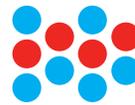




Association des commissions scolaires anglophones du Québec  
Quebec English School Boards Association



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Association des directeurs  
généraux des commissions  
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du Québec  
Association of Directors  
General of English School  
Boards of Québec

**Brief presented by**  
**the Quebec English School Boards Association**  
**and**  
**the Association of Directors General of English School**  
**Boards of Québec**

**to the Culture and Education Commission on**

**Bill 12**

**An Act to clarify the scope of the right to free education**  
**and to allow the regulation of certain financial contributions**  
**that may be required**

**March 2019**

# **QESBA Brief on Bill 12, An Act to clarify the scope of the right to free education and to allow the regulation of certain financial contributions that may be required**

## **Introduction**

Since 1929, the Quebec English School Boards Association (QESBA) and its predecessors have served as a vehicle through which school boards, elected commissioners, and parents have shared ideas and worked together to achieve our community's common goal of ensuring quality educational services. The member school boards of QESBA serve some 100,000 students in over 340 elementary, high schools, and adult and vocational centres across Québec. Each Board has its unique demographics, orientations, and history. All of them share a "made-in-English-Québec" sensibility regarding the delivery of public education and provide equitable services for the needs and wants of all students, staff, and communities.

Our school boards answer to our stakeholders, which include parents and all community members, and have always been accessible and transparent in responding to them. One of our primary orientations is to ensure the rights of our community, parents and students remain intact, and that local democracy is safeguarded.

Québec's English-speaking community, in all its diversity, continues to contribute to the rich tapestry of Québec life. English public school boards, representing the sole level of elected government answerable to that community, assumes as part of their mission, the job of teaching about and strengthening that fundamental contribution.

Elected commissioners are on the front lines of all decisions that will affect and ultimately benefit students. We are the voice of our community, we work closely with them, and we live amongst them. Our sense of community and partnership is in part one of the secrets to our success. We are proud our collective 86% graduation success rate and our administrative overhead costs, at roughly 4%, are among the lowest of any publicly funded institutions.

## **History**

QESBA has been advocating for English public education in Québec since the Association was founded in 1929. QESBA and its predecessors have gone from 129 member boards to 9 in the period from the creation of the Ministry of Education in 1964 until today.

In 1975 the enrolment in our member boards was over 250,000 students. It has declined to roughly 100,000 in 2018, a 60% reduction. There were as many as 172 elected Commissioners in 1975, and as of November 2014 there are 95 Commissioners and 9 elected Chairpersons.

## **School Fees**

Guidelines related to school fees were established originally over 50 years ago and were only briefly revised in 1998. In 2013 a class action lawsuit was launched against all school boards in Québec regarding fees charged to parents, due, in large part, to a lack of detail and clarity in the Education Act. Over the summer of 2018 a settlement was reached between the complainants and school boards whereby the boards, without admitting liability, would pay out just over \$153 million to parents.

Pending changes to the Education Act to clarify the situation, the Government of Québec reacted by instituting a transitional year regarding fees charged to parents for the 2018-2019 school year. That transitional period ends on June 30<sup>th</sup>.

The Quebec school system has evolved considerably since 1998, when the last minor amendments were introduced. Many program options are offered and several educational choices for students are now possible. The general education of our youth can take different forms: regular, specialized, school projects, etc. The diversified offer of these programs and courses has a cost. It is clear that the definition of free education needs to be adapted to the current model of Quebec schools.

Over the last number of years, successive research and reports have been released on modernized education, but the current Education Act has not been adapted to the new realities of public school. Therefore, the uniformity of the application of the principle of free education represents a real challenge to our public system.

The lack of clarity and guidelines has led to flexible and inconsistent management of school fees: fees have been divided in a diversified way by governing boards and school boards without clear guidelines.

## **Bill 12, An Act to clarify the scope of the right to free education and to allow the regulation of certain financial contributions that may be required**

QESBA is pleased overall with the proposed Bill 12. Bill 12 follows the general recommendations made by QESBA during the Ministry of Education and Higher Education's consultation on school fees with stakeholders held in December 2018, namely:

1. establish some broad principles regarding the scope of free education in the Education Act;
2. have the legislation empower the Minister of Education to determine the details by regulation with proper consultation;
3. require that school Governing Boards adopt all fees charged to parents in conformity with the Education Act and regulations and;
4. empower school boards to oversee fees charged to parents.

## **Control and Management of Education by the English-Speaking Community**

While it is very important to QESBA and its member boards to move forward on school fees with clarity, we must also underline the importance of consultation before any government regulation on educational matters and on the powers of school boards in respect of our Canadian Charter of Rights and Freedoms Section 23 minority language rights to manage and control our educational institutions.

### **Section 1 - Special school projects**

QESBA is pleased with the intention, in section 1 of Bill 12, to allow school boards to charge fees for special school projects (programs and schools).

Many of these special or enriched programs come with significant additional costs and we believe that since parents choose these options for their children, they should be required to contribute to defraying those core costs.

### **Comment**

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The accompanying regulation should be flexible enough to reflect the reality of the situation in each board.

## **Section 2 – Instructional Material (in Vocational Training)**

Bill 12 clarifies what types of instructional material must be provided by the school or centre and what may be charged to parents, including personal use items.

### **Comment**

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To be coherent with the detail offered in section 2. of the Bill, we suggest that the definition and interpretation of *teaching materials* for Vocational Centres should be clarified. Materials essential to any vocational training program and materials required for safety reasons to safety for Vocational Centres should be financed by the MEES. Whereas charges should be permitted for materials for hygiene purposes.

More generally, the MEES should ensure a means to finance replacement and upgrades of information technology hardware and software, to maintain a high quality 21<sup>st</sup> century learning environment thus increasing retention and motivation in the Québec public school system.

## **Section 6 - A Clear Delineation of Responsibilities**

School Governing Boards are, by their nature, concerned with the situation on one school. Understandably, they do not necessarily have the appropriate level of expertise regarding broader legal and financial questions as they relate to the Education Act and its attendant regulations. We have seen that even with regulations and guidelines that are clear, the interpretation of those regulations and guidelines can be complex.

In order to ensure the coherent application of the law, it is imperative that school boards be responsible to ensure that the decisions of school governing boards conform to the Education Act and to the Minister's regulations.

Section 6. of Bill 12 appears to do just that by adding to section 212 of the Education Act by stipulating that:

"The school board shall see to it that its schools and vocational training centres comply with the conditions applicable to required financial contributions and that the schools and centres do not, under any circumstances, require payment of fees contrary to law, including administrative fees."

## **Comment**

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QESBA wishes to be reassured that the wording of new section 212.2 of the Education Act, as introduced by section 6 of Bill 12, clearly and unambiguously gives school boards the power to enforce the conformity of the Education Act and Regulations regarding the fees charged to parents established by school governing boards.

### **Section 15 – The first regulation made by the Minister**

Bill 12 will, appropriately, resolve much of the issues around fees charged to parents through regulation and the phrase “the devil is in the details” comes to mind. There are a great deal of details to be ironed out and the Minister must get these details right.

While we understand and agree that there is a certain degree of urgency in obtaining clarity and predictability on fees charged to parents, we are preoccupied by the exemption of the usual period for interested parties to comment on regulations after their publication in the Official Gazette.

## **Comment**

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A way must be found for educational stakeholders to have the necessary input into the first regulation. We are hopeful that the Ministry of Education and Higher Education will be sensitive to this desire for groups such as ours to contribute to the Minister’s reflection on this issue before the regulation comes into force.

### **Observations for Future Regulations**

#### **School Projects**

Since early 2000, individual projects, programs and electives (alternative, sports, music, etc.) have been and continue to be in high demand by parents to offer the maximum possible educational experience. As a result, these programs have multiplied rapidly and offer another way of learning that is adapted to the distinctive needs of students. The regulation must ensure that the definition of specific educational projects is established in such a way as to include all options that currently exist in the Québec school system.

Furthermore, some option courses in high schools are offered under the 'electives' discipline. Some of the electives are not part of the MEES Annual Directives. However, it has been interpreted that electives are part of the basic Québec program, and as such, fees for these electives are not permitted. The regulation should ensure that these electives can allow for certain fees to ensure accessibility to a wide range of diverse electives or options and their sustainability. Such courses offer a diverse selection to students and contribute greatly to retaining and motivating students in the Québec public school system.

## **School Activities**

These types of activities and outings have a cost. Even if the specific event or outing is free, the cost of the transportation associated is not negligible. This situation is even more true when the distances to be traveled are vast, specifically in the English school board territories. In addition, the diversity of activities is not the same in the Greater Montreal as in the regions.

Students with special needs should also have access to these important educational activities. These allow students to develop important skills while allowing another method of learning. Considering the accommodation needs of these students (fewer students per group, specialized transportation, etc.), additional fees are required, without compromising accessibility.

The proposed regulations will have to be sensitive to these different realities.

With the delegation of regulatory power to the Minister, there is the risk that the complex issue of which activities subject to fees could be subject to interpretation. The regulation must clarify and dissect the different activities that can and cannot be charged in order limit, as far as possible, legal exposure to the system.

## **Transportation**

QESBA does not oppose the principle of setting standards for student transportation. However, the costs associated with student transportation are a function of several factors, such as population density, the territory's geographical boundaries and area (the Central Québec School Board's territory is just slightly smaller than that of Spain), the number of schools to be served, and the activities offered in the community. etc.

The standards proposed by the draft regulation will have to take into account these different realities and be sensitive to the fact that transportation costs are not transferable within the current budget rules guidelines.

The regulation will have to ensure that school boards do not find themselves in a deficit position.

## **CONCLUSION**

The Quebec English School Boards Association is generally pleased with Bill 12. This has been a difficult and complex file for our school boards and communities across Québec. Some of our boards faced deficit positions after the settlement of the class action lawsuit. Our sector is pleased overall with the proposed Bill. Our recommendations and observations are outlined in this brief in the hopes of continuing to build a solid partnership with the government, as well as to protect our rights as a minority language community under the Canadian Constitution.