Ministry of Education's role in funding the project
- Contact the ministry to receive additional content for public communications, such as a quote from the minister.

You can send your draft public communications to MinistryofEducation@ontario.ca to obtain a quote or other information for your public product.

Note: The ministry may also choose to issue its own news release about various project milestones. If the ministry chooses to do so, school boards, CMSMs/DSSABs, and/or community partners will be notified.

Invitations to the Minister of Education

Openings

School boards are to invite the Minister of Education to all openings of:

- New schools
- Additions that include new child care spaces, EarlyON Child and Family centres, or community hubs.

To invite the minister to your event:

- Send an email invitation as soon as possible to MinistryofEducation@ontario.ca

- Where appropriate please copy the ministry's regional manager in the Field Services Branch for your area
- Please do not move forward with your event until you have received a response from the ministry (you will be notified within 15 business days of the event as to the minister's attendance)
- Inform the ministry via the email address above if the date of your event changes.

Note: If the minister is unable to attend, your invitation may be shared with another government representative. Their office will contact you directly to coordinate details. Announcements do not need to be delayed to accommodate the minister. The goal is to make sure that the ministry is aware of the opportunity.

All Other Events

For all other media-focused public events, (e.g. sod turnings):

- Send an invitation to the minister at MinistryofEducation@ontario.ca with at least three weeks' notice
- Copy the ministry's regional manager in the Field Services Branch, in your area, where appropriate.

Note: These "other" events should not be delayed to accommodate the minister. Only an invitation needs to be sent; a response is not mandatory to proceed.

Ontario Builds Signage

NEW – The Government of Ontario is introducing Ontario Builds signage.

For approved Capital Priorities, Early Years Capital and Child Care Capital projects, school boards will be required to display Ontario Builds signage at the site of construction that identifies the financial support of the Government of Ontario.

School boards are responsible for the following:

- Producing and paying for Ontario Builds signage. For the Ontario Builds artwork and the visual identity guide, please access www.ontario.ca/page/ontario-builds-templates for templates to create the signage.
 - These are examples of project descriptions that could be used on the school board sign: "New school and child care centre," "New school," or "New school addition."
 - Francophone communities, consider producing both English and French signage.
- Providing the ministry with a digital proof of the sign which to be sent via email to MinistryofEducation@ontario.ca. Ministry approval of the digital proof must be received before finalizing and physically producing Ontario Builds signage.
- Posting signs in a timely manner. Please ensure a sign is present at the construction site at all stages – before construction work starts and throughout construction.
- Displaying permanent sign(s) for major school and /or early years and child care projects identified by the ministry in a prominent location that does not obstruct traffic or cause safety concerns, particularly if the sign is located near roads. To avoid potential safety

issues, school boards should ensure the appropriate provincial and municipal authorities are consulted on Ontario Builds signage.

- Removing the signage within six months of the completion of the project.
- Providing the ministry with a photograph after the sign has been installed; please send to MinistryofEducation@ontario.ca.
- Maintaining the signage to be in a good state of repair for the duration of the project.

Note: For projects that are co-funded, such as by a municipality or the federal government, use the Ontario Builds visual identity guide for partnership signage. Also, please facilitate signage approval from the partners.

Contact

Should you have any questions related to this communications protocol or Ontario Build signage, please send your questions via email to MinistryofEducation@ontario.ca.

Note: This communications protocol does not replace school boards' existing partnership with the Ministry of Education's regional offices. Regional offices should still be regarded as school boards' primary point of contact for events and should be given updates in accordance to existing processes.



REPORT TO

SPECIAL BOARD

CAPITAL PRIORITIES CRITERIA 2021-2022 ADDENDUM (ALL WARDS)

According to the grace of God given to me, like a skilled master builder I laid a foundation, and someone else is building on it. Each builder must choose with care how to build on it. 1 Corinthians 3:10.

Created, Draft	First Tabling	Review
April 26, 2021	April 28, 2021	Click here to enter a date.

J. Howley, Sr. Manager, Planning & Accountability
 B. Leporati, Sr. Coordinator, Planning Services
 M. Loberto, Superintendent, Planning and Development Services
 D. Friesen, Superintendent, Capital Development, Asset Management and Renewal

RECOMMENDATION REPORT

Vision:

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

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.



Brendan Browne, PhD
 Director of Education

D. Koenig
 Associate Director
 of Academic Affairs

D. Boyce
 Associate Director
 Facilities, Business and
 Community Development

A. EXECUTIVE SUMMARY

On April 22, 2021, the report “*Capital Priorities Criteria 2021-2022*” recommended that evaluation criteria be applied in the identification of capital projects to be submitted to the Ministry of Education for funding consideration through the Capital Priorities program.

Arising from the discussion during the Board meeting, Trustees requested that staff consider additional evaluation criteria as well as minor changes to the presented weighting allocations. This report outlines revised recommendations based on the suggestions received.

The cumulative staff time required to prepare this report was 7 hours.

B. BACKGROUND

1. *On April 22, 2021, staff recommended the following matrix* be utilized in the identification of capital projects to be submitted to the Ministry of Education by May 21, 2021 (*Appendix ‘A’*).

	Criteria	Weight
1	Partnership Opportunities	15%
2	Capacity - Amount of Portables in use	15%
3	Capacity - 2024-2025 Utilization Rate	20%
4	Capacity – Lack of space at nearby schools	15%
5	Property/Lot Size	5%
6	Facility Condition Index	15%
7	Previous Completed Pupil Accommodation Review	15%
	Total	100%

2. *At this meeting, the Board requested that staff consider suggestions to revise the evaluation criteria presented in the report.* The Trustee suggestions for consideration are outlined below.

- *Include weighted **equity** criteria for determining capital priorities.*
- *That the weighting criteria for **property lot size** be 15 per cent **lack of space** criteria be decreased to 10 per cent and **utilization rate** be reduced to 10 percent.*

- *“Inclusion on previous year’s capital priority list” be included as additional criteria at 10%.*
- *Partnership Opportunities be correspondingly reduced to 5% to maintain parity in the matrix.*
- *All schools receive a score in the **Facility Condition Index** category based on a weighted scale determined by staff but not simply schools above 50% FCI (as was scored in last year’s submission).*

3. Given the criteria parameters set out by the Ministry of Education and suggestions made by the Board, *the criteria identified below continue to align with Ministry priorities as well as representing the needs of TCDSB communities.*

Criteria	Meets Ministry Memo Criteria	Suggested Change	Action Taken
Partnership Opportunities	Yes	Reduced to 5% to allow other criteria to be considered.	It is not recommended that this criterion be reduced to 5% as the Ministry encourages school boards to seek partnership opportunities wherever possible. Recommendation: Reduce to 10%.
Amount of Portables in use	Yes	No suggested changes to weighting criteria. However, space used in nearby schools/satellites as equivalent to portables.	Recommended that this criterion remains as proposed. A number will be added to denote the use of space in nearby schools/satellites in lieu of portables.
2024-2025 Utilization Rate	Yes	Reduced to 10% to allow other criteria to be improved.	Recommended that this criterion not be reduced because of its significance in the Ministry memo as a key consideration in the application for funding regarding accommodation pressure/growth.

			<i>Recommendation: No Change</i>
Lack of Nearby School Capacity	Yes	Reduced to 10% to allow other criteria to be considered	Recommended that this criterion be reduced to 10% to allow other criteria to be improved. <i>Recommendation: Decrease to 10%</i>
Property/Lot Size	Yes	Increased to 15% to reflect lack of accommodation options	Recommended to increase this criterion to account for the inability to expand school footprint. <i>Recommendation: Increase to 10%</i>
Facility Condition Index	Yes	That all schools receive a score in the facility condition index category based on a weighted scale determined by staff but not simply schools above 50% FCI	Schools that have an FCI of 25% or less are considered in good condition and are typically newer schools. As such, it is recommended that points be allocated to schools with an FCI Index of 25% and above. <i>Recommendation: A graduated weighting be applied as follows;</i> 25% to 34% (3) 35% to 44% (6) 45% to 54% (9) 55% to 64% (12) > 65% (15)
Previous Completed Pupil Accommodation Review	Yes	No suggested changes	Due to the added criteria, balancing of the matrix is required. This criterion applies to completed reviews which recommended a capital solution, and remain unfunded. <i>Recommendation: Reduce to 10%</i>
<i>*New Previous Inclusion as a</i>	No	Inclusion on previous year's capital priority list" be included	Recommended that criteria be included to prioritize schools that have previously appeared on the capital priorities list but were not

<i>top 10 Capital Priority</i>		as an additional criterion at 10%.	successful in receiving funding, but not supersede any schools that may fall more in line with updated key Ministry considerations for funding. <i>Recommendation: Inclusion at 5%</i>
<i>*New Equity Lens</i>	No	That the TCDSB recognize capital improvements as a contributing factor to student achievement in marginalized communities.	The City of Toronto has identified Neighbourhood Improvement Areas that have been determined through the use 15 neighbourhood-level indicators grouped under the following 5 main headings. <ul style="list-style-type: none"> • Economic Opportunities • Social Development • Participation in Decision-Making • Physical Surroundings • Healthy This methodology recognizes the needs of marginalized communities. If a school is located within one of these neighbourhood improvement areas, then they will receive points on the ranking matrix. <i>Recommendation: Inclusion at 5%</i>

4. The Board also ***requested that the TCDSB formally request the provincial government to include equity in determining capital funding*** to recognize capital improvements as a contributing factor to student achievement in marginalized communities. This is not a Ministry of Education recognized criterion, and as such, this criterion would not align with their considerations for capital priorities. However, including this criterion would signal the Toronto Catholic District School Board commitment to equity as part of student achievement. A letter will be drafted from the Director and the Chair.

C. STAFF RECOMMENDATIONS

1. That the following matrix be utilized in the identification of capital projects to be submitted to the Ministry of Education by May 21, 2021:

	Criteria	Original Weight	Revised Weight
1	Partnership Opportunities	15%	10%
2	Capacity - Amount of Portables in use	15%	15%
3	Capacity - 2024-2025 Utilization Rate	20%	20%
4	Capacity – Lack of space at nearby schools	15%	10%
5	Property/Lot Size	5%	10%
6	Facility Condition Index	15%	15%
7	Previous Completed Pupil Accommodation Review	15%	10%
8	<i>*New Previously Approved and Unfunded Top 10 Capital Priority</i>	0%	5%
9	<i>*New Equity Lens</i>	0%	5%
	Total	100%	100%

2. That a further report be prepared for consideration at the May 13, 2021 Corporate Services Committee meeting identifying the ten priority capital projects to be submitted to the Ministry of Education for funding consideration.

2021 Rank	School	Panel	Trustee Ward	Partnership Opportunities (5) Expression of Interest (10) Written Agreement	Capacity - Amount of Portables in use (Portable Capacity as a Percentage of Total Capacity) 1% to 20% (3) 21% to 30% (6) 31% to 40% (9) 41% to 50% (12) > 50% (15)	Capacity - 2024-25 Utilization Rate >120% (10) >150% (15) >175% (20)	Capacity - Lack of space at nearby schools (OS-ES=2km, OS-SS=5km, 2024) (10)	Property/Lot Size (ha) <2 ha (5) <1 ha (10)	Facility Condition Index 25% to 34% (3) 35% to 44% (6) 45% to 54% (9) 55% to 64% (12) > 65% (15)	Previous Completed Pupil Accommodation Review (unfunded Capital resolution) (5)	Previously Approved and Unfunded Top 10 Capital Priority (5)	Lack of Mechanical Ventillation Partial (3) No Ventillation (5)	Equity (Within City of Toronto Neighbourhood Improvement Area) (5)	Final Score*
1	NOTRE DAME	S	11		6	10	10	10	12		5	5		58
2	ST MONICA	E	11	5		10	10	10	12		5	3		55
3	ST CYRIL	E	5		3	10	10	10	12		5	5		55
4	ST RAPHAEL	E	5		6	10		10	9		5	5	5	50
5	OUR LADY OF THE ASSUMPTION	E	5		15	15		5	6		5	3		49
6	CHAMINADE	S	10		3	15	10		9		5		5	47
7	ST JEROME	E	5		6	20		5	3			5	5	44
8	ST MARTIN DE PORRES	E	12		9	10		5	9			5	5	43
9	ST MICHAEL/ST PAUL AT DUKE OF YORK	E	9					10	15	5	5		5	40
10	ST GREGORY	E	2		3	10	10	5	9					37

*Note: In instances where there is a tie in scoring following application of the matrix to all TCDSB schools, the utilization rate is used as the determining factor to resolve the statistical tie.



REPORT TO

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

STUDENT DEVICE RECOVERY AND REDISTRIBUTION

Let us go to the Jordan, and let us collect logs there, one for each of us, and build a place there for us to live.” He answered, “Do so.” 2 Kings 6:2

Created, Draft	First Tabling	Review
May 3, 2021	May 13, 2021	Click here to enter a date.
Steve Camacho, Chief Information Officer Omar Malik, Senior Coordinator, IT Planning and Strategy Joe Di Fonzo, Senior Coordinator, Technical Services Matteo Santucci, Senior Coordinator, Student Systems & ICT Trillium Lori DiMarco, Superintendent, Curriculum Leadership & Innovation; Academic ICT		
RECOMMENDATION REPORT		

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Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

In response to the COVID-19 pandemic and to support remote learning, the TCDSB procured and distributed approximately 20,000 devices over the 2019-20 and 2020-21 school years. The devices provided were Chromebooks or iPads loaned directly to individual students in need of a device for remote learning. The schools' shared devices already in the schools remained at the school for in-person learning.

When a student no longer requires their loaned device or leaves the TCDSB, the device must be returned to the school. The school then records the recovery and arranges for the device to be picked up and returned to the central supply to be available for other student needs across the system. Students with loaned devices were permitted to keep the device until the end of June 2021. At the end of this school year, the TCDSB will be asking that students to return all loaned devices to their home school.

This report provides information on the device recovery process as well as recommends a Proof-of-Concept for a student device program that combines a formal bring-your-own-device (BYOD) and TCDSB loaner device plan to achieve an equity device strategy for all TCDSB students.

The Proof-of-Concept will demonstrate the feasibility and potential of the student device program concept, and provide information for planning.

The cumulative staff time required to prepare this report was 25 hours

B. PURPOSE

This report responds three separate but related items regarding student devices.

1. On September 30, 2020 the Audit Committee recommended the following regarding the student device recovery process:

The Audit Committee recommend to Board that Staff provide the Board with the process on recovering any devices that were provided on loan for remote learning to students who are no longer students of the Toronto Catholic District School Board (TCDSB).

2. At the Special Board Meeting on June 18, 2020, the Board of Trustees resolved that students keep the loaned devices until the end of June 2021, or when they leave with following motion:

BE IT RESOLVED: That the TCDSB allow the students who have currently been provided with a Google Chrome Book or iPads to keep these devices until June 2021 or leave the TCDSB;

3. Also, at the Special Board Meeting on June 18, 2020, within Student Devices Needs report, staff recommended to report back on future device programs as follows:

That future device programs such as formal bring-your-own-device (BYOD) and low income family device loan program be explored and presented to the Board of Trustees at the end of the COVID-19 pandemic.

C. BACKGROUND

In April 2020, in response to the COVID-19 pandemic and to support a new distance learning model, the TCDSB started distributing computing devices (Chromebooks and iPads) directly to students who requested them and were considered in need. In general, Chromebooks (simple laptops) were distributed to students in grades 1 to grade 12 who had access to internet at home and LTE-enabled iPads were distributed to students who indicated that they had no internet at home.

1. *The ICT staff developed an application for order fulfilment and asset management including tracking device recovery.* When a device is returned to the school, the Principal updates the record for the student loaner device in the application and then contacts the ICT department to arrange for pickup. The device is then made centrally available for the next order request for any student across the system.
2. *Information and communication were sent to students and families regarding device return.* A letter with initial information was included in the box with the device delivery and further to this an email was sent to families before the end of the 2019-20 school year. Information and instructions for Principals were sent between April and December 2020 regarding device recovery and direction to follow up with their graduating or non-returning students to recover loaned devices.

3. ***Enhancements were made to the application to further assist Principals with device recoveries.*** The application was upgraded to provide a list of students with a demit record that are not returning the following year so that Principals can plan ahead. And a second list is provided of students that are currently are no longer with the TCDSB and have a loaner device that needs to be followed up on and returned.

TCDSB will be asking all student to return all loaner student devices by the end of June 2021. Schools must use the application and follow up with students that have loaned a device to collect, record and process the device recovery. Students in need of a device for a summer school program will be permitted to hold onto the device until the end of August 2021.

4. ***The inventory of returned devices presents an opportunity to accelerate objectives in the Information & Technology Strategic Plan while taking equity factors into consideration.*** One of the key results in meeting our objectives for the Information & Technology Strategy to build the foundation for the digitally enabled school is access to devices. This is on track and accelerated by the influx of devices purchased for remote learning. ***There is now an opportunity to shift these returned devices to a student device program*** and implement a new Proof-of-Concept student device program at the TCDSB in the 2021-22 school year.

D. EVIDENCE/RESEARCH/ANALYSIS

1. ***For the 2021-22 school year the TCDSB has approximately 37,000 school shared and student loaner devices that are four years or newer.*** Out of the 37,000 devices 12,500 are existing school shared devices for in-person learning and 24,500 are devices that were purchased to loan to students for remote learning needs. The school shared devices are made up of desktops, laptops, and tablets, whereas the student loaner devices are laptops (Chromebooks) and tablets (iPads.)
2. ***Schools will be enabled to pivot if there are additional emergency closures in 2021-22 due to the COVID-19 pandemic.*** By keeping the recovered devices at the schools, they will be able to more easily pivot and provide devices to students in need for remote learning should there be emergency school closures in 2021-22.

3. ***Staff are recommending a Proof-of-Concept student device program targeted at Grade 4 student in the 2021-22 school year where all grade 4 students will be asked to have a dedicated device.*** Student in Grade 4 will be expected to have a device through a combination of bring-your-own-device (BYOD) or a TCDSB loaner device. With this new standard for Grade 4 students, teachers will be able to reliably deploy teaching strategies that take advantage of a one-to-one student-to-device learning model. The rationale to start at Grade 4 supports strengthening EQAO scores as students move from Grade 3 to 6.
4. ***The student device program would be supplemented with a formal bring-your-own-device (BYOD) program.*** Families with the means to purchase their own student device would be encouraged to do so and provided with an information, strategies and tips. A BYOD program provides flexibility and eases some financial pressures on the TCDSB.
5. ***Grade 4 students who are unable or unwilling to purchase their own device will be eligible to receive a TCDSB loaner device.*** Families and students will be provided with information, guidance, and tips to receive and use the loaner device. Students with a SEA claim device already have a device and will not be eligible to receive a second device from the student device program.
6. ***A student device program supports the Information & Technology Strategic Plan to build a digitally enabled school, however, more is involved in gaining benefits of student device program for student success.*** A student device program must align with pedagogy and include training and support for staff and students. Digital security awareness and training is a key element for a safe environment. Professional development, in-service programs, guides, and communications will be needed.
7. ***Schools will manage and track their devices inventories as well as students that elect for bring-your-own-device (BYOD.)*** Schools will keep the devices they recover at the end of the 2020-21 school year as their overall school supply and to implement the Proof-of-Concept student device program. They will be responsible for allocating devices and updating asset inventory using systems, processes and procedures provided by the ICT department. This will provide schools with the flexibility to respond to nuances within their schools and support their local needs. They will also track students that elected for BYOD in order to help with research and planning.

8. ***Home internet will not be provided by the TCDSB as part of the student device program.*** The student device program will provide access to devices but not home internet for students and families. The TCDSB Digital Store on the public website provides current information on personal device and home internet options and offers to help guide students and families. Under the ministry Policy/Program Memorandum No. 164, the TCDSB will continue to support remote learning in times of extended interruption with access to devices and internet.
9. ***Research and analysis of the Proof-of-Concept program will help inform implementation of a full program in future years and financial model to grow and sustain the program.*** Information on inventory supply and demand, bring-your-own-device (BYOD) uptake, equity, pedagogy, and training needs will be analysed during the 2021-22 school year to inform future planning and costs to grow and sustain a student device program for the entire system.
10. ***There is no cost for this Grade 4 Proof-of-Concept in 2021-22 because there is a sufficient current inventory of device.*** Devices that will be collected at the end of 2020-21 school will be used for the Proof-of-Concept. However, depending on the percentage of student that bring their own device to school, a fully implemented program is estimated to costs between \$6M to \$12M per year over and above the TCDSB's current budget.

E. METRICS AND ACCOUNTABILITY

1. Staff will present the Board of Trustees in the Spring of 2022 with the results and additional planning and recommendations for the continuation.

F. IMPLEMENTATION, STRATEGIC COMMUNICATIONS AND STAKEHOLDER ENGAGEMENT PLAN

1. ***In advance of the end of the year, Principals will be provided with information and direction to collect all devices from students that have loaned them for remote learning needs with the exception of students requiring a device for a summer school program.*** Principals will be directed to collect devices from any summer school students in the fall. Principals will

also be informed to keep the devices for their school supplies in order to implement the Proof-of-Concept for a student device program and be enabled to pivot and support students in need if there are emergency closures in 2021-22.

2. ***In advance of the 2021-22 school year, families will receive communication on the Proof-of-Concept student device program.*** For students in enrolled in the Proof-of-Concept grade, families will receive information and guidance to decide on a TCDSB loaner device or bring-your-own-device (BYOD.)
3. ***Professional development, in-service programs, guides, and communications will be developed and implemented for teachers.*** In addition to this training, TCDSB will also provide training on digital security for staff, students, and families.

G. STAFF RECOMMENDATION

That the Board of Trustees support the student device recovery plan and the implementation of a Proof-of-Concept student device program for the 2021-22 school year.



REPORT TO

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

ONTARIO SCHOOL BOARD INSURANCE EXCHANGE (OSBIE) RENEWAL

Psalm 27:1

The Lord is my light and my salvation; whom shall I fear? The Lord is the stronghold of my life; of whom shall I be afraid?

Created, Draft	First Tabling	Review
April 29, 2021	May 13, 2021	Click here to enter a date.
D. Bilenduke, Senior Coordinator, Finance P. De Cock, Comptroller for Business Services & Finance		
RECOMMENDATION REPORT		

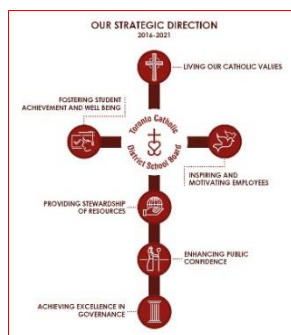
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Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

This report responds to the Ontario School Board Insurance Exchange (OSBIE) requirement for the TCDSB to provide a written confirmation by July 1, 2021 to renew its membership subscription for another five years effective January 1, 2022.

The cumulative staff time required to prepare this report was 3 hours.

B. PURPOSE

1. This report responds to an OSBIE request (attached as Appendix A) requesting the TCDSB commit for another five-year term. The TCDSB currently has partial ownership in OSBIE, and this request is required as per the terms of the Subscriber Agreement.

C. BACKGROUND

1. The TCDSB was one of the founding members of OSBIE in 1987. OSBIE is a reciprocal insurer which means it is a non-profit organization and is owned by its member boards. The Insurance coverage offered is tailor made to meet school boards needs and the risk management training and advice is customized specifically for school boards.
2. Currently OSBIE is the insurance provider to 70 of Ontario's 72 School Boards. Since its inception, OSBIE has been a model for financial strength and stability.
3. The TCDSB has equity ownership in OSBIE, and it is important to note that OSBIE has returned \$52.6 million in premium refunds to subscriber Boards over the last 5 years.

D. EVIDENCE/RESEARCH/ANALYSIS

1. If the TCDSB does not renew its membership with OSBIE, it will be forced to seek insurance coverage on the open "for profit" market which would likely result in a substantial premium increase.

2. Termination will result in the loss of all rights under the subscriber agreement, which includes equity ownership, investments and future rebates of premiums.
3. OSBIE is a consortium, so as a member and owner of OSBIE, the TCDSB is exempt from going to RFP per the BPS Procurement Directive.
4. The previous 4 OSBIE insurance premiums net of refunds is as follows:

	2018	2019	2020	2021
Premium Payable	2,155,870	2,234,743	2,334,141	2,447,224
Refund	-726,392	-549,889	-625,266	-630,726
Net Premium	1,429,478	1,684,854	1,708,875	1,816,498

E. METRICS AND ACCOUNTABILITY

1. If the Board does nothing the Subscribers' Agreement indicates that membership is automatically renewed for another 5-year term.
2. If the Board wishes to terminate the agreement, it must do so in writing before July 1st, 2021.
3. TCDSB Management staff have no issues of concern with the coverage and services provided by OSBIE, and determined there are no alternative cost effective opportunities elsewhere specifically tailored to the education sector.
4. Open market insurers can be influenced by many world macro-events and these costs are passed on to clients by higher premiums. An example of this would be the recent California wildfires.

F. STAFF RECOMMENDATION

That the Board of Trustees renew the TCDSB's insurance agreement with OSBIE for a 5-year term commencing on January 1, 2022 funded by the annual expenditure operating budget.



OSBIE

ONTARIO SCHOOL BOARDS'
INSURANCE EXCHANGE

February 25, 2021

Paul De Cock
Controller of Business Services
Toronto Catholic District School Board
80 Sheppard Ave., E.
WILLOWDALE, ON
M2N 6E8

RE: Subscription Renewal Period – January 1, 2022 – December 31, 2026

The end of the current 5-year subscription period with OSBIE is December 31, 2021. Financial strength, rate stability in a hard market, and continuity of coverage that members benefit from are three of the greatest rewards of continuing your committed partnership with OSBIE. In the past 5 years, subscribers have received \$52.6 million in refunds.

OSBIE is a consortium, so as a subscriber of OSBIE you are **exempt** from going to RFP (request for proposal) per the BPS (Broader Public Sector) Procurement Directive Section 5 – Exemptions, Exceptions, and Non-Applications under Trade Agreements.

As outlined in the Subscribers' Agreement, if your board's intent is to withdraw from membership with Ontario School Boards' Insurance Exchange you must give OSBIE **written** "Notice of Intention to Terminate Subscription" **before July 1st, 2021**. Conditional notices of termination will not be accepted.

If we do not receive written notice of cancellation before **July 1st, 2021**, the Subscribers' Agreement indicates that member is **automatically renewed** for another 5-year term.

If, after providing OSBIE written notice to terminate, your board decides to continue membership with OSBIE, the board must provide OSBIE written notification to reinstate subscription, subject to the following reinstatement policy as set out by our Board of Directors:

- a) Reinstatement of subscriber will be subject to a reinstatement fee of 1% of their annual premium for 2022, subject to a minimum of \$200 and a maximum fee of \$5,000.
- b) A Subscriber may request reinstatement of membership by November 30th, 2021 with no loss of rights under the Subscribers Agreement. **Reinstatement after November 30th, 2021 will result in forfeit rights to future refunds as outlined in the Subscribers' Agreement.**

Have any questions?

OSBIE will be hosting 2-4 virtual information sessions, including 1 in French, during the month of April. The sessions will provide you with an opportunity to ask questions, understand the benefits of being a subscriber, and hear about our new product and service plans to support Ontario school boards.

Should you have any questions or concerns, please do not hesitate to contact Tammy Hicks at tammyh@osbie.on.ca or 519-767-2182 ext. 228.

Sincerely,

Tammy Hicks, BMath, FCIP, CRM, CAIB
Director, Risk Management & Member Services

info@osbie.on.ca
osbie.on.ca

91 Westmount Road,
Guelph, Ontario N1H 5J2
Tel: 519-767-2182
Fax: 519-767-0281



REPORT TO

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

MONTHLY PROCUREMENT APPROVALS

“What you heard from me, keep as the pattern of sound teaching, with faith and love in Christ Jesus. Guard the good deposit that was entrusted to you—guard it with the help of the Holy Spirit who lives in us.”

2 Timothy 1:13-14

Created, Draft	First Tabling	Review
April 23, 2021	May 13, 2021	Click here to enter a date
D. Reid, (Acting) Coordinator of Material Management V. Artuso, Purchasing Manager P. De Cock, Comptroller of Business Services & Finance		
RECOMMENDATION REPORT		

Vision:

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

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.



Brendan Browne
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of Facilities,
Business and Community
Development

A. EXECUTIVE SUMMARY

As required by the TCDSB Purchasing Policy (FP.01), the Board of Trustees approve any procurement activity/awards in excess of \$50,000. This report submits to the Board of Trustees all procurement activity/awards in excess of \$50,000 subsequent to **April 22, 2021** for review and approval, and further reports will be prepared on a monthly basis for the Corporate Services, Strategic Planning and Property Committee.

The cumulative staff time required to prepare this report was 35 hours.

B. PURPOSE

1. This report responds to a TCDSB Purchasing Policy regulation requiring Board of Trustees approval for any procurement activity/award equal to or greater than \$50,000.

C. BACKGROUND

1. The Board Purchasing Policy FP01 provides delegation of authority to the Director of Education to approve the award of all contracts and expenditures not to exceed a threshold of \$50,000 where the Board of Trustees has approved the budget, project or report.
2. In order to facilitate procurement activity and/or awards in excess of the \$50,000 limit, this report recommends approval for the attached list of procurement requisitions and/or awards.

D. EVIDENCE/RESEARCH/ANALYSIS

1. A complete listing and description of procurement requisitions and/or awards appears in **Appendix A**.

E. CONCLUDING STATEMENT

That the Board of Trustees approve all procurement activities/awards listed in Appendix A.

Appendix A

No.	Report Name	Type	Vendor Name(s)	Description	Amount
1	Marshall McLuhan Computer Needs	New Procurement Award	Dell Canada Inc.	Computer Needs for Marshall McLuhan School	\$53,621.97
2	St. Norbert Catholic School Site House Demolition	New Procurement Award	Priestley Demolition Inc.	Demolition of houses at 38 & 40 Maniza Rd and 77 & 79 Plewes Rd.	\$222,136.00
3	St. Martin de Porres Catholic School Exterior Door Replacement	New Procurement Award	Windspec Inc.	Replacement of all exterior doors at St Martin de Porres Catholic School	\$ 89,500.00
4	Flooring Program 2021-2023 Unit-Rate Contract Award	New Procurement Award	M&M Carpet Inc.	Flooring replacement and repairs pertaining to a variety of floor coverings	Unit Price >\$50,000 per year
5	Winter Mats 2021 Contract Award	New Procurement Award	Superior Solutions Ltd. Mister Chemical Ltd.	Winter mats for school entrances. Contract is extendable up to 3 years.	\$64,080.00
6	Additional Student Barriers Covid-19 Emergency Procurement Award	Modifiction to Exisiting Award	Schoolhouse Products	Schoolhouse Products provides the student desk barriers.	\$644,282.67

Appendix A

No.	Report Name	Type	Vendor Name(s)	Description	Amount
7	Unit-Price Painting for 2021-2023 Contractor Award	New Procurement Award	Applewood Painting Ltd., Beverley Decorating Centre Ltd., and Brampton Painting Co. Ltd.,	Annual painting program in order to maintain and repair walls in schools.	Unit Price >\$50,000 per year
8	Temporary Staffing Services	Modifiction to Exisiting Award	Bedard Resources Inc Bagg Technology Resources Inc Bevertec CST Inc. Addecco Employment Services Altis Human Resources Inc Nexim Healthcare Consultants Inc Marberg Limited Staffworks Limited	Skilled Temporary Staffing Services for clerical, support, technical and information technology staffing	\$400,000

Appendix A

No.	Report Name	Type	Vendor Name(s)	Description	Amount
9	Bell Centrex 1 Year Agreement – Telephone Line Services	Modification to Existing Award	Bell Canada	Second 1-year renewal term per the renewal provision in the existing agreement for Bell phone lines.	\$721,000.00
10	St. John Paul II Catholic Secondary School Portable Classroom Replacement Electrical Contractor Award	New Procurement Award	R. Galati Contracting Limited	School Portable Classroom Replacement Electrical work	\$97,783.00
11	St. John Paul II Catholic Secondary School Portable Replacement Site Reconstruction and Repairs Contractor Award	New Procurement Award	Peltar Paving & General Contracting Company Limited	School Portable Replacement Site Reconstruction and Repairs	\$485,201.36
12	Holy Angels Catholic School at Allanhurst Electrical Installation Contractor Award	New Procurement Award	ONYX Fire Protection Services Inc.	Electrical and peripheral disconnection of portable classrooms at Holy Angels Catholic School and the reconnection of all portables at the temporary location	\$189,951.00

Appendix A

No.	Report Name	Type	Vendor Name(s)	Description	Amount
13	Various Schools Portable Moves and Relocations Contractor Award	New Procurement Award	Triple N Trucking Services Limited	Portable classroom relocations from the approved Annual Portable Plan & Other Accommodation Needs 2021-2022	\$555,000.00
14	Chaminade College Mini-Gym Upgrades Contractor Award	New Procurement Award	Bemocon Contracting Ltd.	Mini-gym renovation/upgrades at Chaminade College School, including replacement of flooring, acoustic panels, exterior door and painting.	\$98,615.00
15	St. Angela Catholic School Exterior Door-Window Replacement-Brick Restoration Contractor Award	New Procurement Award	Alwind Industries Ltd.	Replacement of all exterior doors, all exterior windows and brick restoration at St. Angela Catholic School	\$ 659,788.00
16	Christ the King Catholic School Interior Renovations Contractor Award – Partial CVRIS	New Procurement Award	Ross Clair Contractors	Interior renovation at Christ the King Catholic School	\$864,700.00
17	Portable Classroom Roof Remediation Unit-Price Contract Award	New Procurement Award	E-D Roofing Limited	Roof remediation and other sundry preventative maintenance repairs to portable classrooms	\$75,000.00 estimated (Unit Price)

Appendix A

No.	Report Name	Type	Vendor Name(s)	Description	Amount
18	New Language Solutions - TELL ON eLearning Project Partner	New Procurement Award	New Language Solutions	Adult Education Program	\$245,000.00



Procurement Award Report

(for Purchases/Contracts over \$50,000)

1. Report Information

Report Name	Marshall McLuhan Computer Needs
Report #	
Division	Area 3
SO/Executive	S. Campbell, Superintendent, Area 3
Initiator/Requestor	R. Leone, Principal
Report Type	New procurement award

2. Tender/RFP/RFQ Information

RFP/Tender #		Value (exclude all Taxes)	\$53,621.97
Term Start Date	April 29, 2021	Term End date	August 31, 2021

3. Description of Goods/Service or Change

Purchase of Computer Equipment as follows:

English Dept. - 6 Laptops
 Math Dept. - 34 Chromebooks
 Business Dept. - 30 Chromebooks
 Religion Dept. - 30 Chromebooks & 4 Laptops
 Science Dept. - 34 Chromebooks
 Spec. Ed. Dept - 4 Laptops
 Art Dept. - 1 Laptop

4. Procurement Process

Procurement Type	RFP
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	
Name of Recommend Vendor/Bidder	Dell Computer Inc.
Winning Bid Value (exclude all Taxes)	\$53,621.97
Budget Source	2020-21 Operating Budget
Budget Source approval (Report & Date)	561 001
New/Under/Over Budget	Within approved budget

5. Formal Award Recommendation

1.	That the Board award the contract for computers at Marshall McLuhan to Dell Computer Inc. in the amount of \$53,621.97 + taxes.
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Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	St. Norbert Catholic School Site House Demolition Contractor Award
Report #	Ren 2020 082
Division	Capital Development, Asset Management and Renewal
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management and Renewal
Initiator/Requestor	M. Lavrisa, Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-005-21	Value (exclude all Taxes)	\$222,136.00
Term Start Date	April 26, 2021	Term End date	May 31, 2021

3. Description of Goods/Service or Change

- Demolition of houses at 38 & 40 Maniza Rd and 77 & 79 Plewes Rd., purchased to expand the site of St. Norbert Catholic School.
- 2 Bids were received from request issued to a prequalified list of 6 vendors

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	2
Name of Recommend Vendor/Bidder	Priestley Demolition Inc.
Winning Bid Value (exclude all Taxes)	\$222,136.00
Budget Source	Education Development Charges
Budget Source approval (Report & Date)	REN 2020 010 (2021-01-14)

5. Formal Award Recommendation

1. That a Demolition contract be awarded to Priestly Demolition Inc. in the amount of \$222,136.00, plus net HST of \$4,798.14, for a total amount of \$226,934.14.
2. That funds be made available from Education Development Charges allocated to site preparation for St. Norbert Catholic School site redevelopment.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	St. Martin de Porres Catholic School Exterior Door Replacement Contract Award
Report #	Ren 2020 067
Division	Capital Development, Asset Management and Renewal
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management and Renewal
Initiator/Requestor	F.Sangiuliano, Project Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-007-21	Value (exclude all Taxes)	\$ 89,500.00
Term Start Date	June 28, 2021	Term End date	October 29, 2021

3. Description of Goods/Service or Change

Contract Award for replacement of all exterior doors at St Martin de Porres Catholic School.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	10
Name of Recommend Vendor/Bidder	Windspec Inc.
Winning Bid Value (exclude all Taxes)	\$ 89,500.00
Budget Source	School Condition Improvement Grant
Budget Source approval (Report & Date)	REN 2018-057 (2018-12-12)

5. Formal Award Recommendation

That a contract be awarded to Windspec Incorporated to replace all exterior doors at St Martin de Porres Catholic School, in the amount \$89,500.00, plus net HST of \$1,933.20 for a total of \$91,433.20.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Flooring Program 2021-2023 Unit-Rate Contract Award
Report #	Ope 2020 007
Division	Environmental Support Services
SO/Executive	M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	F. Ferrante, Operations Manager, West

2. Tender/RFP/RFQ Information

RFP/Tender #	T-022-21	Value (exclude all Taxes)	Unit Price
Term Start Date	01/01/2021	Term End date	December 31, 2023

3. Description of Goods/Service or Change

The Board carries out an annual program to provide maintenance of its flooring replacement and repairs pertaining to a variety of floor coverings, VCT/Ceramic and Carpet utilizing a unit-price contract.

On March 17, 2021, the Board issued tender T-022-21 for the flooring program to all prequalified vendors.

Bids were reviewed by Board staff who recommend that the unit-price contract be awarded to the lowest bidder, meeting Board specifications, as outlined in Appendix A. It is recommend that M&M Carpet Inc. be awarded the unit-price contract for vinyl flooring, all carpet, ceramic/porcelain tiles as well as area rugs.

The Board's annual expenditure for flooring projects is between \$200,000.00 and \$300,000.00 subject to availability of funds. A unit-price contract for expenditures up to \$25,000.00 allows us to contract the work to the approved unit-price contractors without going through the tendering process. Staff managing flooring projects over \$25,000.00 are responsible to ensure that such projects are tendered in accordance with the procurement policy.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	7
Name of Recommend Vendor/Bidder	M&M Carpet Inc.
Winning Bid Value (exclude all Taxes)	Unit Price
Budget Source	Maintenance and Operations budget
Budget Source approval (Report & Date)	Operations Department

5. Formal Award Recommendation

That the unit-price contract for the 2021- 2023 Flooring Program be awarded to M&M Carpet Inc.

That funding be made available from School Operations or School Renewal grant as appropriate.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Winter Mats 2021 Contract Award
Report #	Ope 2020 021
Division	Environmental Support Services
SO/Executive	M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	V. Luciani, Officer, Environmental Services

2. Tender/RFP/RFQ Information

RFP/Tender #	Q-013-21	Value (exclude all Taxes)	\$64,080.00
Term Start Date	May 3, 2021	Term End date	June 14, 2022

3. Description of Goods/Service or Change

During the winter, schools place mats at entrances to reduce the spread of dirt and debris throughout the school. Winter mats are replenished as required to replace mats that are no longer serviceable due to age, wear and tear.

This report recommends awarding the contract for supply of winter mats to two (2) vendors with the lowest bids for various sizes and types of weather mats selected to suit the school's needs (Appendix A). The recommended vendors are Superior Solutions Ltd. and Mister Chemical Ltd. Term of the contract will be pursuant to the OECM Custodial Supplies and Equipment Contract term. The Initial Term contract with OECM will expire on June 14, 2022 with the option to renew for one (1) additional period of up to two (2) years.

Funds are available in the annual Operations budget based on prior years' experience. The estimated annual total of the purchase of winter mats is approximately \$32,040 plus taxes.

4. Procurement Process

Procurement Type	RFQ
Consortium/Group Purchase	Yes - OECM
# of Compliant Bidders/Respondents	5
Name of Recommend Vendor/Bidder	Superior Solutions Ltd. & Mister Chemical Ltd.
Winning Bid Value (exclude all Taxes)	\$32,040.00 per year
Budget Source	Facilities Operation Budget
Budget Source approval (Report & Date)	Within approved budget

5. Formal Award Recommendation

1. That a contract for the supply of winter mats be awarded to the two (2) lowest bidders meeting Board specifications, being Superior Solutions Ltd. and Mister Chemical Ltd.
2. That the initial term contract will expire on June 14, 2022 with the option to renew for one (1) additional period of up to two (2) years.
3. The annual expenditures for the purchase of winter mats is approximately \$32,040.00 plus taxes.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Additional Student Barriers Covid-19 Emergency Procurement Award
Report #	Ope 2020 019
Division	Environmental Support Services
SO/Executive	M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	S. Martens, Service Quality Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	OECM Quick Quote	Value (exclude all Taxes)	\$644,282.67
Term Start Date	Click or tap to enter a date.	Term End date	Click or tap to enter a date.

3. Description of Goods/Service or Change

Due to COVID-19 Emergency response, additional units were purchased under the unit-price contract established in a previous Request for Quotation (RFQ).

Schoolhouse Products provides the student desk barriers at a unit price of \$33.95 plus net HST. This will provide 18,575 barriers for students in the amount of \$644,282.67 plus net HST \$13,916.50, for a total of \$658,199.17

4. Procurement Process

Procurement Type	RFQ
Consortium/Group Purchase	Yes - OECM
# of Compliant Bidders/Respondents	6
Name of Recommend Vendor/Bidder	Schoolhouse Products
Winning Bid Value (exclude all Taxes)	\$644,282.67
Budget Source	20/21 - COVID 19 and 20/21 - Second Wave Federal COVID Funding
Budget Source approval (Report & Date)	

5. Formal Award Recommendation

That the Board ratify staff action for the purchase of an additional 18,575 barriers for students to Schoolhouse Products in the amount of \$644,282.67 plus net HST \$13,916.50, for a total of \$658,199.17.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Unit-Price Painting for 2021-2023 Contractor Award
Report #	Ope 2020 024
Division	Environmental Support Services
SO/Executive	M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	F. Macieri, Operations Manager

2. Tender/RFP/RFQ Information

RFP/Tender #	T-023-21	Value (exclude all Taxes)	Unit Price
Term Start Date	January 1, 2021	Term End date	December 31, 2023

3. Description of Goods/Service or Change

The Board carries out an annual painting program in order to maintain and repair walls in classrooms, corridors, washrooms, stairwells, utility rooms and exterior surfaces at various facilities by utilizing a unit-price contract.

On March 18, 2021, the Board issued tender T-023-21 for the painting program to all vendors on bidsandtenders.ca.

Bids reviewed by Board staff recommend that the unit-price contract use the three lowest bidders meeting Board specifications as outlined in Appendix A. It recommends that Board utilize Applewood Painting Ltd., Beverley Decorating Centre Ltd. and Brampton Painting Co. Ltd., for the unit-price contract for all painting needs subject to service and quality.

The Board's annual expenditure for painting projects is between \$200,000.00 and \$300,000.00 subject to availability of funds. A unit-price contract for

expenditures up to \$25,000.00 allows us to contract the work to the approved unit-price contractors without going through the tendering process.

Staff managing painting projects over \$25,000.00 are responsible to ensure that such projects are tendered in accordance with the Procurement Policy.

There is no financial commitment with this award as funds will only be expended on an “as required” basis.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	11
Name of Recommend Vendor/Bidder	Applewood Painting Ltd., Beverley Decorating Centre Ltd., and Brampton Painting Co. Ltd.,
Winning Bid Value (exclude all Taxes)	Unit Price
Budget Source	Maintenance and Operations Budget

5. Formal Award Recommendation

Award to the three lowest bidders meeting Board specifications being Applewood Painting Ltd., Beverley Decorating Centre Ltd., and Brampton Painting Co. Ltd. for a two year term. Based on an estimated annual amount of \$300,000.00, the upset limit for a 2 year terms would be \$600,000 plus net HST.

T-023-21 - Painting - Unit Price 2021-2023 - Quote Form - Appendix A

		Morosons Construction Limited	Tradeworks Interiors Canada Corp	Applewood Painting Ltd.	Beverley Decorating Centre Ltd	Living Stone Painting Inc.	sure general contractors inc	Bevcon Constructio n & Paving Ltd	Etka Construction Inc	Brampton Painting Co. Ltd.	Neptune Security Services Inc	SQM JANITORIAL SERVICES INC.
Line Item	Item	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
1	Patching sanding and one coat prime apply two coats of finish paint. For typical classroom walls (1200 sq ft.). Price per square foot	\$ 2.7500	\$ 2.5000	\$ 0.7000	\$ 0.7500	\$ 1.0000	\$ 2.5800	\$ 0.8000	\$ 0.9200	\$ 0.6500	\$ 4.5000	\$ 1.9500
2	Ceilings shall include concrete drywall plaster steel deck structural steel beams and joists pipes ducts and the like attached to ceilings. For typical classroom ceiling (800 sq ft.). Price per square foot	\$ 3.0300	\$ 3.5000	\$ 0.7900	\$ 0.6500	\$ 1.0000	\$ 3.0900	\$ 0.8000	\$ 1.0800	\$ 0.8000	\$ 8.0000	\$ 2.5500
3	Utility rooms such as boiler rooms electrical rooms mechanical rooms etc. Floors painted with an epoxy based paint. Price per square foot	\$ 6.0500	\$ 6.0000	\$ 0.8000	\$ 1.0000	\$ 1.5500	\$ 2.2500	\$ 1.7500	\$ 4.8500	\$ 2.3000	\$ 10.0000	\$ 6.5500
4	Fire doors exit doors and frames to be painted both on the interior and exterior sides. Price per each	\$ 110.0000	\$ 75.0000	\$ 50.0000	\$ 70.0000	\$ 100.0000	\$ 32.9500	\$ 75.0000	\$ 188.0000	\$ 65.0000	\$ 350.0000	\$ 115.0000
5	Close grain wood doors and frames repair stain and varnish. Price per each	\$ 285.0000	\$ 75.0000	\$ 45.0000	\$ 70.0000	\$ 160.0000	\$ 32.2500	\$ 75.0000	\$ 270.0000	\$ 145.0000	\$ 500.0000	\$ 95.0000
6	Stairwells shall have walls soffits doors and frames railings pickets risers stringers etc. where applicable. Paint treads with an epoxy-based paint. Unit = 1 Floor. Price per floor	\$ 2,475.0000	\$ 5,000.0000	\$ 525.0000	\$ 1,080.0000	\$ 1,600.0000	\$ 425.7500	\$ 900.0000	\$ 1,620.0000	\$ 500.0000	\$ 29,500.0000	\$ 2,500.0000
7	Washroom cubicles – sanding prime two coats of finish paint. Price per cubicle	\$ 2.9700	\$ 250.0000	\$ 50.0000	\$ 80.0000	\$ 700.0000	\$ 785.1500	\$ 100.0000	\$ 648.0000	\$ 62.0000	\$ 12,500.0000	\$ 275.0000



Procurement Award Report

(for contracts over \$50,000)

1. Report Information

Report Name	Temporary Staffing Services
Division	ICT Services Division
SO/Executive	O. Malik, Chief Information Officer (Acting)
Initiator/Requestor	J. Di Fonzo, Senior Coordinator, IT Infrastructure & Operations I. Kearney, Senior Manager, Service Desk & Telephone Infrastructure
Report Type	Modification to existing award

2. Tender/RFP Information

RFP/Tender #	T-2019-110 Temporary Services	Value (excludes all taxes)	\$400,000
Term Start Date	January 15, 2020	Term End date	November 30, 2022

3. Description of Goods/Service or Change

In January 2020, the Toronto Catholic District School Board and the Dufferin-Peel Catholic District School Board jointly issued a Request for Tender (“RFT”) for the purpose of acquiring skilled Temporary Staffing Services for clerical, support, technical and information technology staffing. The term end date for this Tender and the awarded vendors is November 30, 2022.

The ICT Services Division had originally estimated a spend of \$400,000 for the term of this contract (January 2020 to November 2022). Due to the current COVID-19 pandemic, additional temporary information technology staffing services had to be used to meet the much-increased demands for ICT services. The original estimated spend of \$400,000 for temporary information technology staffing services has been reached earlier than expected.

This report recommends increasing the estimated spend for temporary information technology staffing services by an additional \$400,000 for the remainder of the term to address any staffing needs for ICT projects and to meet any increased demands for ICT services.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	Yes - Other
# of Compliant Bidders/Respondents	Eight (8)
Name of Recommend Vendor/Bidder	Bedard Resources Inc. Bagg Technology Resources Inc. Bevertec CST Inc. Addecco Employment Services Altis Human Resources Inc. Nexim Healthcare Consultants Inc. Marberg Limited Staffworks Limited
Winning Bid Value + Net HST	\$400,000 – IT temporary staffing
Budget Source	ICT Services Division – Staffing and Operations budgets
Budget Source approval (Report & Date)	2020-21 Budget Estimates – Overall and Instructional 2020-21 Budget Estimates – Non-Instructional July 23, 2020
Under/Over Budget	Within approved budget

5. Formal Award Recommendation

This report recommends increasing the estimated spend for temporary information technology staffing services by an additional \$400,000 for the remainder of the term.



Procurement Award Report

1. Report Information

Report Name	Bell Centrex 1 Year Agreement – Telephone Line Services Procurement Report
Division	ICT – Technical Services
SO/Executive	S. Camacho, Associate Director of Education
Initiator/Requestor	I. Kearney, Senior Manager - IT Infrastructure & Operations O. Malik, Senior Coordinator - IT Planning & Strategy
Report Type	Modification to existing award

2. Tender/RFP Information

RFP/Tender #	RFP	Value + Net HST	\$721,000.00
Term Start Date	July 1, 2020	Term End date	June 30, 2021

3. Description of Goods/Service or Change

Telephone lines are essential to school and CEC operations. Bell telephone lines and services provide the voice communications foundation to all TCDSB schools and the CEC. Bell provide these phone lines through its “Centrex” service to local boards and municipalities. In 2016, an amended agreement established an initial 3-year term to July 2019 and two subsequent 1-year renewal terms up to July 2021 for Bell telephone line services for all schools and the CEC.

This report recommends executing the second 1-year renewal term per the renewal provision in the existing agreement. The monthly rate would be fixed for the duration of this renewal agreement and all other financial terms of the agreement remain the same. Annual operating costs for Bell Centrex telephone services is \$721,000 including net taxes.

Funds are already included the 2019/20 operating budget.

4. Procurement Process

Procurement Type	RFP
Consortium/Group Purchase	Choose an item.
# of Compliant Bidders/Respondents	
Name of Recommend Vendor/Bidder	Bell Canada
Winning Bid Value + Net HST	\$721,000.00
Budget Source	2019/20 Operating Budget
Budget Source approval (Report & Date)	2019- 2020 Budget Estimates – Overall Instructional Volumes 1, 2, 3, 4 2019- 2020 Budget Estimates – Non-Instructional Volumes 5, 6 June 13, 2019
Under/Over Budget	Within approved budget

5. Formal Award Recommendation

This report recommends executing the second 1-year renewal term per the renewal provision in the existing agreement with Bell for school and CEC telephone services. Annual operating costs for Bell Centrex telephone services is \$721,000 including net taxes.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	St. John Paul II Catholic Secondary School Portable Classroom Replacement Electrical Contractor Award
Report #	Ren 2020 099
Division	Capital Development, Asset Management and Renewal/Environmental Support Services
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	D. Domet, Portable Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	Quotations	Value (exclude all Taxes)	\$97,783.00
Term Start Date	June 1, 2021	Term End date	August 31, 2021

3. Description of Goods/Service or Change

The scope-of-work includes the disconnection of thirteen (13) portable classrooms at St. John Paul II Catholic Secondary School, three of which are prepared for split move, the removal of all old conduit and clevises from the school walls and replacement of determined electrical switches. Provide new and upgraded exterior wire from electrical rooms to portables via three provided wooden electrical poles and all electrical connections, fire alarm, communications security and Wi-Fi data as per the standard provided. All permits, approvals, and certification included.

4. Procurement Process

Procurement Type	RFQ
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	3
Name of Recommend Vendor/Bidder	R. Galati Contracting Limited
Winning Bid Value (exclude all Taxes)	\$97,783.00
Budget Source	Portable Classroom Renewal Budget
Budget Source approval (Report & Date)	Annual Portable Plan and Other Accommodation Needs, 2021-2022 April 22, 2021; 2020-2021 School Renewal Plan, Jan. 14, 2021

5. Formal Award Recommendation

That a contract for all electrical disconnection, improvement and reconnection including fire alarm, security, communications, data, poles and all permits and certification, for portable classrooms at St. John Paul II Catholic Secondary School, be awarded to R. Galati Contracting Ltd., in the amount of \$97,783.00 plus HST of \$2,112.11 for a total of \$99,985.11.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	St. John Paul II Catholic Secondary School Portable Replacement Site Reconstruction and Repairs Contractor Award
Report #	Ren 2020 100
Division	Capital Development, Asset Management and Renewal/Environment Support Services
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	D. Domet, Portable Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-032-21	Value (exclude all Taxes)	\$485,201.36
Term Start Date	June 1, 2021	Term End date	August 31, 2021

3. Description of Goods/Service or Change

Thirteen portable classrooms at St. John Paul II Catholic Secondary School dating from 1986 will be demolished (10) or relocated (3) and replaced with 15 newer portable classrooms from Dante Alighieri Catholic Academy. The asphalt surface is in extremely poor condition and original to the site. Testing reveals that only 2" of stone exist over native soil and the asphalt is not heavy duty. The area for the portables and a suitable demarcation is to be excavated with removals and stone and asphalt to the Board's standard for heavy-duty asphalt.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	6
Name of Recommend Vendor/Bidder	Peltar Paving & General Contracting Company Limited
Winning Bid Value (exclude all Taxes)	\$485,201.36
Budget Source	2021-2022 Renewal Budget
Budget Source approval (Report & Date)	Annual Portable Plan & Other Accommodation Needs 2021-2022 April 22, 2021; 2020-2021 School Renewal Plan, Jan. 14, 2021.

5. Formal Award Recommendation

That the tender for the site reconstruction for the Portable Classroom Project at St. John Paul II Catholic Secondary School be awarded to Peltar Paving & General Contracting Limited in the amount of \$485,201.36 plus net HST of \$10,480.35 for a total of \$496,681.71.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Holy Angels Catholic School at Allanhurst Electrical Installation Contractor Award
Report #	Ren 2020 101
Division	Capital Development, Asset Management and Renewal/Environmental Support Services
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	D. Domet

2. Tender/RFP/RFQ Information

RFP/Tender #	T-031-21	Value (exclude all Taxes)	\$189,951.00
Term Start Date	May 17, 2021	Term End date	August 31, 2021

3. Description of Goods/Service or Change

Electrical and peripheral disconnection of portable classrooms at Holy Angels Catholic School and the reconnection of all portables at the temporary location at 100 Allanhurst Drive including all fire alarm, security, public address and Data systems. Scope of work includes trenching and the provision of the equipment for Toronto Hydro Energy Systems Inc. pad-mount 500kVA 600 Volt transformer and all underground civil work associated with the same. Work shall also include the upgrading of interior electrical to feed the school and the portable classrooms, all certifications and permits from the Electrical Safety Authority.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	6
Name of Recommend Vendor/Bidder	ONYX Fire Protection Services Inc.
Winning Bid Value (exclude all Taxes)	\$189,951.00
Budget Source	2021-2022 Renewal Budget
Budget Source approval (Report & Date)	Annual Portable Plan & Other Accommodation Needs 2021-2022 April 22, 2021; 2020-2021 School Renewal Plan, Jan. 14, 2021

5. Formal Award Recommendation

That a contract award for the electrical disconnection and reconnection for portable classrooms for the Holy Angels Catholic School temporary location at the former Buttonwood PS site, 100 Allanhurst Drive be awarded to ONYX Fire Protection Services Inc. in the amount of \$189,951.00 plus net HST of \$4,102.94 for a total of \$194,053.94.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Various Schools Portable Moves and Relocations Contractor Award
Report #	Ren 2020 103
Division	Capital Development, Asset Management and Renewal/Environment Support Services
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management M. Farrell, Superintendent, Environmental Support Services
Initiator/Requestor	D. Domet, Portable Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	N/A	Value (exclude all Taxes)	\$555,000.00
Term Start Date	June 1, 2021	Term End date	August 31, 2021

3. Description of Goods/Service or Change

Portable classroom relocations from the approved Annual Portable Plan & Other Accommodation Needs 2021-2022 as follows:

- Chaminade College
- Holy Angels Catholic School temporary relocation to Buttonwood
- St. John Paul II Catholic Secondary School
- St. Lawrence Catholic School
- Holy Redeemer preparation for temporary accommodation

Triple N Trucking Services Limited (formerly Douglas Hunter Developments Limited) is the sole-source, unit-price contractor for portable classroom relocations for the Toronto Catholic District School Board.

4. Procurement Process

Procurement Type	Single/Sole Source
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	N/A
Name of Recommend Vendor/Bidder	Triple N Trucking Services Limited (formerly Douglas Hunter Developments Limited)
Winning Bid Value (exclude all Taxes)	\$555,000.00
Budget Source	2021-2022 Renewal Budget
Budget Source approval (Report & Date)	Annual Portable Plan & Other Accommodation Needs 2021-2022 April 22, 2021; 2020-2021 School Renewal Plan, Jan. 14, 2021

5. Formal Award Recommendation

That a contract be awarded to Triple N Trucking Services Limited for portable classroom relocations as follows:

- Chaminade College \$120,000.00;
- Buttonwood for Holy Angels CS temporary relocation: \$130,000.00;
- St. John Paul II Catholic Secondary School: \$185,000.00;
- St. Lawrence Catholic School: \$40,000.00;
- Holy Redeemer for temporary accommodation: \$80,000;

for a combined amount of \$555,000.00, plus net HST of \$11,988.00, for a total of \$566,988.00.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Chaminade College Mini-Gym Upgrades Contractor Award
Report #	Ren 2020 112
Division	Capital Development, Asset Management and Renewal
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management and Renewal
Initiator/Requestor	A. Ruschetta, Project Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-041-21	Value (exclude all Taxes)	\$98,615.00
Term Start Date	May 13, 2021	Term End date	September 3, 2021

3. Description of Goods/Service or Change

Mini-gym renovation/upgrades at Chaminade College School, including replacement of flooring, acoustic panels, exterior door and painting.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	10
Name of Recommend Vendor/Bidder	Bemocon Contracting Ltd.
Winning Bid Value (exclude all Taxes)	\$98,615.00
Budget Source	School Conditions Improvements
Budget Source approval (Report & Date)	Ren 2019-002 (2019-10-10)

5. Formal Award Recommendation

That a contract be awarded to Bemocon Contracting Ltd. in the amount of \$98,615.00, plus net HST of \$2,130.84, for a total of \$100,745.84 for mini-gym upgrades at Chaminade College School.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	St. Angela Catholic School Exterior Door-Window Replacement-Brick Restoration Contractor Award
Report #	Ren 2020 113
Division	Capital Development, Asset Management and Renewal
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management and Renewal
Initiator/Requestor	A. Ruscetta, Project Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-038-21	Value (exclude all Taxes)	\$ 659,788.00
Term Start Date	May 13, 2021	Term End date	December 13, 2021

3. Description of Goods/Service or Change

Replacement of all exterior doors, all exterior windows and brick restoration at St. Angela Catholic School.
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4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	8
Name of Recommend Vendor/Bidder	Alwind Industries Ltd.
Winning Bid Value (exclude all Taxes)	\$659,788.00
Budget Source	School Condition Improvement Grant
Budget Source approval (Report & Date)	Ren 2018-057 (2018-12-12)

5. Formal Award Recommendation

That a contract for the exterior brick and window/door replacement at St. Angela Catholic School be awarded to Alwind Industries Ltd. in the amount of \$659,788.00, plus net HST of \$14,251.42, for a total of \$674,039.42.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Christ the King Catholic School Interior Renovations Contractor Award – Partial CVRIS
Report #	Ren 2020 114
Division	Capital Development, Asset Management and Renewal
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management and Renewal
Initiator/Requestor	J. Lester, Project Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-019-21	Value (exclude all Taxes)	\$864,700.00
Term Start Date	May 17, 2021	Term End date	October 29, 2021

3. Description of Goods/Service or Change

Interior renovation at Christ the King Catholic School including but not limited to painting of all interiors, refurbishment of existing classroom millwork and new whiteboards in all classrooms. Full demo and renovation of all washrooms including flooring as indicated, new wall tiles, new fixtures, hand washing stations, new toilet partitions. Replacement of all interior lighting fixtures including emergency lighting system and signage, patch walls and ceilings to accommodate new work. Replacement of flooring and ceilings in certain classrooms as indicated on drawings. New ceilings, screens, and millwork at front reception of the school. Replacement of drinking fountains in corridors as indicated on drawings and specifications.

Work is required to accommodate St. Leo Catholic School students, starting in September 2021, during construction of replacement school.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	11
Name of Recommend Vendor/Bidder	Ross Clair Contractors
Winning Bid Value (exclude all Taxes)	\$864,700.00
Budget Source	SRA / CVRIS Funding
Budget Source approval (Report & Date)	Ren 2019-118 (2020-05-01) Ren 2020-010 (2021-01-14) CVRIS Funding (Hand Washing Stations)

5. Formal Award Recommendation

That a construction contract be awarded to Ross Clair Contractors for the interior renovations, lighting upgrades and washroom upgrades at Christ the King Catholic School in the amount of \$864,700.00 plus net HST of \$18,677.52 for a total of \$883,377.52.



Procurement Award Report

(for Contracts over \$50,000)

1. Report Information

Report Name	Portable Classroom Roof Remediation Unit-Price Contract Award
Report #	Ren 2020 119
Division	Capital Development, Asset Management and Renewal/Environment Support Services
SO/Executive	D. Friesen, Superintendent, Capital Development, Asset Management and Renewal M. Farrell, Superintendent, Environment Support Services
Initiator/Requestor	D. Domet, Project Supervisor

2. Tender/RFP/RFQ Information

RFP/Tender #	T-033-21	Value (exclude all Taxes)	\$75,000.00 estimated (Unit Price)
Term Start Date	May 17, 2021	Term End date	December 31, 2023

3. Description of Goods/Service or Change

The Board requires a unit-price contractor available as needed to perform roof remediation and other sundry preventative maintenance repairs to portable classrooms. Work is to include removal of steel, repairs, water sealing and replacement of steel. Options include sealing roof joint after portable classroom relocation and eaves troughs. Anticipated costs are approximately \$75,000.00 per year. Refer to appendix for schedule of unit rates.

4. Procurement Process

Procurement Type	Tender
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	8
Name of Recommend Vendor/Bidder	E-D Roofing Limited
Winning Bid Value (exclude all Taxes)	\$75,000.00 estimated (Unit Price)
Budget Source	2021-2022 Renewal Budget
Budget Source approval (Report & Date)	Annual Portable Classroom & Other Accommodation Needs April 22, 2021; 2020-2021 School Renewal Plan, Jan. 14, 2021

5. Formal Award Recommendation

That the Portable Classroom Roof Remediation unit price contract be awarded to E-D Roofing Limited, as per attached schedule, at an estimated annual amount of \$75,000.00 + net HST.



Procurement Award Report

(for contracts over \$50,000)

Report Name	New Language Solutions
Division	Adult Education
SO/Executive	P. Aguiar, Superintendent of Education
Initiator/Requestor	L. Hu-DiNoto, Administrator
Report Type	New procurement award

Tender/RFP Information

RFP/Tender #		Value + Net HST	\$245,000
Term Start Date	April 1, 2021	Term End date	March 31, 2022

Description of Goods/Service or Change

Vendor: New Language Solutions

Type: Contract

TELL ON eLearning Project Partner (Tax code R2)

April 1, 2021 – August 31, 2021: \$92,500

September 1, 2021 – March 31, 2022: \$130,000

TELL ON eLearning Project Partner (Tax code P0)

April 1, 2021 – August 31, 2021: \$10,000

September 1, 2021 – March 31, 2022: \$12,500

Adult Education Program.

Procurement Process

Procurement Type	Single/Sole Source
Consortium/Group Purchase	No
# of Compliant Bidders/Respondents	1
Name of Recommend Vendor/Bidder	New Language Solutions
Winning Bid Value + Net HST	\$245,000
Budget Source	GL 65400 I/O 3000056
Budget Source approval (Report & Date)	
Under/Over Budget	Within approved budget

Formal Award Recommendation

That the award for TELL ON eLearning Project Partner be awarded to New Language Solutions in the amount of \$245,000 + net HST.



REPORT TO

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

RETURN TO SCHOOL UPDATE

*"I can do all things through him who strengthens me."
Philippians 4:13*

Created, Draft	First Tabling	Review
May 6, 2021	May 13, 2021	Click here to enter a date.
Barbara Loporati, Senior Coordinator, Planning Services Corrado Maltese, Coordinator, Occupational Health and Safety John Wujek, Superintendent, Area 5 and Parent Engagement Shawna Campbell, Superintendent, Area 3 and Early Years Emma Moynihan, Supervisor, Communications and Public Relations Shazia Vlahos, Chief of Communications and Government Relations Michael Loberto, Superintendent, Planning and Development Services Deborah Friesen, Superintendent, Capital Development, Asset Management and Renewal Adrian Della Mora, Executive Superintendent of Human Resources Omar Malik, Acting Chief Information Officer		
INFORMATION REPORT		

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Brendan Browne, PhD
Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of Facilities,
Business and Community
Development

A. EXECUTIVE SUMMARY

The last update to the Reopening Action Plan was submitted to the April 22, 2021 Board meeting for information and consideration. This report provides additional information concerning items occurring since that time. The Reopening Action Plan is updated as necessary and is available on the TCDSB website. Key updates and strategies are provided for consideration.

This week's report includes updates from the Ministry of Education regarding the 2021-22 school year. Also included are vaccine rollout information, cycling to school, outdoor classrooms, and technology.

TCDSB schools will continue to follow safety measures and guidance from Toronto Public Health as schools return to in person learning.

The cumulative staff time required to prepare this report was 20 hours

B. PURPOSE

To provide the Board with updates as they pertain to the TCDSB Reopening Action Plan.

C. BACKGROUND

The TCDSB Reopening Action Plan, Staff Manual and Transition to Distance Learning Plan continue to reflect the process for operating schools safely. Items from Board motions and Ministry updates that are confirmed have been included as required. Schools will continue to follow established protocols for virtual and in person learning.

D. EVIDENCE/RESEARCH/ANALYSIS

Ministry Announcements

1. *The Ministry of Education has released some relative information related to planning for the 2021-2022 school year.* Staff have included appropriate

information within the return to school report but other memos are expected over the next few months to prepare for a return to learning in September 2021.

2. ***The Ministry of Education will release further details related to health and safety strategies required for the upcoming school year during the summer of 2021.***
3. ***Further details related to the GSN announcement will be provided in a separate Corporate Services report.*** Money has been allocated to support school boards in facilitating a safe school year. School boards received funding within a number of categories such as staffing, operations, transportation, staffing, technology, mental health, special education, and additional student supports.
4. ***The Ministry has allocated funds to support school-focused nurses in public health units and testing in schools.*** More details related to this funding will be provided at a later date.
5. ***For 2021-2022, school boards will continue to be required to offer remote learning options consistent with PPM 164.*** The deadline for parents to respond as to whether their child will attend in-person or remote classes must be delayed until June 1, 2021 at the earliest. Senior staff continue to work on a communication plan for parents that will include details of learning options for the 2021-2022 school year.
6. ***The Ministry will be providing supplementary elementary digital learning resources through TVO and TFO.*** These resources will be aligned with curriculum expectations for each subject in Grades 1-8 and Kindergarten. These resources will be available for our summer learning program and for in-person and remote learning for the next school year. Students could also review content online at home to help with homework or to support learning retention through the summer months. TCDSB will include a link to the resources on our Summer Playground Learning page on the Board website once it is available.
7. ***Starting September 2021, elementary students should continue to be cohorted with their classmates and their homeroom teacher.*** Specialized teachers (French, Music, HPE, Special Education, etc.) are still able to go into classrooms to provide programming to students. Students may be put into smaller groups for supports (e.g. ESL, Special Education, etc.) with students from other cohorts on Toronto Public Health advice.

8. ***Starting September 2021, secondary students should be timetabled to emphasize cohorting of students as much as possible and limit the number of student-to-student contacts.*** School boards will be limited to two in-person classes (such as quadmestering) in order to maintain contact tracing capabilities.
9. ***The Ministry has launched Ontario's Learning Recovery and Renewal initiative.*** This approach will include a focus on student mental health and well-being, early reading and math, re-engaging students, special education, French language supports, and educator readiness including professional learning communities and opportunities to share effective practices. More information will be forthcoming from the Ministry outlining the details associated with this initiative.
10. ***In 2021-2022, the required number of hours for community involvement activities will be reduced from 40 to a minimum of 20 hours for graduating students.*** The requirement will revert back to 40 hours for the 2022-2023 school year. Staff will review the community service information and advise principals of the new procedures related to this graduation requirement.
11. ***Starting with the Grade 9 cohort in 2021-2022, students will be required to earn two credits online as part of the graduation requirements.*** More information will be provided by the Ministry which will include the opt-out process as well as the extend to which credits earned during remote learning due to the COVID-19 pandemic can be counted toward online learning graduation requirement. Secondary schools should continue to keep track of student enrolment in full-time and adapted model remote learning.
12. ***Students graduating in the 2021-2022 school year are exempted from the literacy graduation requirement.*** This requirement will be restored for students graduating in the 2022-2023 school year.
13. ***EQAO will provide a Fall 2021 administration of the OSSLT in addition to a Spring 2022 administration.*** This will allow students two opportunities to complete the literacy graduation requirement for those students that will need to pass the OSSLT or participate in the literacy course.
14. ***In 2021-2022, regular EQAO assessments will resume.*** All students in Grade 3 and 6 attending in-person learning will participate in the online EQAO math, reading, and writing assessments. Grade 9 students attending in-person will write the Grade 9 math assessment. For all EQAO assessments, including the OSSLT, students who are learning remotely and wish to participate in the assessment can, at the discretion of the school board, attend

in-person for the purpose of participating in the assessment so long as all applicable health and safety measures can be met.

15. ***For 2021-2022, school boards will continue to have flexibility to determine the final evaluation for up to 30% of a student's final mark.*** The use of culminating activities, projects, performances and exams can be considered as part of a final evaluation as per the guidelines in Growing Success.

Vaccinations

16. ***Staff and family communications were shared including information from Toronto Public Health about vaccines, the roll-out, access and a Q&A session with Dr. Vinita Dubey.***
17. ***We continue to monitor for information about vaccine clinics/opportunities and share on our social media channels as appropriate.***
18. ***All TCDSB staff received eligibility letters to date for access to vaccines as per the Ministry and TPH eligibility requirements.***
19. ***Health Canada has approved the Pfizer-BioNTech vaccine for children ages 12 and up.*** TCDSB will continue to monitor this situation and we look forward to continuing to work closely with TPH and health partners to support any actions. We will share any additional information as soon as it becomes available.

Cycling to School

20. ***Installation of 48 bicycle racks at 34 schools has been completed.*** With the further installation of 33 bike racks at 25 schools over the next couple of weeks, every school will have bicycle parking available. Installation of bike racks at all schools is anticipated to be completed by the end of May, 2021.

Outdoor Classrooms

21. ***Delivery of stools from City supplied logs to 48 schools has been completed.*** Refer to *Appendix 'A'* for the list of schools. COVID-19 Resilience Infrastructure Stream (CVRIS) funding totalling \$2M has been approved for an additional 58 outdoors classrooms. Design is underway for these projects, as well as for Playground reserve projects, many of which will also support outdoor learning.

Technology

22. ***Orders continue to flow to students and supply levels are good.*** A final purchase for this year of an additional 3,200 Chromebooks has been ordered.

E. IMPLEMENTATION, STRATEGIC COMMUNICATIONS AND STAKEHOLDER ENGAGEMENT PLAN

1. *Communications will be shared with all staff and families centrally related to cases in school settings and reminders from TPH about remaining vigilant in practicing health and safety measures when in person learning is active.*

F. CONCLUDING STATEMENT

This report is for the consideration of the Board.

APPENDIX 'A'

Delivery of City Supplied Log Stools Completed April 2021

School Name	Ward	No. of Seats
Holy Child	1	25
St. Andrew	1	25
St. Angela	1	25
St. Benedict	1	20
St. Dorothy	1	25
St. Stephen	1	25
St. Maurice	1	25
All Saints	2	25
Father Serra	2	25
St. Demetrius	2	25
St. Eugene	2	25
St. Marcellus	2	25
Transfiguration	2	25
St. Jude	3	25
St. Augustine	3	25
St. Francis de Sales	3	25
St. Jane Frances	3	25
St. Wilfrid	3	25
St. Andre	3	25
Holy Angels	4	25
St. Ambrose	4	25
St. Jerome	5	10
St. Martha	5	25
St. Norbert	5	25
St. Raphael	5	25
St. John XXIII	5	25
St. Paul VI	6	25
St. Nicholas	7	25
St. Lawrence	7	25
Our Lady of Grace	8	25
Prince of Peace	8	25
St. Columba	8	25
St. Gabriel Lalemant	8	25
St. Ignatius of Loyola	8	25
St. René Goupil	8	25
The Divine Infant	8	25

APPENDIX 'A'

Delivery of City Supplied Log Stools Completed April 2021

School Name	Ward	No. of Seats
Cardinal Léger	8	10
St. Bernard	10	25
St. Fidelis	10	25
St. Francis Xavier	10	25
St. Thomas More	12	25
St. Barbara	12	25
St. Boniface	12	20
St. Martin de Porres	12	25
St. Rose of Lima	12	25
St. Maria Goretti	12	25
St. Joachim	12	25
Our Lady of Fatima	12	25



REPORT TO

**CORPORATE SERVICES, STRATEGIC
PLANNING AND PROPERTY
COMMITTEE**

BLACK ACHIEVER INITIATIVE (BAI)

I pray that your partnership with us in the faith may be effective in deepening your understanding of every good thing we share for the sake of Christ. Philemon 1:6

Created, Draft	First Tabling	Review
May 4, 2021	May 13, 2021	Click here to enter a date.

S. Coray, Senior Manager, Partnership Development

INFORMATION REPORT

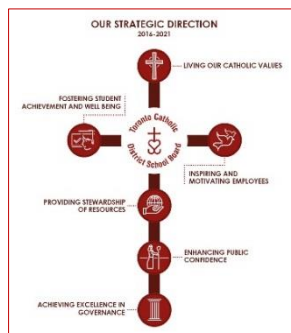
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Director of Education

D. Koenig
Associate Director
of Academic Affairs

D. Boyce
Associate Director of
Facilities, Business and
Community Development

A. EXECUTIVE SUMMARY

At the February 4, 2021 Student Achievement and Well-Being, Catholic Education and Human Resources Committee Regular Meeting, Trustees received and referred to and asked staff to provide a report in response to the delegation made by officials of the YMCA of Greater Toronto for its Black Achiever Initiative (BAI) regarding the “completion rate of Black students in schools.”

Subsequently, TCDSB Partnership Development Department staff met with and reviewed the proposal from the YMCA of Greater Toronto to “work with the schools in having referrals to the Black Achiever program.” The aforementioned initiative will assist in providing all students (in particular, the Black youth in the Kingston Galloway, Malvern, and Dorset Park community) “with the opportunity to develop professionally (academically and career-wise), socially and mentally with the support of Black adult professionals/role models.”

Since YMCA of Greater Toronto wants to conduct research activities in TCDSB schools, it was determined that the first step in this process is for YMCA of Greater Toronto to complete and submit a TCDSB Research Application for approval. Partnership Development Department staff will continue to assist YMCA of Greater Toronto in this process (Superintendents of Student Success and Equity, Diversity, Indigenous Education & Community Relations were advised accordingly).

The cumulative staff time required to prepare this report was 14 hours

B. PURPOSE

1. At the February 4, 2021 Student Achievement and Well-Being, Catholic Education and Human Resources Committee Regular Meeting, the Board of Trustees”

“Received and referred to staff for a report:

“Be referred to the African-Canadian Advisory Committee for a report to come to the Board indicating how a partnership can be implemented and operationalized.”

2. This report provides an update regarding the proposal to TCDSB by officials of YMCA of Greater Toronto for its Black Achiever Initiative (BAI) to “work with the schools in having referrals to the Black Achiever program.”

C. BACKGROUND

1. **February 4, 2021** – at Student Achievement and Well-Being, Catholic Education and Human Resources Committee Regular Meeting, Trustees approved a motion for staff to prepare “*a report to come to the Board indicating how a partnership can be implemented and operationalized.*”
2. **February 5, 2021** - Partnership Development Department staff connected with officials of YMCA of Greater Toronto to request additional information regarding its proposal.
3. **February 18, 2021** – Partnership Development Department staff met with officials of YMCA of Greater Toronto to better understand the BAI including its geographic area, timeline and proposed research, focus groups and virtual sessions involving TCDSB students. Staff learned that YMCA of Greater Toronto wants to conduct research activities in TCDSB, and subsequently were advised that the first step in this process is to complete and submit a TCDSB Research Application for approval.

Staff discussed and provided YMCA of Greater Toronto officials with the information and guidance regarding TCDSB Research Application process. YMCA of Greater Toronto officials were to meet with its team and review and provide Partnership Development Department staff with next steps.

4. **March 18, 2021** – Partnership Development Department staff and YMCA of Greater Toronto officials met to review and provide further background and direction regarding the TCDSB Research Application process. Additionally, staff advised that it would facilitate connecting YMCA of Greater Toronto officials with TCDSB Research Department staff. YMCA of Greater Toronto officials were to meet with its team and review and provide Partnership Development Department staff with next steps.
5. **April 13, 2021** – Currently, YMCA of Greater Toronto officials is involved in conducting research within the Kingston Galloway, Malvern, and Dorset Park communities (TCDSB schools are not involved), and has not completed

its internal review of TCDSB Research Application process (the “Black Achiever program” will be developed based on research findings). Partnership Development Department staff will continue to follow up with and assist YMCA of Greater Toronto officials in this process.

6. Since TCDSB Student Success and Equity, Diversity, Indigenous Education & Community Relations staff will be engaged, Partnership Development Department staff provided the superintendents of those departments with a written update via email to ensure they are aware of the progress.
7. Partnership Development Department staff will meet with and provide an update to the African-Canadian Advisory Committee at its meeting to be held May 25, 2021.

D. EVIDENCE/RESEARCH/ANALYSIS

1. TCDSB Partnership Development Department, Student Success and Equity, Diversity, Indigenous Education & Community Relations staff will be engaged and work in collaboration with YMCA of Greater Toronto officials and “work with the schools in having referrals to the Black Achiever program.”
2. It was determined that TCDSB staff will work in collaboration with YMCA of Greater Toronto officials to bring this proposed partnership to fruition.

E. METRICS AND ACCOUNTABILITY

1. Efforts to enter into a partnership between TCDSB and YMCA of Greater Toronto officials will be led by the Partnership Development Department, and monitored by appropriate TCDSB staff (Student Success, Equity, Diversity, Indigenous Education & Community Relations and Partnership Development).

F. CONCLUDING STATEMENT

This report is for the consideration of the Board.

2021 CALENDAR OF ANNUAL REPORTS & POLICY METRICS

A = Annual Report

P = Policy Metric Report

Q = Quarter Report

#	Due Date	Committee/Board	Subject	Responsibility of
1	January (P)	Corporate Services	B.R.01 Rental of Surplus School Space & Properties Policy Metric	A.D. Facilities, Business, Community Development
2	February (Q)	Corporate Services	Financial Status Update Report #1	A.D. Facilities, Business, Community Development
3	March (A)	Corporate Services	Budget Series Report: Financial Planning and Consultation Plan	A.D. Facilities, Business, Community Development
4	March (A)	Corporate Services	Consensus Student Enrolment Projection	A.D. Facilities, Business, Community Development
5	March (A/P)	Corporate Services	Transportation Annual Report and <u>S.T.01 Transportation Policy Metric</u>	A.D. Facilities, Business, Community Development
6	March	Corporate Services	A.18 Development Proposals, Amendments and Official Plans and Bylaws Policy Metric	A.D. Facilities, Business, Community Development
7	April (A)	Corporate Services	Budget Series Report: Grants for Student Needs Update	A.D. Facilities, Business, Community Development
8	May (Q)	Corporate Services	Financial Status Update Report #2	A.D. Facilities, Business, Community Development
9	May (A)	Corporate Services	Budget Series Report: Preliminary Budget Estimates for the Following Fiscal Year	A.D. Facilities, Business, Community Development
10	June (A)	Corporate Services	Budget Series Report: Recommended Budget Estimates for the Following Fiscal Year	A.D. Facilities, Business, Community Development
11	June (A)	Corporate Services	Delegated Authority Report	A.D. Facilities, Business, Community Development
12	September (Q)	Corporate Services	Financial Status Update Report #3	A.D. Facilities, Business, Community Development

2021 CALENDAR OF ANNUAL REPORTS & POLICY METRICS

13	September (A)	Corporate Services	Capital Program Update	A.D. Facilities, Business, Community Development
14	September (A)	Corporate Services	Delegated Authority Update Report	A.D. Facilities, Business, Community Development
15	October (A)	Corporate Services	Trustee Honorarium Report	A.D. Facilities, Business, Community Development
16	November	Corporate Services	Preliminary Enrolment Reports Elementary and Secondary Schools and S.A.01 Elementary Admission and Placement Policy Metric	A.D. Facilities, Business, Community Development
17	November (A)	Corporate Services	Legal Fees Report	A.D. Facilities, Business, Community Development
18	November (A/Q)	Corporate Services	Audited Financial Statement and Financial Status Update #4	A.D. Facilities, Business, Community Development
19	December (A)	Corporate Services	Budget Series Report: Revised Budget Estimates for the Current Fiscal Year	A.D. Facilities, Business, Community Development
20	December	Corporate Services	Capital Renewal Program Report	A.D. Facilities, Business, Community Development
21	December (A)	Corporate Services	Annual Investment Report	A.D. Facilities, Business, Community Development

**CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY
PENDING LIST TO MAY 13, 2021**

#	Date Requested & Committee/Board	Report Due Date	Destination of Report Committee/Board	Subject	Delegated To
1	Jan-16 Corporate Services	TBD	Corporate Services	That all options be explored for Loretto Abbey and Dante Alighieri and that a report on relocation come back at the February 13, 2020 Corporate Services Committee meeting or February 20, 2020 Board meeting, and a report on Dante Alighieri comes back at the March 12, 2020 or April 16, 2020 Corporate Services Committee meeting; (2020-2021 School Relocations Plan)	Associate Director of Facilities, Business & Comm. Dev.
2	Jan-2021 Student Achievement	TBD	Corporate Services	1. That staff bring back a report with a revised 2020-2021 Renewal Plan in the Spring of 2021 following announcement of CVRIS funding allocations; and 2. That a report be submitted to Board on the findings of the consultant (Renewal Plan 2020-2021 and Three-Year Forecast (All Wards))	Associate Director of Facilities, Business & Comm. Dev.
3	Feb-2021 Regular Board	June 2021	Corporate Services	That staff present the finalized budget estimates for 2021-22, reflective of the community consultation and overall feedback, to the Board of Trustees at the Corporate Services meeting scheduled for June 2021 (2021-22 Budget Consultation Plan)	Associate Director of Facilities, Business & Comm. Dev.