

Mémoire du

**Quebec Community Groups Network CGN**

à la

**Commission de la culture et de l'éducation**

Consultations particulières sur le projet de loi  
40 : Loi modifiant principalement la Loi sur  
l'instruction publique relativement à  
l'organisation et à la gouvernance scolaires

Le 18 novembre 2019

## Sommaire

Le Quebec Community Groups Network (QCGN) n'a pas été invité à comparaître devant la Commission dans le cadre de ses consultations particulières sur le projet de loi 40. Néanmoins, le QCGN soumet le présent mémoire à la Commission.

En plus d'offrir un enseignement d'excellente qualité aux élèves, les écoles publiques anglophones ont pour mission de préserver et de promouvoir la langue et la culture distinctes du Québec d'expression anglaise. Les écoles sont des institutions essentielles et centrales de la communauté d'expression anglaise du Québec. Le gouvernement du Québec doit ainsi reconnaître et appuyer les droits linguistiques et culturels de cette communauté. La gestion et le contrôle de nos établissements d'enseignement ne peuvent être limités unilatéralement.

Parallèlement, la communauté d'expression anglaise du Québec reconnaît la nécessité de réformer la gouvernance de ses établissements d'enseignement.

En 2015, la communauté a mené une vaste consultation et formulé des recommandations à cet effet au ministre de l'Éducation et de l'Enseignement supérieur (le Comité d'étude des systèmes électoraux, voir **annexe A**). Le projet de loi 40 fait peu de cas de ces recommandations, notamment celles qui visent à améliorer le système électoral. Il ne constitue pas un modèle de gouvernance scolaire par et pour la communauté d'expression anglaise. Il diffère totalement du modèle de gestion scolaire que réclamait la communauté.

Bref, le QCGN a de sérieuses préoccupations en ce qui concerne :

- la constitutionnalité du projet de loi, particulièrement sa conformité à l'article 23 de la Charte des droits et libertés;
- l'incapacité du gouvernement du Québec à démontrer la nécessité de telles réformes, plus précisément leur potentiel à améliorer l'efficacité et l'efficacité de la gouvernance des écoles ainsi que la réussite scolaire;
- l'introduction d'une réforme majeure de la gouvernance scolaire en l'absence d'une vaste consultation publique.

Bien qu'il prétende mettre en place un système de représentation élue, ce projet de loi ne fournit pas de moyens par lesquels la communauté pourrait exercer adéquatement la gestion et le contrôle de l'éducation. Dans son ensemble, le projet de loi 40 crée une coquille vide pour les représentants de la communauté, où la véritable gestion et le réel contrôle seront vraisemblablement assumés par le personnel et par les fonctionnaires du ministère plutôt que par les détenteurs de droits et par l'ensemble de la communauté. À ce titre, il viole le droit à la gestion et au contrôle, garanti par l'article 23 de la Charte canadienne des droits et libertés (la Charte).

Le projet de loi n'est pas à la hauteur de la norme constitutionnelle, et ce, pour deux raisons :

- i. Composition et sélection du conseil d'administration des centres de services scolaires (CSS) : L'exercice de la gestion et du contrôle par les titulaires de droits, par l'entremise de représentants au sein du conseil d'administration des CSS, est entravé par les restrictions quant aux personnes qui peuvent siéger à ce conseil et par le manque de ressources fournies à ces représentants.
- ii. Pouvoir du conseil d'administration des centres de services scolaires : La réduction des pouvoirs décisionnels du conseil d'administration des CSS, à laquelle s'ajoute un plus grand contrôle du ministre, signifie que le conseil n'aura sans doute pas de pouvoirs décisionnels très importants sur l'éducation.

Notre communauté minoritaire partage les mêmes droits constitutionnels que ceux des communautés francophones en situation minoritaire hors Québec. Or, ce projet de loi porte atteinte aux droits constitutionnels de la communauté d'expression anglaise du Québec et, par conséquent, à ceux des communautés francophones minoritaires qui résident à l'extérieur du Québec.

Pourquoi cette réforme est-elle nécessaire? Et quel problème doit-elle résoudre? Le but du projet de loi 40 semble être essentiellement administratif. Il ne prétend ni améliorer directement le rendement scolaire des élèves du Québec ni perfectionner ou maintenir les services pédagogiques existants. Du même souffle, le projet de loi impose un changement majeur à la gouvernance scolaire sans même avoir eu recours à l'avis des intervenants touchés : les élèves, les parents et les communautés.

Ce projet de loi ne peut être adopté dans sa forme actuelle. Le QCGN prie la Commission de bien vouloir :

- modifier le projet de loi pour que le système anglophone soit exempté de l'application de la réforme en attendant la tenue d'une vaste consultation de la communauté afin de concevoir un système de gouvernance par et pour la communauté; et/ou
- demander un renvoi à la Cour d'appel du Québec sur la constitutionnalité du projet de loi 40.

## **1) Introduction au QCGN**

Fondé en 1995, le QCGN est un organisme sans but lucratif qui relie des organismes communautaires d'expression anglaise répartis dans tout le Québec. Centre d'expertise et d'actions collectives fondé sur des données probantes, le QCGN cerne, aborde et explore les enjeux stratégiques qui ont des répercussions sur le développement et la vitalité de la communauté d'expression anglaise du Québec. La vision du QCGN pour le Québec d'expression anglaise est celle d'une minorité linguistique nationale diversifiée, confiante,

reconnue et respectée, qui participe et contribue activement à la vie sociale, économique, culturelle et politique de la société québécoise et canadienne.

Le QCGN mène diverses activités axées sur la vitalité et le développement de la communauté d'expression anglaise du Québec. Il est actif dans de nombreux domaines d'intérêt pour la communauté d'expression anglaise, dont l'accès à la justice, l'accès aux services de santé et aux services sociaux, l'éducation, l'intégration des nouveaux arrivants, la rétention des jeunes et les aînés.

Le QCGN est un ardent défenseur du droit à l'instruction dans la langue de la minorité, droit garanti par l'article 23 de la Charte canadienne des droits et libertés (la Charte), incluant le droit de posséder des établissements d'enseignement propre à la minorité linguistique ainsi que le droit de la communauté en situation minoritaire de gérer et de contrôler son système d'éducation. Le QCGN travaille en collaboration avec des partenaires de la communauté pour protéger et défendre ses droits et ses intérêts dans le domaine de l'éducation. Par exemple, le QCGN a été un partenaire de premier plan concernant l'opposition des Québécois d'expression anglaise au projet de loi 86, où les réformes proposées en 2016 par le Québec au système d'éducation auraient gravement miné leur droit de gestion et de contrôle, droit garanti par l'article 23 de la Charte.

Le QCGN est également membre fondateur de *APPELE-Quebec - Alliance for the Promotion of Public English-language Education in Quebec*, un mouvement lancé en avril 2019. À cet égard, le QCGN travaille avec les membres de l'Alliance à protéger les droits constitutionnels de la communauté en vertu de l'article 23 de la Charte.

## **2) Le projet de loi 40 va à l'encontre de l'article 23 de la Charte des droits et libertés**

### **a. Article 23 de la Charte**

Le modèle de gouvernance du système d'éducation anglophone, proposé par le projet de loi 40, est un nouveau modèle au Canada qui plonge le Québec en territoire inconnu en ce qui concerne la conformité de la province à l'égard de l'article 23 de la Charte. Nous devons donc en réexaminer les premiers principes pour voir si le modèle du projet de loi 40 est conforme à la Charte.

Nous ne présumons pas que la pratique et le système actuels sont conformes à l'article 23 de la Charte. Nous comparons ce projet de loi non pas au statut quo, mais aux normes établies par l'article 23.

L'objet général de l'article 23 de la Charte vise « à maintenir les deux langues officielles du Canada ainsi que les cultures qu'elles représentent et à favoriser l'épanouissement de chacune

de ces langues, dans la mesure du possible, dans les provinces où elle n'est pas parlée par la majorité ».<sup>1</sup>

L'article 23 de la Charte énonce un certain nombre de droits en ce qui concerne l'enseignement dans la langue de la minorité. Au Québec, il confère à certains citoyens (les « titulaires de droits ») le droit de faire instruire leurs enfants en anglais dans les écoles primaires et secondaires, financées à même les fonds publics, là où le nombre d'enfants le justifie. Il leur confère également « un droit de gestion et de contrôle sur les établissements d'enseignement qui leur sont destinés ».<sup>2</sup> Essentiellement, les titulaires de droits devraient avoir un contrôle « sur les aspects de l'éducation qui concernent ou qui touchent leur langue et leur culture. »<sup>3</sup> Ce droit est exercé par les titulaires de droits en tant que groupe; généralement par l'intermédiaire de représentants.<sup>4</sup>

La Cour suprême a défini la portée de ce droit comme suit :

Les représentants de la minorité linguistique devraient avoir le pouvoir exclusif de prendre des décisions relatives aux établissements et à l'instruction dans la langue de la minorité, notamment en ce qui concerne :

- (a) les dépenses de fonds prévus pour cette instruction et ces établissements;
- (b) la nomination et la direction des personnes chargées de l'administration de cette instruction et de ces établissements;
- (c) l'établissement de programmes scolaires;
- (d) le recrutement et l'affectation du personnel, notamment des professeurs; et
- (e) la conclusion d'accords pour l'enseignement et les services dispensés aux élèves de la minorité linguistique.<sup>5</sup>

La province est « dans l'obligation » de « créer d'importantes structures institutionnelles » pour satisfaire à ses obligations en vertu de l'article 23.<sup>6</sup> Il incombe à la province de concevoir une structure de gouvernance scolaire qui protège la communauté d'expression anglaise et lui permet de gérer et de contrôler l'enseignement dans la langue de la minorité, droit garanti par la Constitution.

## **b. Éducation et communauté**

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<sup>1</sup> *Mahe c. Alberta*, [1990] 1 R.C.S. 342 au 362 [*Mahe*].

<sup>2</sup> *Mahe* au 371-72.

<sup>3</sup> *Mahe* au 375.

<sup>4</sup> *Mahe* au 377.

<sup>5</sup> *Mahe* au 377.

<sup>6</sup> *Mahe* au 365.

L'objectif de toutes les écoles consiste à offrir le meilleur enseignement qui soit à leurs élèves. Les écoles anglophones – institutions de nos communautés en situation minoritaire – ont la responsabilité supplémentaire de préserver et de promouvoir la culture distincte d'expression anglaise au Québec. Ces établissements ne se contentent pas d'offrir simplement des services en anglais; ce sont des institutions *du* Québec d'expression anglaise. Ainsi, prendre en charge ces établissements, veiller à ce que nos enfants reçoivent une excellente éducation et renforcer le rôle de l'école pour en faire le centre de notre vie communautaire sont des responsabilités partagées entre la communauté d'expression anglaise du Québec et le ministre de la province.

La Cour suprême a reconnu, à maintes reprises, que l'objet de l'article 23 était de protéger la langue et la culture de la minorité.<sup>7</sup> L'enseignement dans la langue de la minorité joue un « rôle essentiel » en « favorisant la vitalité linguistique et culturelle » des minorités.<sup>8</sup> Les écoles de la minorité linguistique sont le « principal instrument »<sup>9</sup> et « l'institution la plus importante »<sup>10</sup> pour la survie de la communauté et la transmission de la langue et de la culture. Les droits à l'instruction dans la langue de la minorité assurent à « ... la minorité de langue officielle un accès égal à un enseignement de grande qualité dans sa propre langue, dans des circonstances qui favoriseront le développement de la communauté ». <sup>11</sup> Outre la transmission de la langue et de la culture, les écoles de la minorité linguistique offrent des centres communautaires où leurs membres peuvent « exprimer leur culture ». <sup>12</sup> Ainsi, le droit prévu à l'article 23 n'est pas seulement un droit à l'instruction dans la langue de la minorité; c'est aussi le droit de participer à une communauté linguistique et à la transmission de la langue et de la culture aux générations futures.

Au cœur de chaque communauté se trouve une école. Les écoles ne se contentent pas d'instruire nos enfants; elles définissent, protègent et communiquent ce que nous sommes et les valeurs qui sont les nôtres. Ce sont des lieux de rencontre où nous célébrons des événements et des jalons importants dans la vie de nos enfants et de nos familles. Les écoles sont le reflet de leur communauté. C'est donc à juste titre que celles-ci sont et ont été gouvernées et gérées dans le cadre des grands objectifs de la politique sociétale pour les générations du Québec. Dans de nombreuses collectivités, l'école est la dernière institution autonome qui subsiste.

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<sup>7</sup> Voir *Mahe* au 362; *R v Beaulac*, [1999] 1 SCR 768 au paragraphe 25, et *Gosselin (tuteur de) c. Québec (procureur général)*, 2005 CSC 15 au paragraphe 28.

<sup>8</sup> *Mahe* au 350.

<sup>9</sup> *Association des parents de l'école Rose-des-vents c. Colombie-Britannique (Éducation)*, 2015 CSC 21 au paragraphe 27.

<sup>10</sup> *Arsenault-Cameron c. Île-du-Prince-Édouard*, 2000 CSC 1 au paragraphe 29 [*Arsenault-Cameron*].

<sup>11</sup> *Arsenault-Cameron* au paragraphe 27.

<sup>12</sup> *Mahe* au 363.

Nos écoles jouent un rôle dans la communauté qui va bien au-delà de leurs fonctions pédagogiques. Elles sont un centre d'activités communautaires, un lieu de rencontre où notre culture s'exprime et s'épanouit. Elles sont la pierre angulaire de nos communautés, notamment dans un contexte minoritaire. La centralisation de la gestion et du contrôle de ces institutions, les séparant ainsi de leur communauté, réduit leur nombre en tant qu'institutions communautaires et finira par les supprimer.

**c. Le projet de loi 40 n'offre pas d'outils importants pour permettre à la communauté de gérer et de contrôler le système d'éducation, conformément à l'article 23 de la Charte**

Autrement dit, le projet de loi 40 vise à accroître le pouvoir exécutif du ministre dans le système scolaire public au Québec et à réduire la participation de la communauté et de ses représentants. Il constitue une entrave à la gestion et au contrôle de toutes les communautés — tant d'expression française que d'expression anglaise. Il cadre son modèle au système scolaire anglophone en créant un système de représentation élue. Sur papier, le projet de loi 40 propose un système de représentation des titulaires de droits visés à l'article 23 au sein des conseils d'administration des centres de services scolaires (CSS) par le biais du suffrage universel. Toutefois, ce système de représentation n'est pas conçu pour confier une gestion et un contrôle significatifs à la communauté.

Dans l'ensemble, le projet de loi ne donne pas les moyens aux titulaires de droits d'avoir une capacité réelle de gestion et de contrôle par l'intermédiaire de leurs représentants. Le projet de loi 40 crée une coquille vide pour les représentants de la communauté, où la gestion et le contrôle véritables sont susceptibles d'être assumés par le personnel et par les fonctionnaires du ministère plutôt que par la communauté.

Le projet de loi n'est pas à la hauteur de la norme constitutionnelle, et ce, pour deux raisons :

- i) **Composition et sélection du conseil d'administration des CSS** : L'exercice de la gestion et du contrôle par les titulaires de droits, par l'entremise de représentants au sein des conseils d'administration des CSS, est entravé par les restrictions imposées aux personnes qui peuvent siéger à ce conseil et par le manque de ressources fournies à ces représentants.
- ii) **Pouvoir du conseil d'administration des CSS** : La réduction des pouvoirs décisionnels du conseil d'administration des CSS, à laquelle s'ajoute un plus grand contrôle du ministre, signifie que le conseil n'aura sans doute pas de pouvoirs décisionnels très importants sur l'éducation.

### **i. Composition et sélection des conseils d'administration des CSS**

L'exercice de la gestion et du contrôle des titulaires de droits par l'intermédiaire des représentants des conseils d'administration des CSS est entravé par les restrictions imposées aux personnes qui peuvent siéger à ces conseils et par le manque de ressources fournies à ces représentants élus.

- a) Le projet de loi restreint le nombre de personnes qui peuvent siéger à titre de représentants au sein des conseils d'administration des CSS : Par exemple, seuls les parents actuellement membres d'un conseil d'établissement sont admissibles à se porter candidats à titre de représentants des parents. Les représentants de la communauté doivent correspondre à des profils spécifiques. En raison de cette combinaison de restrictions, seule une petite proportion des membres de la communauté est admissible à siéger au conseil d'administration d'un CSS. En poussant le raisonnement à l'extrême, un système de représentation, où un seul titulaire de droits peut présenter sa candidature, ne répondrait pas à la norme constitutionnelle de gestion et de contrôle.
- b) Le système électoral du projet de loi concernant les conseils d'administration des CSS ne règle aucun des problèmes du système actuel et ne précise pas qui a le droit de voter aux élections d'un CSS : Ce projet de loi ne traite aucun des problèmes de l'actuel système électoral relevés par le Comité d'étude des systèmes électoraux au sujet des élections des conseils scolaires. En outre, il n'examine aucune des recommandations visant à encourager la participation électorale. Au contraire, il complique le système électoral en organisant des élections tous les deux ans et en obligeant les électeurs à voter pour différentes catégories de représentants communautaires. De plus, ce système laisse le système anglais vulnérable à l'influence de la majorité, car il ne précise pas qui a le droit de voter aux élections d'un CSS. Ce projet de loi ouvre la porte à n'importe quel électeur, qu'il ait ou non un quelconque lien avec la communauté d'expression anglaise. Ayant perdu leur droit de vote aux élections d'un CSS français, les électeurs de la majorité pourraient, théoriquement, éclipser le pouvoir électoral de la communauté en situation minoritaire dans la sélection des membres des conseils d'administration des CSS anglophones. Le droit de vote est mal défini et, qui plus est, le système ne résout pas les problèmes existants. Ce système électoral est dans l'ensemble inacceptable.
- c) La présence de membres du personnel d'un CSS, ayant le droit de voter au conseil d'administration, réduit le pouvoir électoral des titulaires de droits : Les membres du personnel ne sont pas nécessairement, eux-mêmes, titulaires de droits, ils ne sont pas choisis par les titulaires de droits et ne leur rendent pas directement compte. La présence du personnel habilité à voter au conseil d'administration d'un CSS affaiblit le

pouvoir électoral des représentants des parents et ceux de la communauté et, par conséquent, affaiblit indirectement le droit de vote des titulaires de droits.

- d) Les ressources fournies aux membres des conseils d'administration des CSS sont insuffisantes : Le projet de loi prévoit leur formation, mais non leur rémunération.<sup>13</sup> Ainsi, les représentants des parents et ceux de la communauté siègent aux conseils d'administration des CSS à titre de bénévoles. Le temps exigé de ces bénévoles (notamment des parents bénévoles) limitera encore davantage le nombre de candidats disposés à siéger à ces conseils.

Dans l'ensemble, le projet de loi restreint le nombre de personnes qui peuvent représenter la communauté au sein des conseils d'administration des CSS et impose d'énormes exigences non rémunérées aux représentants, notamment aux représentants des parents. Le projet de loi découragera les gens de se présenter aux élections. Comme tel, il limite non seulement le pouvoir électoral des titulaires de droits, mais aussi la gamme de choix qui leur sera offerte lors des élections. Il met en place un système de représentation qui, *dans le meilleur des cas*, est faible et, au pire, dysfonctionnel et illusoire.

## **ii. Pouvoir des conseils d'administration des CSS**

Plus fondamentalement, la structure de gouvernance du projet de loi concentre le pouvoir entre les mains du personnel et du ministère. Il prive les conseils d'administration des CSS de leur pouvoir. Cela signifie que les conseils d'administration des CSS — et les représentants des titulaires de droits au sein de ces conseils — n'exerceront probablement pas de pouvoir décisionnel important sur l'éducation.

- a) Le rôle du directeur général est renforcé : En vertu du projet de loi 40, le directeur général assume un rôle accru au sein du conseil d'administration d'un CSS et en devient le porte-parole.<sup>14</sup> C'est dire que le rôle et le pouvoir du directeur général concernant la gouvernance d'un CSS sont renforcés.
- b) Le rôle du personnel des CSS dans la gouvernance des conseils d'administration diminue le pouvoir global de ces conseils : Le rôle accru du personnel affecte la fonction de gouvernance du conseil lui-même. Le conseil d'administration comprendra quatre membres du personnel ayant le droit de voter. Or, la présence de ce personnel au sein d'un conseil d'administration constitue une violation quant à la séparation du conseil et du personnel, un problème qui pourrait amoindrir la capacité du conseil lui-même à

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<sup>13</sup> Le projet de loi prévoit le remboursement des frais raisonnables et des allocations de présence fixées par le gouvernement : Projet de loi, art. 65.

<sup>14</sup> Projet de loi, art. 90.

délibérer et à statuer sur des questions touchant la gestion du personnel. Par exemple, le personnel d'un CSS participera désormais à la sélection (et potentiellement à la révocation) du directeur général. Les membres du personnel seront donc placés dans la situation plutôt étrange, celle d'avoir le droit de voter sur des décisions touchant leur propre superviseur.

Par surcroît, trois importants comités du conseil d'administration d'un CSS sont aussi entièrement composés de membres du personnel : le Comité de répartition des ressources, le Comité d'engagement vers la réussite et le Comité consultatif de gestion. Encore une fois, cela indique que le personnel aura une influence majeure sur les délibérations du conseil d'administration concernant des sujets importants. Le Comité d'étude des systèmes électoraux a expressément recommandé de ne pas ajouter du personnel au Conseil des commissaires d'une commission scolaire.<sup>15</sup>

- c) Le transfert d'un certain pouvoir décisionnel vers l'école diminue davantage le rôle du conseil d'administration d'un CSS : Certaines fonctions sont transférées du conseil à l'école. Par exemple, les conseils d'établissement ont maintenant pour mission de promouvoir l'éducation publique<sup>16</sup> — une fonction actuellement exercée par les commissions scolaires.<sup>17</sup> La décentralisation vers l'école est problématique, car elle enlève cette prise de décision d'une organisation contrôlée par les représentants de titulaires de droits (c.-à-d. le conseil d'administration d'un CSS) et la remet entre les mains d'une organisation décisionnelle non contrôlée par les représentants de titulaires de droits (c.-à-d. les conseils d'établissement).
- d) Le processus de planification stratégique crée une obligation de rendre compte au ministre plutôt qu'au conseil d'administration d'un CSS : Le ministre assume actuellement un rôle de supervision du *Plan d'engagement vers la réussite*.<sup>18</sup> En vertu du projet de loi 40, le rôle du personnel et du ministre est renforcé alors que celui du conseil d'administration du CSS se trouve encore plus diminué. Tous les membres du personnel du « Comité d'engagement vers la réussite » sont responsables de la mise en œuvre du Plan. Si le conseil d'administration d'un CSS ne l'accepte pas, il doit en indiquer les raisons.<sup>19</sup> Ainsi, le plan stratégique du CSS est présenté à son conseil d'administration comme un *fait accompli*, et les membres du conseil risquent de n'avoir

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<sup>15</sup> Voir Comité d'étude des systèmes électoraux, p. 27, Recommandations 9, **Annexe A** ci-jointe.

<sup>16</sup> Projet de loi, art. 30

<sup>17</sup> Loi sur l'instruction publique, art. 207.1, amendée par le projet de loi, art. 93.

<sup>18</sup> Par exemple, Loi sur l'instruction publique, art. 209.1: le plan doit être cohérent avec les orientations stratégiques du ministère et doit répondre aux attentes significatives en application de l'article 459.2 : le ministère peut déterminer des orientations, des objectifs ou des cibles devant être pris en compte pour l'élaboration du plan d'engagement vers la réussite de la commission scolaire.

<sup>19</sup> Projet de loi art. 88, ainsi que art. 193.9.

presque aucun droit de regard sur le plan. Plusieurs décisions qui relèvent de la compétence du conseil d'administration d'un CSS seront dictées par ce plan plutôt que par la communauté.

- e) Les pouvoirs ministériels peuvent être exercés pour renverser les décisions du conseil d'administration d'un CSS : En l'absence de contrôle, le nouveau pouvoir ministériel accordé par le projet de loi ainsi que bon nombre des pouvoirs existants pourraient violer l'article 23. Il appartient aux titulaires de droits, individuellement ou collectivement, de contester l'exercice de ces pouvoirs. Mais la nouvelle structure affaiblit la capacité des conseils d'administration des CSS à résister et à contester l'intervention ministérielle. Elle laisse bien peu de recours aux titulaires de droits, et tout cela aura un effet dissuasif sur les délibérations des conseils d'administration des CSS.

Les commentaires du ministre sur le rôle des conseils d'administration des CSS indiquent qu'à son avis ces conseils n'exerceront que très peu de pouvoir. En réponse à une préoccupation concernant l'absence de rémunération des membres des conseils des CSS, le ministre Roberge a répondu comme suit :

Et si on demandait avec les changements qui s'en viennent exactement la même chose aux gens qui sont sur le conseil d'administration versus les commissaires ça [la non-rémunération] poserait un problème [...]

Il ne faut pas transposer exactement ce que font les commissaires par rapport à ce que feront les gens sur un conseil d'administration. C'est un changement de paradigme. On inverse la pyramide des pouvoirs. Et les gens qui siégeront sur les conseils d'administration n'auront pas la même mission, la même charge de travail. Et il y aura justement une formation pour qu'on comprenne le rôle, les devoirs et les responsabilités [...]

La mission sera différente. On leur demandera de venir siéger sur un conseil d'administration d'être en quelque sorte le gardien de l'équité, le gardien que les décisions sont prises selon les règles, et on ne leur demandera pas de gouverner une instance de gouvernement comme le sont en ce moment les commissions scolaires. Et c'est là où il y a un changement de paradigme.<sup>20</sup>

Bref, le conseil d'administration d'un CSS pourrait tout simplement entériner sans débat plusieurs discussions du personnel ou encore ses décisions pourraient être annulées ou court-

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<sup>20</sup> Transcription de la réponse de Jean-François Roberge, Commission de la culture et de l'éducation, le 6 novembre 2019, lors du témoignage de APPELE-Québec.

circuitées par les décisions ministérielles. Les représentants des titulaires de droits au conseil d'administration d'un CSS sont en butte à un système qui leur donne peu d'influence sur les prises de décisions importantes.

### **3) Le gouvernement du Québec n'a pas démontré que ce modèle améliorera la gouvernance scolaire ou la réussite des élèves**

L'objet du projet de loi 40 semble être essentiellement administratif. Il ne prétend ni améliorer les résultats scolaires des élèves du Québec ni améliorer ou maintenir les services actuels en matière d'éducation. Parallèlement, ce projet de loi impose un important changement à la gouvernance scolaire sans bénéficier de l'apport des intervenants concernés.

Devant ce comité, d'autres intervenants ont signalé le taux élevé de réussite des élèves des commissions scolaires anglophones. Le gouvernement du Québec n'a pas démontré la nécessité d'une telle réforme en vue d'améliorer la réussite scolaire ni même la gouvernance au sein du système anglais. Quel problème ce projet de loi prétend-il résoudre? Quel est l'objectif politique si urgent et substantiel, susceptible de justifier le retrait de la gestion et du contrôle des mains de la communauté? Le QCGN invite le ministre à répondre à ces questions.

### **4) Aucune réforme de la gouvernance du système scolaire anglophone ne devrait avoir lieu sans la tenue d'une consultation appropriée auprès de la communauté d'expression anglaise**

Toute question constitutionnelle mise à part, il y a eu trop peu de consultations publiques sur ce projet de réforme, considérant sa portée.

De l'avis général, ce projet de loi est la plus importante réforme en matière de gouvernance scolaire depuis la transformation des commissions scolaires confessionnelles en commissions scolaires linguistiques dans les années 1990. Une réforme d'une telle ampleur mérite une réflexion de fond et une vaste consultation. Mais rien de tout cela n'a été fait.

Les raisons justifiant la nécessité des réformes proposées dans le projet de loi 40 ne sont pas claires. Le gouvernement du Québec a choisi de déposer son projet de loi sans avoir, au préalable, mené des consultations publiques et produit un livre blanc. De plus, afin de recueillir des commentaires sur le projet de loi, le gouvernement a opté pour un processus de consultation plus restrictif (les consultations particulières) plutôt que de recourir à un processus de consultation général plus ouvert, qui vise l'ensemble de la population. Cela semble incroyable si l'on considère non seulement la portée des réformes proposées, mais aussi leur nature. Il est inacceptable, quel que soit le palier de gouvernement, de porter atteinte impulsivement aux droits démocratiques et constitutionnels.

Une démocratie mûre comme la nôtre exige que la voix de tous les citoyens du Québec soit sollicitée, entendue et reflétée dans les politiques et les lois gouvernementales, et ce, pas uniquement en période électorale. L'élaboration de politiques à distance sans l'apport des citoyens intéressés et engagés, puis l'imposition de ces idées à ces mêmes communautés sont des pratiques contraires aux plus belles traditions politiques du Québec.

Les dirigeants communautaires estiment que des réformes du système scolaire public – y compris celles de sa gouvernance – sont nécessaires. Au cours de l'été 2015, quatre grands groupes de la société civile d'expression anglaise ont parrainé le Comité d'études des systèmes électoraux, un organisme ad hoc indépendant, dirigé par l'honorable Marlene Jennings.<sup>21</sup> Le Comité a reçu le mandat d'examiner les pratiques actuelles de gouvernance des conseils d'établissement et de proposer des options pour améliorer le système électoral. À la suite d'une vaste consultation auprès de la communauté, le Comité a formulé 13 recommandations, comprenant des suggestions précises et fondées sur des données probantes sur la façon d'améliorer la participation électorale et d'accroître la participation de la communauté dans la gestion et le contrôle des écoles publiques anglophones. Ces recommandations ont été pour la plupart ignorées et, dans certains cas, contredites.

Le QCGN est déçu que ce projet de loi ne reflète pas les recommandations de cette étude, pas plus qu'il ne représente le résultat d'un processus de consultation auprès de la communauté d'expression anglaise.

Bien au contraire, les dispositions de ce projet de loi relatives aux conseils d'administration des CSS anglophones semblent être tout simplement une version modifiée de la réforme destinée au système francophone. Il s'agit là d'une démarche qui ne tient pas la route. Pour mettre en place un système qui respecte le droit de la communauté de gérer et de contrôler l'éducation, il importe de concevoir un système qui tient compte de cette communauté en situation minoritaire : un système *par et pour* la communauté.

## **5) Conclusion : La marche à suivre**

Ce projet de loi ne peut être adopté dans sa forme actuelle. Le QCGN prie la Commission de bien vouloir :

- amender le projet de loi pour que le système anglais soit exempté de l'application de la réforme en attendant la tenue d'une vaste consultation auprès de la communauté afin de concevoir un système de gouvernance par et pour la communauté; et/ou
- demander un renvoi à la Cour d'appel du Québec sur la constitutionnalité du projet de loi 40.

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<sup>21</sup> Voir l'**annexe A** ci-jointe.

Il est grand temps que le gouvernement du Québec implique la communauté d'expression anglaise, de manière constructive et concrète, dans l'élaboration de politiques qui touchent tous ses citoyens. Le QCGN invite le gouvernement à entreprendre un processus de consultation inclusif avec les intervenants du Québec d'expression anglaise afin d'améliorer l'exercice du droit à l'instruction dans la langue de la minorité et de réaliser pleinement l'objet de l'article 23 de la Charte des droits et libertés.

# **Quebec Community Groups Network**

brief to

## **Committee on Culture and Education**

Special Consultations on Bill 40: An Act to  
amend mainly the Education Act with regard to  
school organization and governance

November 2019

## Summary

The Quebec Community Groups Network (“QCGN”) has not been invited to appear before the Committee in the course of its special consultations on Bill 40. Nonetheless, the QCGN submits this brief to the Committee.

In addition to providing an excellent education to students, Quebec’s English public schools exist to preserve and promote the language and unique culture of English-speaking Quebec. Schools are key and central institutions of the English-speaking community of Quebec. The Government of Quebec must recognize and support the linguistic and cultural rights of Quebec’s English-speaking community. Management and control of our educational institutions cannot be unilaterally restricted.

At the same time, the English-speaking community of Quebec recognizes the need for reforms to the governance of its educational institutions.

In 2015, the community conducted a wide-ranging consultation, and prepared recommendations to the Minister of Education and Higher Education on the matter (the “*Election Systems Study Panel*”, see **Appendix A**). Bill 40 largely ignores those recommendations, particularly the recommendations for improving the electoral system. It does not reflect a model of education governance by and for the English-speaking community. It is wholly foreign to the model of school governance that the community has been asking for.

In summary, the QCGN has serious concerns related to:

- the constitutionality of the legislation, particularly its compliance with s. 23 of the *Charter of Rights and Freedoms*;
- the failure of the Government of Quebec to demonstrate that the reforms are necessary, i.e. that they will improve the efficiency and effectiveness of school governance and improve student achievement; and
- the introduction of a major education governance reform without broad-based public consultations.

Although it purports to set up a system of elected representation, this Bill does not provide a vehicle by which the community can exercise any meaningful level of management and control over education. Taken as a whole, Bill 40 creates an empty shell for community representation in which true management and control is likely to be exercised by staff and Ministry officials rather than rights-holders and the wider community. As such, it violates the right to management and control guaranteed by s. 23 of the *Canadian Charter of Rights and Freedoms* (“the *Charter*”).

The Bill falls short of the constitutional standard for two reasons:

- i. Composition and Selection of School Service Centre (“SSC”) Boards: Rights-holders’ exercise of management and control through representatives on SSC Boards is stifled by restrictions on who can serve on these Boards and the lack of resources provided to these representatives.
- ii. Power of School Service Centre Boards: The decrease in the decision-making powers of SSC Boards paired with greater control by the Minister means that the SSC Boards will likely not exercise much meaningful decision-making power over education.

Our minority constitutional rights are shared by Francophone minority communities outside Quebec. This Bill erodes those constitutional rights for the English-speaking community of Quebec, and by extension, those of the Francophone minority communities outside Quebec.

Why is this reform necessary, and what problem is it meant to solve? The purpose of Bill 40 seems to be mainly administrative. It makes no claim either to directly improve the scholastic performance of Quebec’s students or improve or maintain existing educational services. At the same time, the Bill imposes a major change on education governance without the benefit of input from the affected stakeholders: students, parents, and communities.

This Bill cannot be passed in its current form. The QCGN requests that this Committee:

- Amend the Bill so that the English system is exempt from the reform, pending a full consultation with the community to design a governance system by and for the community; and/or
- Request a reference on the constitutionality of Bill 40 to the Quebec Court of Appeal.

## **1) Introduction to the QCGN**

Founded in 1995, the QCGN is a not-for-profit organization linking English-language community organizations across Quebec. As a centre of evidence-based expertise and collective action, the QCGN identifies, explores and addresses strategic issues affecting the development and vitality of the English-speaking community of Quebec. The QCGN's vision for English-speaking Quebec is a diverse, confident, recognized and respected national linguistic minority that actively participates in and contributes to the social, economic, cultural and political life of Quebec and Canadian society.

The QCGN carries out a range of actions geared at the vitality and development of Quebec's English-speaking community. The QCGN is active in many policy areas of interest to the English-speaking community, including access to justice, access to health and social services, education, the integration of newcomers, youth retention, and seniors.

The QCGN is a strong supporter of the right to minority language education guaranteed under s. 23 of the *Canadian Charter of Rights and Freedoms* ("the *Charter*"), including the right to minority language education facilities and the right to management and control of education by the minority community. The QCGN works cooperatively with community partners to protect and defend community rights and interests in the area of education. For example, the QCGN was a leading partner in English-speaking Quebec's opposition to Bill 86, Quebec's proposed reforms to the education system in 2016, which would have seriously undermined the right to manage and control educational facilities guaranteed under s. 23 of the *Charter*.

The QCGN is also a founding member of the Alliance for the Promotion of Public English-language Education in Quebec (APPELE-Quebec), launched in April 2019. In this respect, the QCGN is working with Alliance members to protect the community's constitutional rights under s. 23 of the *Charter*.

## **2) Bill 40 infringes s. 23 of the *Charter of Rights and Freedoms***

### **a. Section 23 of the *Charter***

The model for English education governance proposed in Bill 40 is a novel one in Canada. With Bill 40's model, Quebec will enter uncharted territory in terms of the province's compliance with s. 23 of the *Charter*. Therefore, we must look again at first principles of s. 23 to understand whether the model in Bill 40 complies with the *Charter*.

We do not assume that the current system and practice complies with s. 23 of the *Charter*. We compare Bill 40 not to the status quo, but to the standard set by s. 23 of the *Charter*.

The purpose of s. 23 of the *Charter* is “to preserve and promote the two official languages of Canada, and their respective cultures, by ensuring that each language flourishes, as far as possible, in provinces where it is not spoken by the majority of the population”.<sup>1</sup>

Section 23 of the *Charter* sets out certain rights in respect of minority language education. In Quebec, it confers on certain citizens (“rights-holders”) the right to have their children receive primary and secondary school instruction in English provided out of public funds, where numbers warrant. It also confers the right to exercise “a measure of management and control over the educational facilities in which their children are taught”.<sup>2</sup> Essentially, rights-holders should have control “over those aspects of education which pertain to or have an effect upon their language and culture.”<sup>3</sup> This right is exercised by rights-holders as a group; generally through representatives.<sup>4</sup>

The Supreme Court has set out the scope of the right as follows:

The minority language representatives should have exclusive authority to make decisions relating to the minority language instruction and facilities, including:

- (a) expenditures of funds provided for such instruction and facilities;
- (b) appointment and direction of those responsible for the administration of such instruction and facilities;
- (c) establishment of programs of instruction;
- (d) recruitment and assignment of teachers and other personnel; and
- (e) making of agreements for education and services for minority language pupils.<sup>5</sup>

The province has the “positive obligation[]” to “develop major institutional structures” to satisfy its obligations under s. 23.<sup>6</sup> It is the province’s responsibility to design an education governance structure that protects and enables the English-speaking community’s management and control over its constitutionally-guaranteed minority language education.

## **b. Education and Community**

The purpose of all schools is to provide the best educational experience possible for its students. English schools – institutions of our linguistic minority community – have the added responsibility of preserving and promoting the unique culture of English-speaking Quebec.

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<sup>1</sup> *Mahe v Alberta*, [1990] 1 SCR 342 at 362 [*Mahe*].

<sup>2</sup> *Mahe* at 371-72.

<sup>3</sup> *Mahe* at 375.

<sup>4</sup> *Mahe* at 377.

<sup>5</sup> *Mahe* at 377.

<sup>6</sup> *Mahe* at 365.

These are not merely institutions that provide services in English; they are institutions *of* English-speaking Quebec. Thus, caring for these institutions, ensuring our children receive an excellent education, and reinforcing the school's role as the centre of community life are responsibilities shared between the English-speaking community of Quebec and the Minister.

The Supreme Court has repeatedly recognized that the purpose of s. 23 is to protect minority language and culture.<sup>7</sup> Minority language education plays a “vital role” in “encouraging linguistic and cultural vitality” of minority communities.<sup>8</sup> Minority language schools are the “primary instrument”<sup>9</sup> and the “single most important institution”<sup>10</sup> for the survival of the community and the transmission of language and culture. Minority education rights provide, “...the official language minority with equal access to high quality education in its own language, in circumstances where community development will be enhanced.”<sup>11</sup> In addition to transmitting language and culture, minority language schools provide community centres where members of the minority community can “express their culture”.<sup>12</sup> Thus, the s. 23 right is not merely a right to receive instruction in the minority language; it is the right to participate in a linguistic community and in the transmission of that community's language and culture to future generations.

At the heart of every community is a school. Schools do far more than instruct our children, they define, protect and communicate who we are and what we value. They are places where we meet and celebrate significant events and milestones in the lives of our children and our families. Schools reflect their communities; and so with good reason, schools are and have been locally governed and managed, within the bounds of broad societal policy objectives for generations in Quebec. In many communities, they are the last remaining self-governed institution.

Our schools play a community role beyond their educational function. Schools are a centre of community activity, a meeting place where our culture is expressed and enjoyed. They are the cornerstone of communities—particularly in the minority context. Centralizing the power to manage and control these institutions – thereby separating them from their communities – reduces, and will eventually remove schools as community institutions.

**c. Bill 40 does not provide a meaningful vehicle for community management and control of education as required by s. 23 of the *Charter***

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<sup>7</sup> See *Mahe* at 362; *R v Beaulac*, [1999] 1 SCR 768 at para 25, and *Gosselin (Tutor of) v Quebec (Attorney General)*, 2005 SCC 15 at para 28.

<sup>8</sup> *Mahe* at 350.

<sup>9</sup> *Association des parents de l'école Rose-des-vents v. British Columbia (Education)*, 2015 SCC 21 at para 27.

<sup>10</sup> *Arsenault-Cameron v Prince Edward Island*, 2000 SCC 1 at para 29 [*Arsenault-Cameron*].

<sup>11</sup> *Arsenault-Cameron* at para 27.

<sup>12</sup> *Mahe* at 363.

Put simply, Bill 40 seeks to increase the executive authority of the Minister in the Quebec's public school system and decrease input by the community and its representatives. It chokes community management and control by all communities—French and English-speaking. It adapts its model to the English school system by creating a system of elected representation. On paper, Bill 40 provides a system of representation for s. 23 rights-holders on School Service Centre ("SSC") Boards of Directors by way of universal suffrage. However, this system of representation is not designed to provide meaningful management and control by the community.

Taken as a whole, the Bill fails to provide a means for rights-holders to have any meaningful degree of management and control through their representatives. Bill 40 creates an empty shell for community representation in which true management and control is likely to be exercised by staff and Ministry officials rather than the community.

The Bill falls short of the constitutional standard for two reasons:

- i. **Composition and Selection of SSC Boards:** Rights-holders' exercise of management and control through representatives on SSC Boards is stifled by restrictions on who can serve on these Boards and the lack of resources provided to these representatives.
- ii. **Power of SSC Boards:** The decrease in the decision-making powers of SSC Boards paired with greater control by the Minister means that the SSC Boards will likely not exercise much meaningful decision-making power over education.

#### **i. Composition and Selection of SSC Boards**

Rights-holders' exercise of management and control through representatives on the SSC Boards is stifled by restrictions on who can serve on these Boards and the lack of resources provided to these elected representatives.

- a) The Bill restricts who can serve as a representative on the SSC Boards: For example, only parents who are currently serving on school Governance Boards are eligible to run as a parent representative. Community representatives must fit specific profiles. Given this combination of restrictions, only a small proportion of community members is eligible to serve on an SSC Board. To take the problem to its extreme, surely a system of representation in which only one rights-holder could run for office would not satisfy a constitutional standard for management and control.
- b) The Bill's electoral system for SSC Boards does not fix any of the problems with the current system and does not define who is eligible to vote in SSC elections: This Bill does not address any of the problems identified with the current electoral system for school board elections in the *Election Systems Study Panel*, nor any of recommendations to

improve voter turn-out. Rather, it makes the electoral system more complicated, holding elections every two years, and requiring voters to vote for different categories of community representatives. At the same time, this system leaves the English system vulnerable to influence by the majority because it does not define who is eligible to vote in SSC elections. This Bill opens the franchise to any voter, whether or not they have any link to the English-speaking community. Having lost its right to vote in French SSC elections, theoretically, electors from the majority could overwhelm the minority community's voting power in the selection of the English SSC Boards. The franchise is ill-defined, and at the same time, the system does not address the existing problems. Overall, the electoral system is unacceptable.

- c) The presence of staff as voting members on the SSC Boards reduces the voting power of rights-holders: Staff members are not necessarily rights-holders, they are not selected by rights-holders, and not directly accountable to rights-holders. The presence of voting staff on the SSC Board dilutes the voting power of the parent and community representatives, and therefore indirectly dilutes the voting power of the rights-holders.
- d) The resources provided to SSC Board members are insufficient: The Bill provides for training, but not for remuneration.<sup>13</sup> Thus, the community and parent representatives serve on SSC Boards as volunteers. The time demands on these volunteers (particularly parent volunteers) will further limit the pool of candidates willing to serve on these Boards.

Overall, the Bill restricts who can represent the community on SSC Boards and places huge unremunerated demands on representatives, particularly on the parent representatives. The Bill will discourage people from standing for election. As such, it curtails not only the voting power of rights-holders, but also the range of choices that will be available to them in elections. It sets up a system of representation that is weak *at best*, and dysfunctional and illusory at worst.

## **ii. Power of SSC Boards**

More fundamentally, the Bill's governance structure centralizes power with staff and the Ministry. It takes away power from SSC Boards. This means that the SSC Boards—and the rights-holders' representatives on these Boards—will likely not exercise much meaningful decision-making power over education.

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<sup>13</sup> The Bill provides for reimbursement of reasonable expenses and attendance allowances set by the government: Bill, s 65.

- a) The Director General's role is enhanced: Under Bill 40, the Director General takes on an enhanced role with respect to the SSC Board: the Director General becomes the official spokesperson of the SSC Board.<sup>14</sup> As such, the role and power of the Director General in SSC governance is enhanced.
- b) The role of staff in SSC Board governance diminishes the Board's overall power: The increased role of staff dilutes the governance function of SSC Board itself. The Board of Directors will include 4 staff voting members. The presence of staff on a Board of Directors breaches the separation between the Board and staff, and will likely lead to a decreased ability for the Board itself to deliberate on and decide issues involving staff management. For example, SSC staff will now be involved in selecting (and potentially removing) the Director General. SSC staff will be placed in the bizarre position of having voting power over decisions affecting their own supervisor.

Further, three important SSC Board committees are also composed entirely of staff: the resource allocation committee, the commitment-to-student-success committee, and the advisory committee on management. Again, this indicates that staff will have a major influence in Board deliberations on important topics. The Election Systems Study Panel specifically recommended against adding staff on school board Council of Commissioners.<sup>15</sup>

- c) Devolution of some decision-making to the school level further decreases the role of the SSC Board: Some functions are devolved from the school board level to the school level. For example, school Governing Boards are now responsible for the promotion of public education<sup>16</sup>—a function currently exercised at the school board level.<sup>17</sup> Devolution to the school level is problematic because it takes away that decision-making from a body controlled by rights-holder representatives (i.e. the SSC Boards) and puts it into the hands of a decision-making body not controlled by rights-holder representatives (i.e. school Governing Boards).
- d) The strategic planning process creates lines of accountability to the Minister rather than the SSC Board: The Minister currently has a role in supervising the “commitment-to-success” planning process.<sup>18</sup> Under Bill 40, the role of staff and the Minister is enhanced,

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<sup>14</sup> Bill, s 90.

<sup>15</sup> See *Election Systems Study Panel*, p 27, Recommendation 9, **Appendix A** to this brief.

<sup>16</sup> Bill, s 30

<sup>17</sup> *Education Act*, s 207.1, amended by Bill, s 93.

<sup>18</sup> For example, *Education Act*, s 209.1: the plan must be consistent with the strategic directions of the department and must meet department expectations; and s. 459.2: the Minister may determine the policy directions, objectives or targets that school boards must take into account in preparing their commitment-to-success plan.

and the role of the SSC Board is further diminished. The all-staff “commitment-to-student-success” committee is responsible for creating the plan. If the SSC Board does not accept the committee’s plan, it must give reasons.<sup>19</sup> Thus, the SSC’s strategic plan comes to the SSC Board as a *fait accompli*, and the members of the SSC Board may have little substantive input into the plan. Many decisions otherwise in the purview of SSC Board will be dictated by these plans rather than by the community.

- e) The Ministerial powers can be exercised to override SSC Board decisions: If unchecked, the Bill’s new Ministerial power—and many of the existing powers—can be used to violate s. 23. It falls to the rights-holders, either individually or collectively, to challenge the use of these powers. However, the new structure weakens the ability of SSC Boards to resist and challenge Ministerial intervention, and leaves rights-holders with fewer recourses. This will have a chilling effect on the deliberations of SSC Boards.

The Minister’s own comments about the role of SSC Boards indicate his view that SSC Boards will not exercise much real power. In response to a concern about the lack of remuneration for SSC Board members, Minister Roberge answered as follows:

Et si on demandait avec les changements qui s’en viennent exactement la même chose aux gens qui sont sur le c.a. versus les commissaires ça [la non-remuneration] poserait un problème [...]

Il ne faut pas transposer exactement que font les commissaires par rapport à ce que qui feront les gens sur un conseil d’administration. C’est un changement de paradigme. On inverse la pyramide des pouvoirs. Et les gens qui siègeront sur les c.a. n’auront pas la même mission, la même charge de travail. Et il y aura justement une formation pour qu’on comprenne le rôle, devoirs, et responsabilités [...]

La mission sera différente. On leur demandera de venir siéger sur un c.a., d’être en quelque sorte le gardien de l’équité, le gardien que les décisions sont prises selon les règles et on leur demandera pas de gouverner une instance de gouvernement comme le sont en ce moment les commissions scolaires. Et c’est là où il y a un changement de paradigme.<sup>20</sup>

Overall, the SSC Board may find itself simply “rubber-stamping” many staff decisions, or its decisions overridden or pre-empted by Ministerial decisions. The rights-holder representatives

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<sup>19</sup> Bill s 88, adding s 193.9.

<sup>20</sup> Transcription of response of Jean-Francois Roberge, Committee on Culture and Education, 6 November 2019, during testimony of APPELE-Quebec.

on the SSC Board are left with a system that provides them little influence in important decisions.

**3) The Government of Quebec has not demonstrated that this model will either improve education governance or student success**

The purpose of Bill 40 seems to be mainly administrative. It makes no claim to either improve the scholastic performance of Quebec's students or to improve or maintain existing educational services. At the same time, the Bill imposes a major change on education governance without the benefit of input from the affected stakeholders.

Other stakeholders before this Committee have spoken to the high student success rate within English school boards. The Government of Quebec has not demonstrated why this reform is necessary to improve student success, or even to improve governance within the English system. What problem does this Bill solve? What policy objective is so pressing and substantial that it can justify the withdrawal of community management and control? The QCGN invites the Minister to answer these questions.

**4) No reform to governance of the English education system should take place without proper consultation with the English-speaking community**

Constitutional issues aside, there has been insufficient public consultation on this proposed reform, particularly considering its scope.

By all accounts, this Bill is the most important reform in school governance since the change from confessional to linguistic school boards in the 1990's. Such a major reform warrants major reflection and consultation. This has not been done here.

Why the proposed reforms contained in Bill 40 are required remains unclear. The Government of Quebec chose neither to conduct public consultations nor to produce a white paper prior to introducing this legislation. Moreover, the Government has chosen the more restrictive special consultation (consultations particulières) process to gather feedback on this Bill, rather than the more open general consultation process, which addresses the population as a whole. This seems extraordinary, given not only the scope of the proposed reforms, but their nature. It is unacceptable for any level of government to capriciously effect constitutional and democratic rights.

Our mature democracy demands the voice of all Quebec citizens be constantly sought out, heard and reflected in government policy and legislation, and not just during election campaigns. Developing policy remotely without input from interested and invested citizens and then foisting these ideas on these same communities is contrary to the finest of Quebec's political traditions.

Community leaders believe that reforms to the public school system – its governance included – are necessary. In the summer of 2015, four leading English-speaking civil society groups sponsored the *Election Systems Study Panel*, an independent ad hoc body led by the Honourable Marlene Jennings.<sup>21</sup> The Panel was mandated to review the current practice of school board governance and propose options for improving the elections system. Following a broad community consultation, the Panel made 13 recommendations, which included specific, evidence-based suggestions on how to improve voter turnout and increase community participation in the management and control of English public schools. These recommendations have been mostly ignored and, in some instances, contradicted.

The QCGN is disappointed that this Bill does not reflect the recommendations of this study. Nor does this Bill represent the outcome of any consultation process with the English-speaking community.

Rather, the provisions of this Bill for English SSC Boards seem to be simply a modified version of the reform directed at the French system. This is fundamentally the wrong approach. To set up a system where the community's right to manage and control education is respected requires a system designed with the minority community in mind: a governance system *by and for* the community.

## **5) Conclusion: The Way Forward**

This Bill cannot be passed in its current form. The QCGN requests that this Committee:

- Amend the Bill so that the English system is exempt from the reform, pending a full consultation with the community to design a governance system by and for the community; and/or
- Request a reference on the constitutionality of Bill 40 to the Quebec Court of Appeal.

It is time for the Government of Quebec to engage the English-speaking community of Quebec constructively and substantively in policy development on issues that affect all Quebec citizens. The QCGN invites the government to embark on an inclusive consultation process with stakeholders in English-speaking Quebec to improve the exercise of minority language education rights, and fully realize the purpose of s.23 of the *Charter of Rights and Freedoms*.

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<sup>21</sup> See **Appendix A** to this brief.



# ENGLISH SCHOOL BOARDS ELECTION SYSTEMS STUDY PANEL REPORT 2015

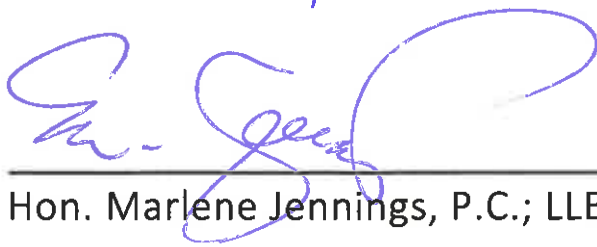
Elections Systems Study Panel

2015

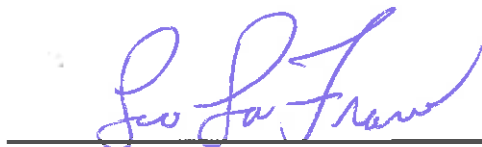


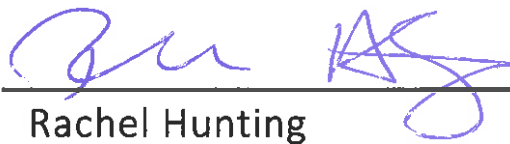
# ELECTION SYSTEMS STUDY PANEL

Chair:

  
\_\_\_\_\_  
Hon. Marlene Jennings, P.C.; LLB.

Members:

  
\_\_\_\_\_  
Leo La France

  
\_\_\_\_\_  
Rachel Hunting

  
\_\_\_\_\_  
Brian Rock

  
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## ACKNOWLEDGMENTS

The members of the Election Systems Study Panel (ESSP) wish to thank the Quebec English School Boards Association (QESBA), the English Parents' Committee Association (EPCA), the Québec Community Groups Network (QCGN) and the Québec Federation of Home and School Associations (QFHSA) for their initiative in creating this workgroup and for the development of its mandate; special thanks to QESBA for providing the ESSP with a location and the logistical support to hold its hearings and conduct its work.

Panel members also wish to acknowledge the contribution of Joshua Arless who provided important technical and logistical support in the creation of the ESSP website and who facilitated correspondence between the ESSP and the wider community through its dedicated email address and telephone number. A special thank you to Rachel Hunting, member of the Panel, for her remarkable background research as well as synthesizing the report during the writing process.

Finally, the members of the ESSP wish to thank the many individuals, organizations, institutions, and legal experts who made submissions and/or who appeared before the Panel during their consultation process.

## INTRODUCTION

The Election Systems Study Panel (ESSP), launched in June of 2015 and sponsored by the Quebec English School Boards Association (QESBA), the English Parents' Committee Association (EPCA), the Québec Community Groups Network (QCGN) and the Québec Federation of Home and School Associations (QFHSA), is an independent volunteer Panel consisting of five members of the English Minority Community (EMC). Chaired by the Honourable Marlene Jennings, former Member of Parliament, other Panel members include former Assistant Deputy Minister from the Ministry of Education Leo La France, Executive Director of Townshippers' Association Rachel Hunting<sup>1</sup>, President of QFHSA Brian Rock, and Vice-President of EPCA Rhonda Boucher.

The Panel's mandate included the review of numerous election systems as well as the current system of universal suffrage for the selection of Commissioner and Chairs; consultations with English Minority organizations and individuals with expertise on the various options; a review of past elections; and making recommendations for the four sponsor organizations to present to the Québec government. The Panel investigated all system options through the prism of Official Language Minority Community (OLMC) Constitutional Rights.

## METHODOLOGY

English-speaking organizations and the community-at-large were invited by the ESSP to participate in a consultation process that included the submission of written briefs to the Panel and individual interviews/hearings during the months of June, July and August 2015.

A letter of invitation to participate in the consultation process was sent directly to the Presidents of more than 150 English-speaking organizations, educational institutions, and groups across the province and was also made available to the general public via the online

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<sup>1</sup> While Ms. Hunting was asked to participate on the ESSP (Election Systems Study Panel) in the context of her role as Executive Director of Townshippers' Association, she did so as a private citizen and member of Québec's English-speaking communities dedicated to the preservation and betterment of English education in Québec and the vitality of its English-speaking communities.

platform [www.electionsPanel.ca](http://www.electionsPanel.ca); submission details and guiding questions for the consulted to consider were included with the letter of invitation and available via the online platform (see Appendices B-D); the ESSP's four sponsor organizations also conducted their own respective awareness campaigns encouraging community participation in the consultation process. The consulted were asked to submit their correspondence/submissions to the ESSP by email or directly through the contact form on the online platform before the extended deadline of July 31, 2015. A total of 36 written submissions were received by the ESSP. During the consultation process, the ESSP conducted a total of 29 interviews with English Minority Community organizations, stakeholders, and Constitutional Rights experts. These interviews took place in person, via teleconference, and video-conference.

The Panel conducted a literature review using the secondary analysis of primary Sociological, Anthropological, and Sociolinguistic research as it pertains to the English Minority Communities in Québec (ESCQ). Academic research on School Board governance was used to provide background information on Québec's current election system for English Minority School Board Commissioners and Chairs as well as to situate, for the ministère de l'Éducation, the role of English public School Boards in the maintenance and proliferation of ESCQ vitality in Québec. Panel members also included an analysis of Supreme Court of Canada judgments and jurisprudence within the context of OLMC rights under Section 23 of the Canadian *Charter of Rights and Freedoms*, and an analysis of research documenting OLMC School Board models in other provinces.

## REVIEW OF THE LITERATURE

### COMMUNITY VITALITY FOR LINGUISTIC MINORITIES

The concept of group vitality provides the lens through which to analyze the different variables that impact the resiliency of individual language communities negotiating multilingual environments (Bourhis and Landry 2012). Strengthening the vitality of Minority Language Communities increases their ability to maintain themselves and flourish as a collective body in

an intergroup context. Likewise, language communities that lack vitality face the end of their existence as distinct within the intergroup context (Bourhis and Landry 2012; Jedwab 2012).

Vitality for OLMCs is expressed through (Canadian Heritage 2013):

- Individuals who have a sense of belonging to the language community, who have linguistic aspirations and relevant practices;
- A community that has a collective leadership and an ability to mobilize its people and community organizations;
- An environment that: offers the possibility of receiving an education in your own language; provides recreational and cultural activities in your own language; includes the presence of institutions and an active offer of services; offers the possibility of participating in the economic and social expansion of the community; and encourages the visibility of language;
- Relationships with the majority that lead to support and cooperation between the two language groups, recognition and respect of language rights, and influence and authority within the majority institutions;
- Demographic and demo linguistic renewal through natural population growth, immigration, and language practices that ensure the retention and transmission of the language;
- A community's ability to subscribe to a wider linguistic environment.

## SCHOOL BOARD IMPACT ON ENGLISH MINORITY COMMUNITY VITALITY

Linguistic and cultural institutions act as vehicles for the transmission of a minority group's identity and make important additions to its historical continuity, contributing to its overall institutional completeness<sup>2</sup> (Landry, Allard, Deveau 2013). English schools are an important pillar of institutional completeness because of their large contribution to the development of social actors who will shape the future social organization of the minority group. English

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<sup>2</sup> R. Breton's 1964 concept of "institutional completeness" in this context refers to the number, variety, and nature of institutions specific to a minority community such as schools, places of worship, and community centers which serve as important communal reference points and provide opportunities for minority group members to meet and interact.

schools also make significant contributions to language socialization and ethnolinguistic identity-building (Landry, Allard, Deveau 2013). Historically, School Boards have been recognized as providing an important mechanism ensuring that the governance of English public education reflects community and regional values and priorities (Sheppard, Galway, Brown and Wiens 2013). In this regard, the ability of a parent or a member of the community to directly express concerns to a School Board member provides a degree of democratic legitimacy that is absent for English-speakers dealing with other public services, save through the office of an ombudsman if at all (Sheppard et al 2013). The ability to reach out to a local community School Board representative who is elected from within and aware of community needs and realities as being of utmost importance was echoed by participants in the ESSP's consultation process:

**“Our school board commissioners have an important role to play. It’s vital that they are not far removed from our communities so they can be made aware of the issues that affect our children. In our case, our daughter requires support services. Knowing I have the option to contact a local commissioner to bring their attention to a gap in services is comforting and empowering. If my requests for support were filtered through a distant and disconnected office somewhere, they may never be addressed.”** – Corrinna Pole, July 2015.

English public schools are a portrait of diversity ranging from one-room school houses on Entry Island in the Magdalen Islands to large high schools in both urban centers such as Montreal and smaller, more rural environments such as the Eastern Townships (QESBA 2006). English schools and School Boards are adept at adapting to an ever-changing variety of challenges all the while fostering an educational environment where students leave the system equipped with all of the tools necessary to excel within Québec and the wider society (QESBA 2006). English School Boards have experience tailoring their curriculum to the specific needs and realities of the children attending their schools and effective, elected and representative School Boards are imperative to aiding the Ministère de l'Éducation with the development of realistic policies,

programs, and budgets that take into account the needs and realities of English schooling within Québec (QESBA 2006; Burke 2012).

Consider the successes of the Community Learning Centers Initiative in support of English language schools as hubs for education and community development (QESBA 2006). Through an offer of diverse services and activities available outside of regular school day hours this initiative is able to support the needs of students, their families, and the wider community (QESBA 2006). There are currently 24 English elementary schools with Community Learning Centers and 22 English secondary schools (Gonsalves, Kueber, Langevin, and Pocock 2014). The CLC Initiative is a prime example of how the role of English schools in a minority context is much larger than simply ensuring academic success or instruction in English – their role as the English Minority Communities’ last remaining institutions is inherently linked to the transmission of its collective history and culture over generations and provides its youth with the tools, as well as the skills, to actively contribute to the majority society (Gonsalves, Kueber, Langevin, and Pocock 2014). The significant role played by English schools as essential community hubs was a recurrent theme among briefs submitted to the ESSP during its consultation process.

Within the context of institutional completeness, the link between English schools governed by English Minority Communities and vital Minority Communities is evident (Burke, 2012). Being a member of a linguistic minority often leads to increased barriers to education, employment, and communication; contributes to a sense of exclusion and isolation; results in low levels of representation in leadership roles (QCGN 2009). Having an institution within which one can affirm one’s identity and access resources becomes a crucial necessity for those who negotiate Québec society in an OLMC context, especially when it is taken into account that English Minority Communities are diverse and dispersed across the province (Lamarre 2008; QCGN 2009).

The importance of minority-language schools in regions where English Minority Communities enjoy little institutional completeness becomes magnified as the school is often the **“only institution providing a dominant atmosphere in the minority language”** (Landry, Allard, Deveau 2013, 29) and responding to the realities inherent to English Minority Communities

(Lamarre 2008). The 2008 Québec government *Forum on School Board Democracy and Governance* [Forum] recognizes the reality that in some regions of Québec, English School Boards serving more than one geographic territory are the only institutions providing academic and cultural services to the English Minority Communities, making it possible for those Communities to maintain themselves. A support document<sup>3</sup> for the forum's plenary sessions prepared by Québec's Ministère de l'Éducation, du Loisir et du Sport (2008, 5 [Québec 2008]) notes that

**"English Minority communities have strong ties to their School Boards, the only public institutions whose directors are elected exclusively by members of these communities. Schools are also where much of community life takes place. Community school projects reveal the importance of this aspect, which transcends a strictly educational mission."**

In 2012, Québec Liberal Party Members of the National Assembly noted the important role English schools play in relation to maintaining vital English Minority Communities (Kelley et al. 2012), declaring that

**"[d]emocratically elected, School Boards manage school personnel, provide pedagogical support for teachers, design programs for special needs students, and passionately promote our public school system...Elected School Board representatives have a special link to their community. Their role includes the protection of minority educational rights. The Québec Liberal Party remains convinced that efficient and representative School Boards remain key elements in our efforts to provide our young people with the education they need to advance Québec society in the future"**

The Supreme Court of Canada has also acknowledged the impact of minority-language education on community vitality, stating:

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<sup>3</sup> See *Ministère de l'Éducation, du Loisir et du Sport. Forum on School Board Democracy and Governance: Support Document for the Plenary Sessions. February 2008* for additional information

**“The purpose of [minority language education legislation] is the protection and promotion of the minority language community in each province... [it] is of prime importance given ‘the vital role of education in preserving and encouraging linguistic and cultural vitality’ (Mahe, at p. 350)... [Minority language education legislation] achieves its purpose by ensuring that the English community in Québec and the French communities of the other provinces can flourish. As this Court said in Mahe, at p. 362, ‘[t]he Section aims at achieving this goal by granting minority language educational rights to minority language parents throughout Canada’” (Gosselin v. Québec 2005, 18).**

Careful examination of Québec’s provincial language legislation from the 1960s onward provides both a timeline for the erosion of the status and institutional completeness of Québec’s English Minority Communities, and evidence that although the English language itself is not under threat in the province of Québec, the vitality of its English Minority Communities certainly is (Bourhis, Foucher 2012).

Prior to the 1960s, Québécois and immigrants to Québec had the freedom to choose to attend either English or French public schools, the one stipulation being that only Catholics could attend French Catholic schools; the majority of non-Catholic English-speakers attended English Protestant schools. This changed radically with the Union nationale’s adoption of Bill 63 (1969) and the Liberal adoption of Bill 22 (1974) which somewhat limited access to education in English (Bourhis, Foucher 2012). Continuing the trend in 1977, the Parti Québécois government further limited access to English education with the introduction of Bill 101 that removed the rights of the Francophone majority and international immigrants to attend English primary and secondary schools and restricted their access to those students with one parent who had been educated at the primary level in English within Québec or another Canadian province (Bourhis, Foucher 2012). 2002 saw the Parti Québécois government use Bill 104 to close a loophole in previous legislation that gave non-qualifying students who attended private schools often referred to as *English bridging schools* access to English public education after one year;

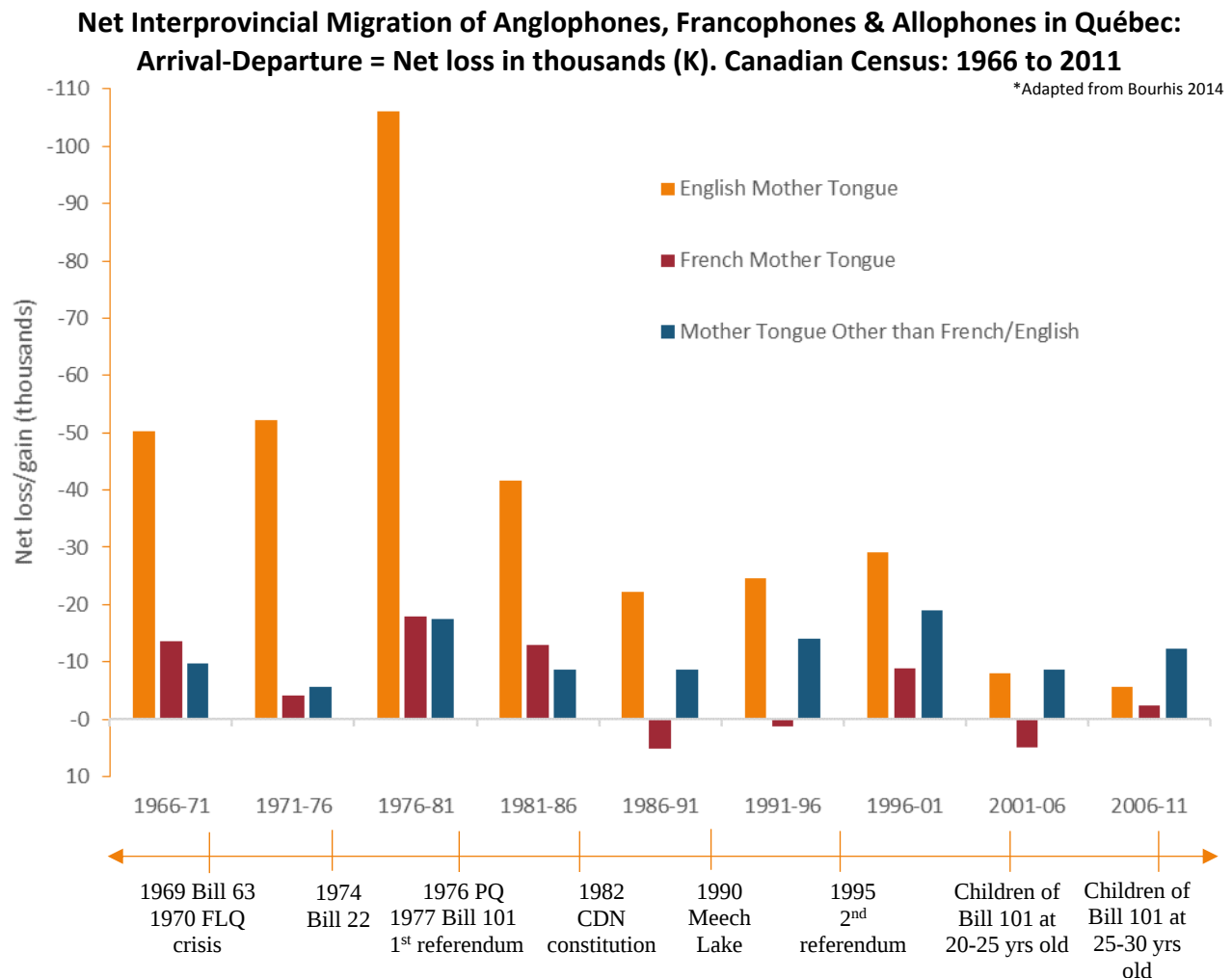
estimates indicate that approximately 2 500 students made use of this loophole between 1997 and 2002 (Bourhis, Foucher 2012).

Despite a 2008 Québec Court of Appeal ruling that Bill 104 did not meet Section 23 obligations under the Canadian *Charter of Rights and Freedoms*, the Québec Liberal government led a successful challenge of the Québec ruling and the Supreme Court of Canada subsequently granted the provincial government a one year grace period to draft new legislation limiting access to English public education without compromising Section 23 – Bill 103 was proposed in 2009 and provided a basis for Bill 115 which was adopted into law in 2010; Liberal Ministre de l'Éducation at the time, Michèle Courchesne, candidly admitted the aim of this new legislation was to limit, as much as was legally possible, access for non-rights-holders to English public education (Bourhis and Foucher 2012). In 2013 the Parti Québécois government proposed Bill 14 with the aim to modify Bill 101 and further restrict access to English public education within the province, including the removal of rights to English public education for certain English Minority rights-holders (those who obtained the majority of their own schooling in French would lose the right to enroll their children in the English public system) (Bourhis and Foucher 2012).

Legislation aimed at limiting access to public education in English is **“based on the erroneous notion that the French language and its speakers are threatened in the Province of Québec”** (Bourhis and Foucher 2012, 14). Canada's Commissioner of Official Languages, Graham Fraser, referred to this reality in a 2012 address in which he stated that:

**“...changes in the English community are generally not recognized by the French-speaking majority in Québec. The old stereotypes persist... In some ways, there has been a revival of linguistic insecurity in Québec. This has been due, in part, to a confusion between the increasingly dominant role that English is playing on the international stage, and English as the language spoken by a shrinking English minority community... [the] English language is not threatened in Québec – but English communities are.”**

Analysis of data detailing the exodus of English-speakers following the adoption of the aforementioned Bills 63 through 101 further demonstrates the dire consequences for the EMCs in Québec of successive Québec governments passing laws to ensure the primacy of the French language in Québec and discourage any presence of English within the public sphere.



Given the importance of English schools as institutions for the transmission of English Minority Communities' culture and the formation of identity for young English-speakers, legislation tailored to block access to these institutions has inherent and tremendously negative effects on the vitality of English Minority Communities and by design erodes the English public education

system<sup>4</sup>; fewer students in the system leads to a reduction of financing and a lesser need for English teachers/principals/support staff/School Board administrators (Bourhis and Foucher 2012). This decline in student numbers, and by proxy funding for services, **“are among the most critical issues facing English schooling in Québec today”** notes Lamarre (2008, 67), adding that **“school closures [are] a traumatic experience for Anglophone families and the local community”** (Lamarre 2008, 67).

**“Francophones in Québec are not just a majority, they are a dominant majority in Québec and they need to understand this so that they undergo a psychological shift whereby they understand that as a dominant majority they must take active measures to protect and develop their English Minority Communities”** – Richard Bourhis, August 2015

#### GRADUATION AND QUALIFICATION RATES FOR ENGLISH SCHOOL BOARDS 2009-2013

Close examination of the graduation and qualification rates per cohort of students enrolled in Québec’s English School Boards between 2009 and 2013 reveals the consistent above-average performance of these institutions in terms of the retention and academic success of their students when compared with not only the provincial average, but with French School Boards across the province as well. Taking into account that Québec’s English School Boards cover vast territories (with the exception of the Island of Montreal), work with smaller/widely dispersed/declining student populations, have important size differences between boards and their respective access to financial resources, have smaller schools with fewer professional resources and teachers to address the diverse needs of students, and are under an obligation to graduate bilingual and bi-literate students despite its impact on resources, further demonstrates the significance of their above-average performance in regards to graduation and qualification rates of students (Advisory Board on English Education [ABEE] 2013).

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<sup>4</sup> For a complete analysis of how language based legislation contributes to the outmigration and decline of the English Minority Communities see *Bourhis, R.Y. and Foucher P. The Decline of the English School System in Québec. Moncton, New Brunswick : Institut canadien de recherche sur les minorités linguistiques (ICRML), 2012.*

The ministère de l'Éducation, du Loisir et du Sport (MELS) considers the rate of graduation and qualification of a cohort as the proportion of students under 20 years old who obtained a first diploma seven years after entering high school, adult education or vocational training (MELS 2009, 2010, 2011, 2012, 2013). MELS relies on two measures for calculating the rate of graduation and qualification: the rate of first high school degree or first qualification attainment by *population* and the graduation rate and qualification by *cohort* (MELS 2009, 2010, 2011, 2012, 2013). These two ways of measuring provide very similar numbers, for example there was a difference of +/- 0.9 between the two measurements in 2011, but they are not meant to answer the same questions nor be used interchangeably (MELS 2009, 2010, 2011, 2012, 2013).

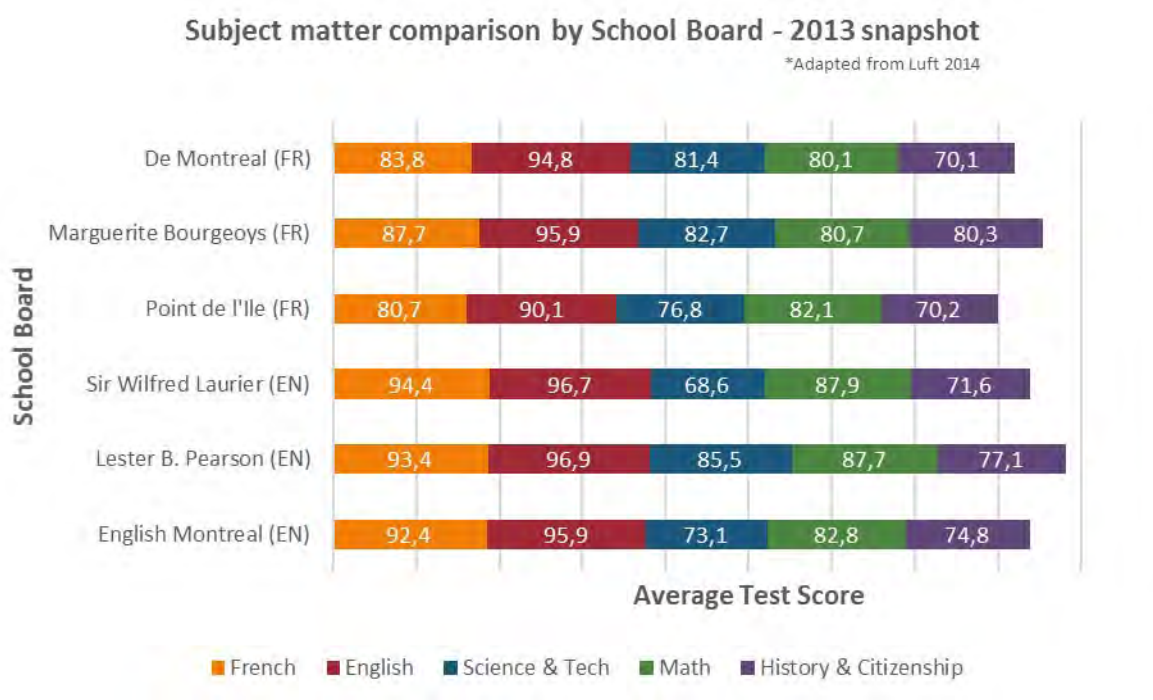
Calculating the graduation and qualification rate per cohort of students before they reach the age of 20 permits School Boards to identify the retention and academic success of their students and thus measure a School Board's achievement of the goals and targets as outlined in their respective strategic plans and any partnership agreements they may be engaged in with the aim to promote school perseverance (MELS 2009, 2010, 2011, 2012, 2013).

| Graduation and Qualification Rates for English School Boards 2009-2013 <sup>5</sup> |      |      |      |      |      |
|-------------------------------------------------------------------------------------|------|------|------|------|------|
| School Board                                                                        | 2009 | 2010 | 2011 | 2012 | 2013 |
| Province of Québec                                                                  | 71.9 | 72.3 | 73.4 | 75.0 | 75.8 |
| Québec Public Schools                                                               | 67.6 | 67.9 | 69.3 | 71.0 | 71.9 |
| Québec Private Schools                                                              | 90.2 | 91.1 | 91.3 | 91.8 | 92.2 |
| English School Boards                                                               | 79.8 | 79.2 | 81.9 | 82.3 | 84.5 |
| French School Boards                                                                | 71.3 | 71.8 | 72.7 | 74.4 | 75.0 |
|                                                                                     |      |      |      |      |      |
| English Montreal (EMSB)                                                             | 82.4 | 81.1 | 84.0 | 82.3 | 87.8 |
| Lester B. Pearson (LBPSB)                                                           | 80.7 | 80.7 | 83.7 | 82.8 | 86.2 |
| Central Québec (CQSB)                                                               | 81.0 | 79.8 | 79.8 | 85.9 | 85.4 |
| Riverside (RSB)                                                                     | 79.6 | 79.5 | 81.2 | 86.3 | 86.1 |

<sup>5</sup>Data compiled using the *Diplomation et Qualification au Secondaire* report series available from Éducation, Enseignement supérieur et Recherche Québec at <http://www.education.gouv.qc.ca/references/publications>

|                             |      |      |      |      |      |
|-----------------------------|------|------|------|------|------|
| Sir Wilfred Laurier (SWLSB) | 78.8 | 76.9 | 82.0 | 83.9 | 85.2 |
| New Frontiers (NFSB)        | 74.7 | 75.4 | 78.0 | 73.0 | 76.5 |
| Western Québec (WQSB)       | 72.9 | 69.3 | 72.9 | 72.7 | 69.7 |
| Eastern Townships (ETSB)    | 60.5 | 63.5 | 69.3 | 74.4 | 74.3 |
| Eastern Shores (ESSB)       | 69.8 | 50.0 | 62.7 | 76.5 | 74.8 |

In addition to graduation and qualification rates, a number of English School Boards outperform their French counterparts in terms of subject matter success as well, scoring 2% higher on Québec Education Ministry standardized tests in 2013 (Luft 2014). It should be noted that these same English School Boards also scored an average of 9.4% higher on French-language tests (Luft 2014).



## MINORITY LANGUAGE EDUCATION RIGHTS AND ENGLISH SCHOOL BOARDS

Section 23 of the *Canadian Charter of Rights and Freedoms*, a non-exception clause, establishes the Constitutional provisions for minority language education rights in Canada. Multiple cases pertaining to Section 23 Constitutional Rights have been heard before the Supreme Court of

Canada since the *Charter*'s inception and it is typical that the legislative history of this Section be considered when these cases appear before the courts<sup>6</sup> (Bergman, Daniels 2014).

The Supreme Court has noted that the broad scope of Section 23 facilitates the creation of disparities between Canada's linguistic minority groups and as a result recommended in 2003 that Section 23 cases could generally be settled by referring to the jurisprudence of three leading cases: *Mahe v Alberta*, *Reference Re Public Schools Act*, and *Arsenault-Cameron v Prince Edward Island* (Bergman, Daniels 2014).

*Mahe* makes reference to independent School Boards as a mechanism through which the Minority Language Communities can exercise their rights to the management and control of their education but the case is also careful to note that this is not always an appropriate way to fulfill this right (Bergman, Daniels 2014). *Mahe* does, however, define a minimum of decision-making areas that fall to right-holders that include but are not limited to: expenditures of funds provided for such instruction and facilities; appointment and direction of those responsible for the administration of such instruction and facilities; establishment of programs of instruction; recruitment and assignment of teachers and other personnel; and, the making of agreements for education and services for minority language pupils (Bergman, Daniels 2014, 25).

It can be argued from *Mahe* that English School Boards are protected from government intervention (Bergman, Daniels 2014). By applying the sliding scale approach embraced in that case and all Section 23 cases that follow it, **"the largest minority populations are subject to the maximum level of rights determined under Section 23 of the *Charter*. Given that the English language minority in Québec is Canada's largest official language minority, it should be awarded maximum rights to control and management over its educational facilities"** (Bergman, Daniels 2014, 25). *Arsenault-Cameron* also demonstrates support for the application of the sliding scale approach to determine a minority language population's right to the **"maximum level of rights determined under Section 23 of the *Charter*"** (Bergman, Daniels 2014, 25). Discourse around minority language populations and the geographic territories

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<sup>6</sup> For a detailed analysis of the legislative and judicial histories of Section 23 see Bergman, M., Daniels, K. *The Constitution and the English-Language in Québec: Education; The Primacy of the French Language; Collective Rights*, 5-20. QCGN: 2014

covered by independent School Boards in *Reference Re Public Schools Act* implies the presence of facilities not only for instruction but for management and control as well; **“thus specific geographic areas may require multiple School Boards, depending on the nature of the area and whether the numbers warrant”** (Bergman, Daniels 2014, 29).

#### MINORITY LANGUAGE EDUCATION RIGHTS AND ELECTED ENGLISH SCHOOL BOARD REPRESENTATIVES

The shift from denominational to linguistic based School Boards that occurred under the 1997 *Act to Amend the Education Act, the Act Respecting School Elections and Other Legislative Provisions [Linguistic School Boards Act]* afforded the English Minority Communities of Québec a universally-elected and democratic level of direct accountability to their members (Smith, Foster, and Donahue 1999; QESBA 2006).

While not specifically designated under Section 23, protection for the right of minority language Community members to elect School Board Commissioners and Chairs from within their communities through universal suffrage as the natural means by which to exercise their right to management and control identified by *Mahe* appears logical and is common across Canada (Bergman, Daniels 2014). It can be argued that, because the Board of Directors is the decision-making arm of the School Board and Section 23 grants management and control rights to minority language community members so they can make important decisions impacting their language and culture, minority language community members also have the right to choose those Directors from among their numbers (Bergman, Daniels 2014).

Bergman and Daniels (2014, 32-33) describe a list of rights afforded to minority language populations whose numbers do not warrant an independent School Board and posit that **“the sliding scale approach suggests that these rights will necessarily be included where a School Board *is* [emphasis in original] warranted: management rights increase as required by the number of potential users and the School Board represents the ‘maximum level of management’ (*Mahe* 1990)”**.

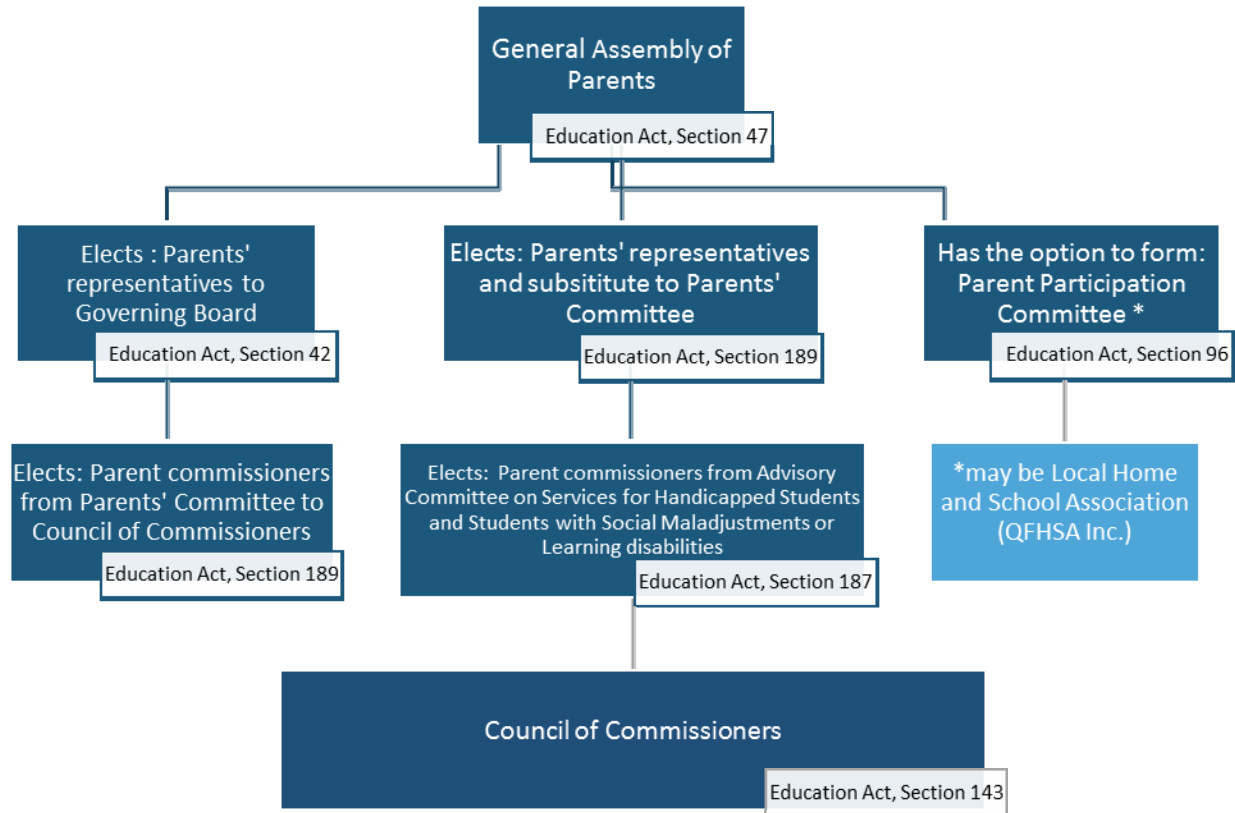
Citing voter turnout rates as an indication that Québec's English Minority Communities are uninterested in exercising their Constitutional Rights and are unsupportive of School Boards elections is misleading (QFHSA 2015). Voter participation in English School Board elections increased from 14.60% in 2003 to 16.88% in 2014; a negative trend however, can be observed in voter participation rates for French School Board elections over the same period with rates declining from 8.40% in 2003 to 5.54% in 2014 (QFHSA 2015).

## MODELS FOR THE SELECTION OF ENGLISH SCHOOL BOARD COMMISSIONERS AND CHAIRS

The current model for the selection of School Board Commissioners and Chairs in the province of Québec consists of a system where members of the Council of Commissioners are elected from within the community by universal suffrage and parent and teacher representatives are appointed to governing boards within the English School Board structure<sup>7</sup> (Québec 2008). Each School Board is responsible for running its School Board elections (DGÉQ 2010).

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<sup>7</sup> The complete Education Act can be consulted at [http://www2.publicationsduQuebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/I\\_13\\_3/I13\\_3\\_A.html](http://www2.publicationsduQuebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/I_13_3/I13_3_A.html)



Ontario and New Brunswick both hold School Board and municipal elections simultaneously but use very different administrative and political models (Directeur général des élections du Québec [DGÉQ] 2010).

In Ontario voters go to the polls every four years to elect both School Board and municipal officials; voting is organized so that citizens can arrive at one polling station and use one ballot to cast their respective votes (for the office of the mayor, municipal councillor, and School Board representative) (DGÉQ 2010). Under this system, a School Board territory and its population size vary substantially with the number of councillors per board varying according to its electoral population and that population's dispersion over the territory (DGÉQ 2010). The Ontario model for the organization of its School Board and municipal elections is facilitated by the harmonization of the electoral divisions of municipalities with those of school districts; this allows municipal clerks to act as chairmen of both municipal and school elections (DGÉQ 2010).

The province of New Brunswick has adopted a model of centralized management for the election of School Board and municipal officials held simultaneously every four years (DGÉQ 2010). As is the case in Québec, the division of New Brunswick's School Board and municipal electoral territories are not harmonized, nor do the territories of the various English and French School Boards coincide (DGÉQ 2010). Despite the fact that the municipal and School Board territories are not harmonized, it is still possible for Elections New Brunswick to hold school and municipal elections simultaneously so that the electoral process of both categories of officials are perfectly integrated (DGÉQ 2010).

Suggestions of models for the selection of School Board representatives emerged during the 2008 Québec government *Forum* and included the maintenance of the current model of universal suffrage with more clearly defined roles for Commissioners and an expansion of their functions to give them greater latitude in policy implementation; the formation of mixed boards comprised of both elected Commissioners (elected by universal suffrage) and an increased and substantial number of Parent Commissioners appointed to the boards by the School Board's own parents' committee – the ratio of community representatives to parent representatives was not defined; electoral colleges formed by parents members of governing boards who would be responsible for receiving the nominations for each position and for the selection of Commissioners; government appointed Commissioners selected from lists of nominated representatives submitted by one or more electoral colleges (Québec 2008). Each potential model carries with it different advantages. However, when compared to the democratic system of universal suffrage for community elected representatives currently employed by English School Boards in Québec, these other models present a number of clear disadvantages (Québec 2008):

- How voting powers would be shared between community and Parent Commissioners remains to be defined on a mixed board where the ratio of commissioner categories in relation to one another has yet to be established;
- Possibilities for double representation on boards where Community Commissioners and Parent Commissioners live in the same area;

- Electoral colleges remove a layer of involvement in the selection of Commissioners from the local community and individuals well versed in local needs and issues, particularly those pertaining to education and employability;
- Minister appointed Commissioners have the potential of lacking critical knowledge of minority language community realities, local needs, issues and culture;
- Minister appointed Commissioners also raises the issue of accountability in terms of the collection of school taxes;
- Minister appointed Commissioners raise the additional issue of to whom are they ultimately accountable, the community their respective English School Board represents and serves or, the Minister (and government) who appointed them.

Most participants in the 2008 *Forum* remained in favour of the democratic process and recommended any modifications made to this process strive to foster community involvement in democratic life (Québec 2008).

## RESULTS OF ESSP COMMUNITY CONSULTATIONS

The overwhelming majority of the organizations, stakeholders, experts and individuals who made submissions to the ESSP were in agreement that the current system of universal suffrage of Québec's English School Boards is the model which best respects the English Minority Communities' Constitutional Rights under Section 23 of the *Charter of Rights and Freedoms* of Canada as interpreted by the Supreme Court of Canada. Thus the ESSP can state with a great degree of certainty that a real consensus exists within the English Minority Communities that, notwithstanding low School Board elections voter participation, English School Boards must continue to exist along with a system of universal suffrage.

Unanimity was expressed on the need to bring the English School Board electoral process into the 21st Century and allow for online and telephone voting in English School Board elections and that these elections be twinned with municipal elections in order to reduce costs, facilitate

voting, and increase voter participation. A common recommendation by those who made submissions was that the Directeur général des élections du Québec (DGÉQ) be mandated by law to conduct English School Board elections, just as New Brunswick's Chief Electoral Officer currently runs both municipal and School Board elections despite the reality that their respective territories are not harmonized.

Virtually all of those consulted recommended that Parent Commissioners enjoy all the rights and responsibilities, including voting, as the commissioners currently elected via universal suffrage. Furthermore, the majority agreed on increasing the number of Parent Commissioners per English School Board from four to six with the condition that there be parent representatives from each educational level – elementary, high school, and special needs.

The issue of whether English School Boards should also have student representation garnered interest from those consulted. There was no consensus as to the shape/form for the inclusion of Student Commissioners or whether or not they should have the right to vote (be vested with the full rights of universally elected Commissioners). Those who expressed some hesitation explained that they did so as a result of not having reflected on this issue in depth. A meaningful reflection on the potential role and voting status of a student category of English School Board Commissioners is required prior to making an informed decision in regard to this question of representation.

ESSP consultations necessarily addressed the crucial challenge faced by Québec's English Minority Communities in ensuring their continued vitality in terms of both demographics and cultural identity. It is clear from the ESSP's secondary research, interviews, and the submissions it received that declining population numbers for Québec's English Minority Communities are particularly devastating when observed through the lens of their impact on minority language education. A declining student population results in declining financial resources, which in turn leads to the closure of institutions, a loss of services, diminished voices within those majority community institutions that have replaced the minority communities' own institutions, and fewer opportunities for members of English Minority Communities. There was consensus among the majority of those consulted that the successive Québec governments have an

abysmal record in terms of adopted legislation, regulations and policies that encourage and/or ensure the ongoing vitality of its English Minority Communities, declaring that Québec's successive governments have consistently turned a blind eye to their responsibilities and duties towards the English Minority Communities in the province, especially when examined through the prism of Section 23 of the *Charter*.

Examples were provided with regards to the Education Act of Québec which, while rightly and properly in the view of those consulted requires the children of immigrants to Québec be sent to French public schools, directly contributes to the decline of student enrolment in English public schools. A recurrent point raised during the consultation process identified the obligation of the Québec government to fulfill its responsibility to ensure the ongoing vitality of its English Minority Communities, and to interpret its laws, regulations and policies in a manner that actually allows it to fulfill its constitutional duties. Children of parents who come to Québec with a temporary work visa and are legally permitted to attend English public schools, should be permitted to continue their education in English once they and their parents become Permanent Residents. Some also recommended the Québec government amend its legislation so as to recognize Section 59 of the Constitution Act, 1982 which states that

**“(1) Paragraph 23(1)(a) shall come into force in respect of Québec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.**

**(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Québec.”**

and permit those immigrants who can prove their first language learned and still understood is English (Americans, Australians, Irish, Scottish, British, etc.) to enrol their children in English public schools. In light of the evidence that Québec Francophones are a secure dominant majority, such changes in the Québec government's policies would go a long way towards both augmenting vitality within its English Minority communities and providing greater opportunities for its majority community to compete economically on an international stage (Bourhis and Foucher 2012, Fraser 2012). As Québec Premier Philippe Couillard stated prior to his election in

2014, “[t]here’s not a single parent in Québec that doesn’t hope for their kids to be bilingual” (Globe and Mail, April 1 2014).

The issue of voter registration for English School Boards emerged as a very serious preoccupation for all those who made submissions and/or were interviewed. There was an overwhelming consensus among those who raised this issue that the manner in which the current legislation determines which voters are registered on the English School Boards’ voter lists has contributed directly to English voter apathy and has suppressed the English minority communities’ members’ ability to exercise their Constitutional Right to choose the representatives from within their communities to control and manage their public education.

**“The Constitutional rights of the English minority of this province are rights that we are not prepared to negotiate, especially since our schools are the last institutions our community still has control over. Year after year the provincial government has chipped away at the rights of the English minority.” – Jennifer Maccarone, Chairperson, Sir Wilfrid Laurier School Board August, 2015**

The law currently stipulates that all students who graduate from English public schools are, at 18 years old, automatically registered on the French School Board voter list of the territory within which the English student lives; in other words, the law, rather than decreeing the logical policy that if one was educated in and graduated from an English public school, one is automatically registered to the English School Board’s voter list, does the exact opposite and requires the DGÉQ to register that student on the French School Board’s voter list. This legislation acts in the same manner with regards to the parents of a student who has graduated from an English public high school; once their child has graduated and these parents no longer have a child enrolled in any English public school, their names are automatically removed from the English School Board’s voter list and placed on that of the French School Board. The law further decrees that those parents who have been moved to the French School Board voter list, pay their school taxes to that board rather than to the English School Board. A litany of the problems that these legislative rules have incurred was described by many if not all of those who made submissions to the ESSP, from voters who had exercised their right to vote in English

School Board elections prior to the 2014 election and had not been informed that they were no longer on the English Schools' voter list and who tried, unsuccessfully to be returned to the correct list, to those who turned up on election day to vote in their respective English School Board election only to be turned away because unbeknownst to those voters, under the current law, their names had been moved to the French School Board's voter list. All who spoke to these issues maintained that the current law must be modified so as to stipulate that anyone who was educated and graduated from an English public High School must, at age 18, be registered on the English School Board's voter list and, parents of students enrolled in English public schools must remain on the English School Board's voter list despite no longer having a child enrolled in an English public school. Provisions in the amended law could then stipulate how a voter registered on the English School Board's voter list may, should that voter so choose, have his/her name removed from that voter list and added to the French School Board's voter list.

It is the opinion of the ESSP that the issues surrounding voter registration lists in the 2014 School Board elections raised during its consultation process demonstrate a calculated decision on the part of the Québec government to restrict voters from participating in English School Board elections and skew the voter-turnout rates for both linguistic boards – the large number of English-speakers registered automatically on French School Board lists and the lack of cooperation from the DGÉQ to ensure that voters were registered correctly/process electoral list changes directly contributed to low voter turnout in both communities. The inability for voters in rural and geographically remote communities to exercise voting rights via telephone, online platforms, or mail-in ballots also greatly contributed to low voter participation rates.

## RECOMMENDATIONS AND CONCLUDING REMARKS

The Election Systems Study Panel has, through its consultative process, determined that not only must the English School Boards continue as the primary institutions ensuring the vitality of Québec's English Minority Communities, but also that this school governance system will not benefit from any addition of new governance structures imposed under the guise of improving

service delivery to English Minority students. As well, although a majority of those consulted suggested that the Director Général des élections du Québec be legally mandated to run English School Board elections the ESSP is of the firm view that this major change will not be required if its recommendations are implemented by the Québec government. Also, the twinning of English School Board elections with municipal elections, becomes a moot point if the ESSP's recommendations are implemented. A serious preoccupation of many of those consulted is that given the geographical size of most English School Boards' territories, the number of municipalities within said territories' can be very large. Twinning of English School Board elections with municipal elections would be cumbersome for all of Québec's English School Boards with the sole exception of English Montreal School Board.

School Board taxation, although not within the mandate of the ESSP, was identified as an important issue. A review of the tax system across the province should involve a proper evaluation of revenue from school taxes and the method of collecting taxes, as well as an analysis and proposal of a fair and equitable system that recognizes that "one size does not fit all".

## RECOMMENDATIONS

1. That the Constitutional Rights of Québec's English Minority Communities under Section 23 of the *Charter of Rights and Freedoms* be respected and protected by the Québec government;
2. That the English Minority Communities' current system of English School Boards with universal suffrage to elect its Chair and Commissioners-at-large be maintained;
3. That the English Minority Communities' current system of English School Boards with Parent Commissioners elected through their electoral colleges be maintained;

4. That the English School Boards' Parent Commissioners be legally vested with all of the rights, responsibilities and duties of Commissioners elected through universal suffrage including the right to vote;
5. That the number of English School Boards' Parent Commissioners be increased from four (4) to six (6) on each English School Board;
6. That English School Board elections be conducted through online, telephone and mail-in ballots only;
7. That English School Boards be given the legal authority to collaborate with their French School Board counterparts to revise voter lists for School Boards on their territories;
8. That the voter registration process be modified so that:
  - a. English Minority tax payers who pay into the English School Board system are automatically registered to the English School Board voting list;
  - b. Graduates of English public high schools are automatically registered to the English School Board voting list;
  - c. English Minority youth who turn 18 are automatically registered to the English School Board voting list;
  - d. Parents of children who have graduated from an English public High School are automatically registered to the English School Board voting list;
  - e. In the event that the Québec government does not implement ESSP recommendations 6 and 7, that voters in English School Board elections have the ability to identify their respective School Boards and be registered to vote for the appropriate candidates by showing proper identification on the day of the elections at their polling station;

9. That municipal representatives, principals, teachers, support staff, or any other professionals employed by English School Boards not to be included on the Council of Commissioners; the existing mechanisms for consultation between the governance structures already in place within current collective agreements and mandates must be strengthened.
10. That meaningful reflection is required on the part of English School Boards when considering increasing the participation of Cycle II Secondary students on the Council of Commissioners. The creation of a central student council by each English School Board is encouraged, as is the eventual participation of secondary Student Commissioners on the Council of Commissioners, and the possible extension of voting rights to this category of Commissioners.
11. That mandatory training and ongoing professional development be put in place for both Commissioners and members of Governing Boards at the school level so as to ensure each have a clear understanding of their respective roles, responsibilities and duties.
12. That ethical and conflict of interest guidelines be included in the Education Act with the mechanisms to ensure adherence to these guidelines.
13. That the current opportunity in the Education Act to co-opt Commissioners, based on expertise on community needs, be maintained.

Finally, the Election Systems Study Panel urges the Québec government to give act to the reality that Québec's Francophones are no longer just a majority; Québec's Francophone society has evolved, is flourishing, and is a secure dominant majority. Therefore the Québec government must give serious consideration to the demands of its English Minority Communities that its legislation, policies and regulations be reviewed through the lens of a secure dominant majority with special responsibilities and duties to ensure that the vitality of its English Minority Communities is no longer imperiled and that these communities cease to decline and instead

flourish. To do so may require, as many of those consulted suggested, an authorization by the National Assembly of Québec or the government of Québec that Section 23(1)(a) of the *Charter of Rights and Freedoms* be allowed to come into force.

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## APPENDIX A: INDEX OF CONSULTATION PARTICIPANTS

Advisory Board on English Education

Ann Cumin, former vice-chairman of the Lester B. Pearson School Board

Me Benoit Pelletier

Central Québec School Board

Chantal Pitt, former returning officer, Eastern Shores School Board

Claire Beaubien, Eastern Townships School Board School Commissioner

Colin Standish, B.A.H., LL.B., U.E.

Corrinna Pole, parent, Eastern Townships School Board

Eastern Shores School Board

English Montreal School Board

English Parents' Committee Association

Fédération des comités de parents du Québec

Fédération nationale des conseils scolaires francophones

Gordon Barnett, Eastern Townships School Board Commissioner

Howard Goodman, former Trustee, Toronto District School Board

James Wilson, citizen

Jean-Pierre Kingsley, former Director General, Elections Canada

Jeffrey Hale, Community Partners

Jennifer Klinck, B.C.L., LL.B

Jon Bradley, citizen

Joseph Lalla, Commissioner, English Montreal School Board

J. Kenneth Robertson, B.A, M.A., Ed.D.

Kathleen Balfour, returning officer, Riverside School Board

Lester B. Pearson School Board

Manitoba School Boards Association

Mark Power, LL.B, M.A., BEc

Me Michael N. Bergman

Michael Canuel, CEO, LEARN

Michael Nalecz, QFSA Rights, Education and Regulations Committee

Moir Bell, former Chairperson, Riverside School Board

Neighbours Regional Association of Rouyn-Noranda

New Frontiers School Board

Ontario Public School Boards' Association

Quebec English School Boards Association

Québec Federation of Home and School Associations Inc

Québec Community Groups Network

Richard Bourhis, Ph.D.

Riverside School Board

Sam Allison, citizen

Simply Voting Inc.

Sir Wilfrid Laurier School Board

Steve Blais, former Chairperson, Sir Wilfrid Laurier School Board

Sophie Giguère, University of Toronto JD Candidate

Townshippers' Association

Dr. Victor Goldbloom, CC, OQ, former Commissioner of Official Languages

Western Québec School Board

## APPENDIX B: ESSP LETTER OF INVITATION



Association des mandataires scolaires anglophones du Québec  
Quebec English School Boards Association



English Parents'  
Committee Association

QC  
GN | Quebec  
Community  
Groups  
Network  
www.qcgn.ca

### Election Systems Study Panel (ESSP) Comité d'étude des systèmes électoraux

Contact: [electionspanel@gmail.com](mailto:electionspanel@gmail.com)  
(514) 738-8999

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#### Panel Members Membres du comité

**Hon. Marlene Jennings**  
Chair/Présidente

*Leo La France*

*Rachel Hunting*

*Brian Rock*

*Rhonda Boucher*

Dear Members of the Community,

I am writing to you on behalf of the Elections Study Panel launched jointly by the Quebec English School Boards Association (QESBA), the English Parents' Committee Association (EPCA), the Quebec Community Groups Network (QCGN), and the Quebec Federation of Home and School (QFHSA) to examine all matters surrounding school board elections and to consult the English-speaking community in Quebec on the best mechanism for our community to retain the management and control of our education system.

As you know, the Minister of Education François Blais has announced a tight timeline that gives our Committee the months of July and August to consult parents and the community-at-large across Quebec. We are sending this letter to all interested groups as a call for submissions for our Panel to consider. The following is the timeline that we have put forth to give us proper time to analyze, discuss and reflect before putting our recommendations forward that will be made to our four sponsor organizations and, eventually, be deposited with the Minister of Education.

We look forward to your submissions and to hopefully meet with you to discuss further in detail. Please note that it will be impossible for our Panel to meet with everyone but we fully expect to put together a comprehensive consultation schedule. Please send all briefs and or materials electronically only to [electionspanel@gmail.com](mailto:electionspanel@gmail.com). It is important for our community to consult on this issue for the future of our education system.

Thank you and we look forward to your submissions,

Hon. Marlene Jennings, P.C., LLB  
Chair of ESSP

## APPENDIX C: ESSP SUBMISSION GUIDELINES



Association des écoles anglaises du Québec  
Quebec English School Boards Association



English Parents'  
Committee Association

QC  
GN  
Quebec  
Community  
Groups  
Network  
WWW.QCGN.QC

### Election Systems Study Panel (ESSP) Comité d'étude des systèmes électoraux Contact: electionspanel@gmail.com (514)348-8999

#### Panel Members Membres du comité

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Chair/Présidente

*Leo La France*

*Rachel Hunting*

*Brian Rock*

*Rhonda Boucher*

#### Rules of Submission

Submission is July 24, 2015 at 5:00 pm EST

- 1- Font: 'Times' or 'Ariel' in 12-point font
- 2- Submissions must be double-spaced
- 3- All references must be documented in an appendix
- 4- Maximum length 50 pages
- 5- Due to the tight timelines, individuals and groups may request a hearing, however not all can be heard. It is the decision of the panel as to how many hearings will be accommodated.
- 6- All those invited to appear before the panel shall identify the individuals who will represent the group/association prior to the date of appearance.
- 7- Each hearing will be a maximum of one (1) hour in duration of which 15-20 minutes for the verbal presentation by invitee followed by 40-45 minutes of Questions & Answers as well as discussion.

Hearings may be conducted in person, by telephone conference or by video-conference (when available).

## APPENDIX D: GUIDING QUESTIONS FOR THE CONSULTED



Association des conseils scolaires anglophones du Québec  
Quebec English School Boards Association



English Parents'  
Committee Association

QC  
GN Quebec  
Community  
Groups  
Network  
www.qcgn.ca

## Election Systems Study Panel (ESSP) Comité d'étude des systèmes électoraux

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### Panel Members

#### Membres du comité

*Hon. Marlene Jennings*  
Chair/Présidente

*Leo La France*

*Rachel Hunting*

*Brian Rock*

*Rhonda Boucher*

### Questions for the Consulted

1. Given the current model of school boards with universal suffrage for election of commissioners meets the constitutional right of English-speaking minority communities of Quebec to manage and control education of its communities, what other models, if any, would also meet that test?
2. If improved governance of English-speaking communities education in Quebec is a fundamental goal of any proposed structural changes to the current model of school boards, should the creation of categories of commissioners be considered? For instance, one category might be parent commissioners; another, principals of elementary and high schools; community-at-large commissioners and finally, student commissioners.
3. Should all categories of commissioners enjoy powers of decision (full voting rights)?
4. Should all categories be composed of an equal number of commissioners, for instance, three (3) commissioners for each category (for a total of twelve (12) commissioners) or, should one or more categories be composed of a higher number of commissioners than other categories? For instance, five (5) in parent commissioners category, four (4) community-at-large category, two (2) school principal category and, one (1) student category, again for a total of twelve (12) commissioners.
5. If one does propose the above- described model, how should the community-at-large commissioners be chosen? Universal suffrage? Cooptation? Appointment?
6. Should this category of commissioners be based upon specific profiles, expertise?
7. If to be chosen by universal suffrage, should the current system of the school boards running the elections be maintained or, if modified, how should such elections take place? Run by the Directeur des Elections du Quebec. Electronic voting?
8. If universal suffrage is to be maintained for any category of commissioners, what changes should be suggested so as to ensure that all eligible voters are properly registered?
9. What should be done to increase voter participation?