



QUEBEC ENGLISH SCHOOL
BOARDS ASSOCIATION

QESBA
Annual Report
October 21, 2023

Annual Report 2022-2023



QESBA Annual Report

Once again, things have been very busy at QESBA over the last fiscal year due mainly to Bill 40 and the subsequent Bill 23. Unfortunately, minority communities in Québec seem to be the ongoing target and we will have double the work to do with the CAQ government favouring centralization of power.

QESBA is the voice of English public education in Québec and represents 100,000 students in over 300 elementary, high schools, and adult and vocational centres across Québec.



Bill 40

The ruling on Bill 40, while a sweeping win was rendered on August 2, 2023 after the close of the 2022-2023 fiscal year-end. The complete detail on the decision and subsequent appeal will be reported on officially next fall. Given this information, Bill 40 was much of the focus of the 2022-2023 fiscal year specifically in matters of private fundraising. QESBA has been able to raise a substantive amount through anonymous donations through the Notre Home Foundation. The effort continues to raise funds that will allow the association to move forward with this important piece of legislation.

Bill 23

Yet another piece of legislation that further amends the Education Act even before the government appeal on Bill 40 has been heard. It gives the power to the Minister of Education to name the Director General of our School Boards a power, which currently belongs to the Council of Commissioners among other changes. We have been promised discussions with the Ministry on this important piece of legislation. We presented our [brief](#) on June 7 and will pursue legally if adopted in its current form. French brief available [here](#).

Bill 21

QESBA sought leave to intervene on the appeal for Bill 21: An Act respecting the laicity of the State. The notwithstanding clause cannot be used for Section 23 arguments and the English

Montreal School Board won their original superior court case in which the government is appealing. QESBA was granted leave to intervene. QESBA was able to secure a Court Challenges Grant to apply to this leave to intervene therefore no amounts are being assigned from the Association's annual budget.

Bill 49

An Act to amend the Act respecting elections and referendums in municipalities, the Municipal Ethics and Good Conduct Act and various legislative provisions was adopted November 4, 2021. There is an amendment in Bill 49 which prohibits a sitting commissioner/chair from being elected to both municipal council and school service centres. This same amendment is found in Bill 40 of which currently has a stay of legislation for our network and therefore cannot be enacted. We currently have a few commissioners impacted by this. The Justice who heard this case has decided in our favour based on the pending decision on Bill 40. The decision remains in place following the decision on Bill 40.

Labour Relations

As is the case in school boards across the country, there is a cycle of labour relations in education that pivots around negotiations. When negotiations are completed, collective agreements are drafted and they are applied. It is the job of Quebec English School Boards Association (QESBA), through its Director of Labour Relations, to interpret and apply the collective agreements for the employees of the nine English school boards. In Quebec, the collective agreements for teachers, support staff, and professionals expired in March 2023, so we are currently in the negotiations phase of the labour cycle.

The Act Respecting the Process of Negotiation of Collective Agreements in the Public and Parapublic Sectors (Bill 37), which was implemented in the mid-80s, provides the legal framework around which collective agreements are negotiated. Bill 37 created a management committee for the negotiation of collective agreements in the English sector called the '*Comité patronal de négociation pour les commissions scolaires anglophones*' (CPNCA). The QESBA selects half of the members of the CPNCA's board of directors. The Ministry of Education's (MEQ) representatives occupy the other half of the board's positions. The QESBA and the MEQ have worked together through the CPNCA to ensure that the anglophone community's interests were reflected in its collective agreements and in its education system in general.

The negotiations for the 2020-2023 collective agreements occurred in the context of the global pandemic and the unpredictability of the global economy's recovery. As a result, it was not unusual to expect more of a centralized approach to the last round of

negotiations. Unfortunately, the Treasury Board has further centralized negotiations in the public and parapublic sectors to the point of ignoring significant elements of Bill 37.

The current sectorial negotiations are focused on alleviating the labour shortage, supporting teachers with difficult classes, and providing better and more stable employment conditions for support staff. Unfortunately, the highly centralist tendencies of the current government have complicated negotiations for the CPNCA, most notably by creating (by decree) the *Bureau de négociation gouvernementale* (BNG). The BNG is part of the Treasury Board and has appropriated certain powers to negotiate non-monetary matters that were previously left to the CPNCA. Since the QESBA has equal representation on the CPNCA and has no such representation with the BNG, the QESBA is understandably worried that the English school boards' interests will not be reflected in future collective agreements. We are following the role that the BNG plays in the current negotiations with an eye on protecting the management and control rights of the nine English school boards of Quebec, especially in the impact that the BNG will have on labour relations in English school boards.

Professional Development Session

A one-day professional development session was held in October of 2022 featuring Chief Cadmus Delorme. The session was so well received, our member boards have been asking Chief Delorme to present to their Councils. Following the Professional Development Session, QESBA held its Annual General Meeting.

Special General Meeting

A Special General Meeting was held in June to adopt the Associations working Budget for the 2023-2024 fiscal year. This was the first SGM of its kind and helped to facilitate the use of the Budget by QESBA as of July 1. In the past the Budget that began July 1 was only adopted the following October. This will be annual occurrence moving forward.

QESBA Board of Directors

Thank you to the QESBA Executive Committee and Board of Directors for their time and commitment to English Public Education in Quebec. 2023-2024 promises to be another important year for your Association.

**Quebec English School Boards
Association / Association des
commissions scolaires
anglophones du Québec
Financial Statements
For the year ended June 30, 2023**

**Quebec English School Boards
Association / Association des
commissions scolaires
anglophones du Québec**
Financial Statements
For the year ended June 30, 2023

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Independent Auditor's Report

To the Members of Quebec English School Boards Association / Association des commissions scolaires anglophones du Québec

Opinion

We have audited the financial statements of Quebec English School Boards Association / Association des commissions scolaires anglophones du Québec (the "Association"), which comprise the statement of financial position as at June 30, 2023, and the statements of operations, changes in net assets and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Association as at June 30, 2023, and the results of its operations and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO).

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the Association in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other Matter

The financial statements of the Association for the year ended June 30, 2022 were audited by the firm FL Fuller Landau LLP whose practice now operates under BDO Canada LLP and who expressed an unqualified opinion on November 17, 2022.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for private enterprises, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Association's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Association or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Association's financial reporting process.



Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Auditor's Responsibilities for the Audit of the Financial Statements (continued)

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Association's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Association's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Association to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

BDO Canada s.r.l./S.E.N.C.R.L./LLP¹

Montréal, Québec
January 30, 2024

¹ CPA auditor, public accountancy permit No. A139139

Quebec English School Boards Association

Statement of Financial Position

June 30	2023	2022
Assets		
Current		
Cash	\$ 215,832	\$ 235,058
Short-term Investments (Note 3)	460,948	250,605
Accounts receivable (Note 4)	134,045	104,201
Prepaid expenses	37,038	61,967
	<u>847,863</u>	<u>651,831</u>
Investment, at cost (Note 5)	6,000	7,000
Capital assets (Note 6)	4,875	9,267
	<u>\$ 858,738</u>	<u>\$ 668,098</u>
Liabilities and Net Assets		
Current		
Accounts payable and accrued liabilities	\$ 108,343	\$ 173,505
Deferred revenue (Note 7)	256,368	173,815
	<u>364,711</u>	<u>347,320</u>
K.D. Sheldrick Bursary	200	3,000
	<u>364,911</u>	<u>350,320</u>
Net assets		
Invested in capital assets	4,875	9,267
Unrestricted	488,952	308,511
	<u>493,827</u>	<u>317,778</u>
	<u>\$ 858,738</u>	<u>\$ 668,098</u>

Commitments (Note 10)

On behalf of the Board:



President



Executive Director

The accompanying notes are an integral part of these financial statements.

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

Statement of Operations

For the year ended June 30	2023	2022
Revenues (Appendix A)		
Membership fees (Note 9)	\$ 1,104,774	\$ 841,200
Reimbursement of salaries	135,178	61,754
Interest	16,735	2,615
Other revenues	2,276	26,228
Canadian Heritage grant	-	22,625
Sales tax recovery	-	16,146
School Board legal defense	-	10,000
Reimbursement of professional fees - grievances	1,207	9,152
	<u>1,260,170</u>	<u>989,720</u>
Expenses (Appendix A)		
Accounting and audit fees	50,022	25,199
Amortization of capital assets	4,392	9,192
Arbitration and negotiation	-	5,276
Association conference and general meetings	9,558	593
Commissioner development	12,975	5,755
Communications and promotions	5,231	3,138
Fringe benefits	94,592	62,992
Honorariums - officers (Note 8)	30,900	30,900
Insurance	9,167	8,609
Legal fees - regular	21,350	27,642
Memberships, subscriptions and registrations fees	47,819	33,425
Office expenses	10,810	11,972
Postage, telephone and telecommunication	11,470	11,289
Professional fees	57,985	6,622
Professional fees - grievances	1,207	9,152
Rent	61,929	62,846
Salaries	554,004	564,239
Service agreement - FCSQ	9,551	15,000
Travel - directors	3,474	640
Travel - staff	31,879	12,301
	<u>1,028,315</u>	<u>906,782</u>
Excess of revenue over expenses before other expenses	<u>231,855</u>	<u>82,938</u>
Other expenses		
School Board legal defense	51,779	43,939
Strategic planning and branding	4,027	76,578
	<u>55,806</u>	<u>120,517</u>
Excess (deficiency) of revenue over expenses for the year	<u>\$ 176,049</u>	<u>\$ (37,579)</u>

The accompanying notes are an integral part of these financial statements.

**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec**
Statement of Change in Net Assets

June 30

	Invested in capital assets	Unrestricted	2023 Total	2022 Total
Balance, beginning of year	\$ 9,267	\$ 308,511	\$ 317,778	\$ 355,357
Excess (deficiency) of revenue over expenses for the year	(4,392)	180,441	176,049	(37,579)
Balance, end of year	\$ 4,875	\$ 488,952	\$ 493,827	\$ 317,778

The accompanying notes are an integral part of these financial statements.

**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec
Statement of Cash Flows**

For the year ended June 30	2023	2022
Cash flows from operating activities		
Excess (deficiency) of revenue over expenses for the year	\$ 176,049	\$ (37,579)
Adjustments for items not involving cash:		
Amortization	4,392	9,192
Unrealized gain on short-term investment	(10,948)	-
Changes in non-cash working capital balances		
Accounts receivable	(29,844)	(18,483)
Prepaid expenses	24,929	(27,031)
Accounts payable and accrued liabilities	(65,162)	(160,943)
Investment reimbursement	1,000	1,000
Deferred revenue	82,553	26,546
K.D. Sheldrick Bursary	(2,800)	-
	<u>180,169</u>	<u>(207,298)</u>
Cash flows from investing activities		
Purchase of capital assets	-	(3,224)
Purchase of investments (net)	(199,395)	405,000
	<u>(199,395)</u>	<u>401,776</u>
Net changes in cash and cash equivalents	(19,226)	194,478
Cash and cash equivalents, beginning of year	<u>235,058</u>	<u>40,580</u>
Cash and cash equivalents, end of year	<u>\$ 215,832</u>	<u>\$ 235,058</u>
Cash and cash equivalents consist of cash.		

The accompanying notes are an integral part of these financial statements.

**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec**
Notes to Financial Statements

June 30

1. Statutes of incorporation and nature of operations

The Association is incorporated under Part III of the Quebec Companies Act and provides representation and technical support in educational matters to various school boards.

The Association qualifies as a non-for-profit organization and is exempt of income taxes under Section 149 of the Income Tax Act.

2. Summary of significant accounting policies

Basis of accounting

The Association has prepared its financial statements in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO).

Revenue recognition

The Association follows the deferral method of accounting for contributions. Unrestricted contributions are recognized as revenue when received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Restricted contributions for future periods, such as English Public School Promotion, are deferred and are recognized as revenue in the year in which the related expenses are incurred.

The Association receives membership fees from the member school boards and these fees originate from government funding sources. Membership fees revenue are recognized over the terms of the membership of the member school boards for the school year to which they apply and collection is reasonably assured.

Interest revenue from short-term investments is recognized as revenue on a time basis in the period in which it is earned.

Professional services fees revenue is recognized once services have been rendered and collection is reasonably assured.

Other revenues consist of conference revenues and are recognized as revenue when received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Government assistance

Government assistance in the form of government grants are accrued when earned and when there is also reasonable assurance that they will be realized.

Government grants relating to qualifying expenses are presented as an increase in revenues.

**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec**
Notes to Financial Statements

June 30

2. Summary of Significant Accounting Policies (Continued)

Cash and cash equivalents

The Association's policy is to disclose bank balances under cash and cash equivalents.

Capital assets

Capital assets are accounted for at cost. Amortization is calculated using the straight-line method over the following periods:

Furniture and fixtures	5 years
Computer equipment	1 year

Impairment of long-lived assets

Long-lived assets subject to amortization are tested for recoverability whenever events or changes in circumstances indicated that their carrying amount may not be recoverable. An impairment loss is recognized when the carrying amount of the assets exceeds the sum of the undiscounted cash flows resulting from its use and eventual disposition. The impairment loss is measured as the amount by which the carrying amount of the long-lived asset exceeds its fair value.

Impairment

Financial assets measured at cost are tested for impairment when there are indicators of possible impairment. The Association determines whether a significant adverse changes has occurred in the expected timing or amount of future cash flows from the financial asset. If this is the case, the carrying amount of the asset is reduced directly to the higher of the present value of the cash flows expected to be generated by holding the asset, and the amount that could be realized by selling the asset at the balance sheet date. The amount of the write-down is recognized in the Statement of Operations. The previously recognized impairment loss may be reversed to the extent of the improvement, provided it is no greater than the amount that would have been reported at the date of the reversal had the impairment not been recognized previously. The amount of the reversal is recognized in the Statement of Operations.

Contributed services

Volunteers contribute their time to assist the Association in carrying out its activities. Because of the difficulty of determining their fair value, contributed services are not recognized in the financial statements.

Use of estimates

The preparation of financial statements in conformity with Canadian ASNPO requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period.

**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec**
Notes to Financial Statements

June 30

2. Summary of significant accounting policies (Continued)

Financial Instruments

Initial measurement

The Association initially measures its financial assets and liabilities originated or exchanged in arm's length transactions at fair value. Financial assets and liabilities originated or exchanged in related party transactions, except for those that involve parties whose sole relationship with the Association is in the capacity of management, are initially measured at cost.

Subsequent measurement

The Association subsequently measured all its financial assets and liabilities at cost or amortized cost.

Financial assets and liabilities measured at amortized cost include cash, short-term investments, accounts receivable, investment and accounts payable.

3. Short-term investments

The investments held are Guaranteed Investment Certificates (GICs) in the amount of \$450,000 (2022 - \$250,000) bearing interest at 3.7% (2022 - 0.91%), maturing on November 2, 2023 (2022 - December 7, 2022).

4. Accounts receivable

	<u>2023</u>	<u>2022</u>
Grievances receivable	\$ 19,494	\$ 16,473
Trade receivable	26,823	-
Sales taxes receivable	87,728	87,728
	<u>\$ 134,045</u>	<u>\$ 104,201</u>

5. Investment, at cost

The Association owns 1,000 units of Education Internationale, which represents 3.5% of all units.

It was determined that the cost of the investment will be reduced by \$1,000 by a yearly reduction in membership fees for the following 5 years.

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

Notes to Financial Statements

June 30

6. Capital assets

	2023		2022	
	Cost	Accumulated Amortization	Cost	Accumulated Amortization
Furniture and fixtures	\$ 18,085	\$ 13,210	\$ 18,085	\$ 9,624
Computer equipment	7,050	7,050	7,050	6,244
	\$ 25,135	\$ 20,260	\$ 25,135	\$ 15,868
Net book value		\$ 4,875		\$ 9,267

7. Deferred revenue

The deferred revenue represents amounts received from different sources that relate to projects and membership fees that will occur in future years. The variations that happened during the year are as follows:

	2023	2022
Deferred revenue beginning of year	\$ 173,815	\$ 147,269
Deferred during the year	217,185	966,839
Recognized as revenue during the year	(134,632)	(940,293)
	\$ 256,368	\$ 173,815

**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec**
Notes to Financial Statements

June 30

8. Related party balances

The following summarizes the Association's related party transactions for the year.

	<u>2023</u>	<u>2022</u>
Membership fees paid to an association with board members in common	\$ 11,576	\$ 11,576
Honorariums paid to officers	<u>30,900</u>	<u>30,900</u>
	<u>\$ 42,476</u>	<u>\$ 42,476</u>

These transactions were carried out in the normal course of operations and are measured at the exchange amount, which is the amount of consideration established and agreed to by the related parties.

Payables are measured at cost, determined using their undiscounted cash flows. No difference resulted from these transactions.

9. Membership fees

The Association received membership fees from the member school boards and these fees originate from government funding sources.

10. Commitment

The commitment of the Association under equipment leases matures on July, 8 2024. Future minimum payments for the next year are as follows:

2024	<u>\$ 73,825</u>
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**Quebec English School Boards Association / Association des
commissions scolaires anglophones du Québec**

Notes to Financial Statements

June 30

11. Financial instrument risks

Financial risks

The significant risks arising from financial instruments to which the Association is exposed as at June 30, 2023 are detailed below.

Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: currency risk, interest rate risk and other price risk. The Association is mainly exposed to interest rate risk.

Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. The Association is exposed to interest rate on its fixed interest rate financial instruments. The Association's exposure to market interest rates relates primarily to the return it earns on its short-term investments. They currently earn interest based on a fixed rate of 3.7% and are consequently exposed to interest rate risk should the market rate increase.

Liquidity risk

Liquidity risk is the risk that the Association encounters difficulty in meeting its obligations associated with financial liabilities. The Association is exposed to this risk mainly in respect of its accounts payable and accrued liabilities.

12. Comparative information

Some comparative information has been reclassified to conform with the current year presentation.

NEWS RELEASE
FOR IMMEDIATE DISTRIBUTION

QESBA welcomes new Minister of Education

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MONTREAL, OCTOBER 20, 2022 – The Quebec English School Boards Association (QESBA) welcomes the new Minister of Education Bernard Drainville. QESBA looks forward to building a strong partnership with the MEQ and we firmly believe that it will be fruitful with Mr. Drainville.

QESBA will request an immediate meeting with the new Minister of Education to discuss on-going dossiers. “We look forward to meeting with the Minister to build a positive relationship that was present in the past,” said Dan Lamoureux QESBA President. “Our sector has always been ready to explore new ways of making our already very successful system more efficient and effective for our students, our teachers, and all those serving students every day in our schools and centres.” continued Lamoureux.

QESBA, as always, is prepared to work with the new Minister to find creative ways to make our system better and more efficient for students, parents and our community. “Our first message to the new Minister will be to find ways of making our system stronger all while building a positive working relationship,” concluded the President.

QESBA is the voice of English public education in Québec and represents 100,000 students in 340 elementary, high schools, and adult and vocational centres across Québec.

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Information : Kim Hamilton
Director of Communications and Special Projects
514-919-3894

ASSOCIATION DES COMMISSIONS
SCOLAIRES ANGLOPHONES DU QUÉBEC



QUEBEC ENGLISH SCHOOL
BOARDS ASSOCIATION

Presentation to:

Senate Standing Committee on Official Languages
as part of its examination of the subject matter of Bill C-13,
An Act to amend the Official Languages Act,
to enact the Use of French in Federally Regulated Private Businesses
Act and to make related amendments to other Acts

Submitted by:

The Quebec English School Boards Association

October 24, 2022



Presentation by the QESBA

**to the Senate Standing Committee on Official Languages
As Part of its Examination of Bill C-13**

October 24, 2022

Check Against Delivery

[Dan Lamoureux:]

Canada is rightly proud of its official bilingualism. Our country has long promoted the duality of our two official languages and the respect for our history, heritage, and culture. The English minority-language community of Québec must receive the protection and support based on the same constitutional and legislative principles as those which apply to the French minority-language communities in the rest of Canada.

L'Association des commissions scolaires anglophones du Québec représente les neuf commissions scolaires anglophones de la province. Notre réseau est composé de plus de trois cent écoles et centres pour adultes, avec un effectif scolaire d'environ cent mille et couvre tout le territoire géographique du Québec à l'exception du grand nord.

Our boards and community are proud of what we have built together through some very difficult conditions. Due to restrictive language laws our school population has declined 60% since the late 1970s. Shrinking budgets have hurt



our system. More than two-thirds of our schools have fewer than 200 students, making the provision of a full range of services in each school a challenging task.

The need to support the Québec minority-language education system is clear.

Despite living in a sea of English in North America, we are a vulnerable minority with an aging population and significant out-migration of our young people. The presence of hundreds of millions of English-speakers on the continent does not ensure that our community receives the appropriate level of Government or institutional services in our language.

We understand how important the French language is in Québec and indeed in Canada, and we believe that it needs to be promoted and protected. We dedicate significant resources to developing fully bilingual young people. Funding from the Government of Canada is needed to reinforce the minority-language school system and not to replace the provincial obligation to deliver educational services to all Quebecers who receive our services.

[Russell Copeman:]

Since 2018 a number of Bills have been adopted by the Québec National Assembly which have disturbed the English-speaking community. Bill 40, which abolishes school boards, infringes on our community's constitutional right to control and manage our education system. Bill 21, Québec's secularism law goes against the values of openness and tolerance we teach in our schools. More recently, Bill 96 which modifies the Charter of the French Language contains a number of provisions which restrict the charter rights of all Quebecers, and limits the availability of government services in English. The legality of various aspects of all these bills is being challenged in the courts.



This political context must be taken into account by the Parliament and Government of Canada in matters relating to the English minority language community in Québec.

Nous craignons que l'approche asymétrique et territoriale des langues officielles, tant dans le préambule de C-13 que dans plusieurs de ses dispositions, représente une érosion potentielle des droits des et le soutien financier du gouvernement du Canada pour les Québécois d'expression anglaise. Une référence explicite dans C-13 au régime linguistique du Québec, à savoir la Charte de la langue française, est particulièrement problématique et n'a été qu'exacerbée par les modifications de la loi 96 à la Charte de la langue française, y compris l'utilisation générale et préemptive des clauses dérogatoires.

Bien que l'éducation soit une compétence provinciale/territoriale, comme vous le savez bien, le Parlement du Canada et le gouvernement du Canada ont des rôles et des responsabilités concernant l'éducation dans la langue de la minorité partout au pays.

The *Federal-Provincial-Territorial Protocol for Agreements to Support Education for Official-Language Minorities and Second-Language Learning* provides significant financial support each year to the provinces and territories to support French education in minority-language communities, education in English for English-speaking communities in Québec as well as second-language instruction.

Successive Governments of Québec have refused to sign this protocol, negotiating instead bilateral agreements with the Government of Canada. These bilateral agreements make no reference, otherwise contained in the Canada-



wide protocol, to any obligation for the Government of Québec to consult with the minority-language communities on the priorities for the use of these federal monies.

In this particular context, any increase in the responsibilities of the Government of Québec in determining the spending of federal monies, which support English-language education in Québec would be unwelcome. In fact, there must be ironclad guarantees in C-13 protecting the federal support for various funding areas to the English-speaking community of Québec, including for minority-language education.

Regarding the defense of minority-language rights, funding for the Court Challenges Program, happily enshrined in Bill C-13, needs to be significantly increased in order to raise the maximum amounts of financial support, which are woefully inadequate.

Thank you for the opportunity to participate in your examination of Bill C-13. We will transmit our reflections on the modernization of the Official Languages Act in greater detail to your committee as an addendum to this presentation.

Merci.

**NEWS RELEASE
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**STATISTICS CANADA DATA RELEASE ON MINORITY EDUCATION
RIGHTS HOLDERS**

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Montreal, November 30, 2022 - The Quebec English School Boards Association (QESBA) welcomes the initiative by Statistics Canada to add the very important minority education rights holders component to the 2021 census.

QESBA has been lobbying for two decades for Statistics Canada to add this element to the Canadian census as gathering the data in Québec has been challenging.

“The report released this morning is very elaborate and needs more analysis by the QESBA, but we welcome the fact that we now will have a clear portrait moving forward for our nine English language school boards across Québec,” said QESBA President Dan Lamoureux.

“The number of English eligible students in Québec is higher than anticipated and gives us a very important starting point to build a strategy in the years to follow. It will help us examine how we can do better to meet the educational needs of our community,” concluded the President.

QESBA is the voice of English public education in Québec and represents 100,000 students in over 300 elementary, high schools, and adult and vocational centres across Québec.

-30-

Information: Kim Hamilton
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**NEWS RELEASE
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QESBA extremely pleased with new poll results

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Montreal, December 15, 2022 - The Quebec English School Boards Association (QESBA) is extremely pleased with new polling results conducted earlier this fall confirming the community response to the importance of democratically elected English minority language school boards on Québec.

In a poll conducted by Léger Marketing for the Quebec Community Groups Network and the Association for Canadian Studies between November 1 and November 4, 2022 results have positively increased over the same questions polled in 2019 (data specific to school boards is attached).

“We are extremely pleased that our community continues to see the value and show support for English language minority school boards in Québec. QESBA along with our partners have demonstrated the value and importance of democratically elected school boards to our communities in our work against Bill 40 and these results are clear,” said QESBA President Dan Lamoureux.

“This is the second poll of its kind in three years and while the support was overwhelming in 2019, the results have only increased. It is representative of the will of the English minority community to maintain the only English language institutions in Québec and the importance of democracy to our communities, parents, staff and students,” concluded the President.

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**NEWS RELEASE
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**QESBA pleased with the Pre-Budget consultation held by
Minister Girard**

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Quebec City, January 18, 2023 – The Quebec English School Boards Association (QESBA) is pleased with the pre-budget consultation held yesterday in Quebec City by the Finance Minister and Minister responsible for Relations with English-speaking Quebecers, Éric Girard.

QESBA has been advocating being involved in the pre-budget consultations for years through successive governments. This Minister went further by inviting leaders of many English community groups across Quebec to the consultation.

The QESBA called for increases in the financing of the education sector in order to improve the quality of education offered all Québec students and to improve outcomes.

“The Minister was clearly in a listening mode and understood the many budgetary issues surrounding the minority Education community. The size of our school board territories and extra costs that go into transportation for example must be taken into account when developing the education envelope,” said QESBA Executive Director Russell Copeman.

“We also must take into account inflation that is affecting all sectors in Québec, including construction and renovation costs. Overall system costs have increased significantly over the last few years and our system needs to be financed equitably” continued the Executive Director.

“Finally, we wanted the Minister to understand that the implementation of Bill 96 may well have an impact on how English school boards prepare our students to meet the new French requirements at Cégep,” concluded the Executive Director.

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-30-

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ASSOCIATION DES COMMISSIONS
SCOLAIRES ANGLOPHONES DU QUÉBEC



QUEBEC ENGLISH SCHOOL
BOARDS ASSOCIATION

QESBA Notes stemming from the
Pre-Budget Consultation

Presented to the Minister of Finance Éric Girard

By the Québec English School Boards Association

on January 17, 2023

Pre-Budget Consultation
with the Minister of Finance
January 17, 2023

THE ENGLISH SCHOOL NETWORK

- 9 English school boards and the CSS du Littoral, a special status school service centre
- Roughly 100,00 students in 330 schools and centres in every administrative region with the exception of the Grand Nord
- Over 21,000 employees
- Student success rate is 86%, consistently higher than the Québec average

BUDGET ISSUES

General, system-wide comments

- Appropriate Increase in the expenditure budget of the MEQ
 - System costs must reflect the increase in inflation and the additional costs related to collective agreements
 - Vocational education specifically has not been increased since 2015
 - Transport envelopes needs to be increased
- Attracting teachers and teacher retention must be a government priority with significant investment in promotion and added incentives province-wide
- Contract limits for building improvements and new construction
 - The government must consider the current inflation reality in general and in the construction industry in particular when authorizing projects

POINTS SPECIFIC TO THE ENGLISH NETWORK

- Special additional envelop for French instruction in the English sector should be considered. Many boards have amazing programs while other boards have limited funds to develop proper immersion, bilingual or Français+ instruction
 - Especially true given the new additional requirements for French courses at English-language CEGEPs

- Funding for transport needs to reflect the fact that in the English network, our school boards cover much larger territories with longer routes than most school service centres
- Funding for school board elections (which are maintained in a different form in Bill 40) is necessary
 - French sector no longer has to organize school elections but their budgets were never reduced
 - Question of equity

CANADA-QUEBEC ENTENTE ON MINORITY LANGUAGE EDUCATION AND SECOND LANGUAGE INSTRUCTION

- This agreement functions more like an equalization program to the Government of Québec rather than a genuine support program for English language education
- The English education network needs to receive a greater proportion of the funds transferred to Québec
 - Only 20% of the \$65M transferred annually from the Government of Canada to the Government of Quebec goes to the MEQ to support English educational network
 - School boards allocate only \$1.5 million in total for special projects
 - 59% goes to the Treasury Board
 - In most other provinces, roughly 80% goes to the departments of education
- Expand the possibility for the English education sector to develop projects specific to the English network

BILL 96

- Importance of consultations on the implementing regulations
- Usual process of 45 day comment period once published in the Gazette officielle not sufficient
- If “nothing in Bill 96 infringes on the rights of English-speaking Quebecers” then why did your government invoke the two notwithstanding clauses pre-emptively

**NEWS RELEASE
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**QESBA endorses the need for continued funding for
LEARNs on-line tutoring program**

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Montreal, February 9, 2023 – The Quebec English School Boards Association (QESBA) is extremely disappointed that LEARN Quebec may not obtain adequate and crucial Canada-Quebec entente funding for their very in-demand on-line tutoring program tailored specifically for the English minority community in Quebec.

Since 2016, LEARN has provided an online tutoring program after school hours, making it available to all students across the province and ensuring a truly equal service. Since its inception, demand has grown year after year from 35,000 last year to a demand for close to 50,000 sessions this year yet the Ministry has told LEARN they will only have enough funding for 31,000 sessions clearly not enough to deliver the demand. LEARN was recently informed by the Ministry of Education that the funding received via the Entente Canada-Quebec would not be enough to meet this year's demand.

“The Canada-Quebec Entente money is designed for funding minority language education programs and projects. We are having a hard time understanding why such a popular and necessary program to our community runs the risk of being cut,” said QESBA President Dan Lamoureux.

“QESBA has been asking for transparency from Quebec’s Treasury Board for years regarding the disbursement of Quebec-Canada Entente money with no luck. This is a program we cannot afford to lose for our students. We ask that the government of Quebec ensure continued and adequate funding for LEARNs tutoring program,” concluded the President.

QESBA is the voice of English public education in Québec and represents 100,000 students in over 300 elementary, high schools, and adult and vocational centres across Québec.

-30-

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QESBA reacts to the Quebec Budget

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Quebec City, March 22, 2023 – The Quebec English School Boards Association (QESBA) was present for the provincial budget lock-up and speech yesterday in Quebec City.

The government has allocated an overall 5.7% increase for system costs. The budget calls for an additional \$200 million allocation over five years to promote vocational training of that, \$29 million in 2023-2024, English boards hold roughly 10% of student population.

Increase of 10% in the 2023-2024 envelope for the maintenance of schools, which will not be sufficient to make a significant improvement in the condition of our buildings, of which some are in dramatic need of repairs and upgrades. Investments of \$67.5 million are provided over five years to address the labour shortage in education.

Finally, School transportation envelope will be increased 12% and other measures among which: Improve youth literacy and numeracy, support students with special needs and foster access to special education projects.

“As we say every year, the detail will only be known from this budget when the parameters are finally available somewhere in May,” said QESBA Executive Director Russell Copeman.

“We will comment further later in the spring when we have tangible detail on the direct impact to our system,” concluded the Executive Director.

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QESBA Executive Director Retiring

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Montreal, April 20, 2023 – The Quebec English School Boards Association (QESBA) is announcing the retirement of Executive Director Russell Copeman as of December 31, 2023.

Mr. Copeman has been with QESBA over five years and has been instrumental in helping QESBA move forward many files among which is the legal challenge to Bill 40.

“We have been very lucky to have someone with Russell’s vast experience as one of our biggest advocates over the last five years. We wish him nothing but the best on his retirement and he will be missed by all,” said QESBA President Dan Lamoureux.

“The Board of Directors has approved a process to select the next Executive Director which is currently underway, you can find posting details on our website at qesba.qc.ca,” concluded the President.

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NEWS RELEASE
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Bill 23 is a further infringement on the control and management rights of the English-speaking Community

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Montreal, May 4, 2023 – The Quebec English School Boards Association (QESBA) is shocked at the further infringement of the English-speaking community's constitutional rights to control and manage our school system contained in Bill 23, An Act to amend mainly the Education Act and to enact the Act respecting the Institut national d'excellence en éducation.

The government introduced Bill 23 this morning in Quebec City, which empowers the Government of Québec to appoint the directors general of school boards, a clear violation of our section 23 rights to manage and control our educational institutions. The Bill also authorizes the Minister of Education to annul decisions of school boards "not consistent with targets, objectives, policy directions and directives the Minister has established."

"This is yet another attempt by this government not only to centralize power but also remove our communities' rights to manage and control our institutions by virtue of the Canadian Charter of Rights and Freedoms. There are no bigger issues than the nomination of a Director General who will be responsible for ensuring the successful path of all of our students, teachers and staff, and of the Minister of Education possibly annulling policy directions of school boards," said QESBA President Dan Lamoureux.

The introduction of Bill 23 also violates the spirit of the stay of Bill 40, issued in August of 2020 by the Quebec Superior Court, and confirmed by the Quebec Court of Appeal, which suspended modifications to the school governance model in the English network pending a decision on the merits of the case. Justice Sylvain Lussier's decision on the constitutionality of Bill 40 is pending since he took the case under deliberation in June of 2021.

"The stay on Bill 40 that also attempted to amend Quebec's education act for our minority community and a decision on the merits of that case is expected any time now, further complicating the issue. English school boards should be exempt from Bill 23. We will try to convince parliamentarians of this in the weeks to come, including during public

hearings. If this government persist, we will examine all options available to us including further legal remedies,” concluded the President.

QESBA is the voice of English public education in Québec and represents 100,000 students in over 300 elementary, high schools, and adult and vocational centres across Québec.

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As Is Bill 23 will be Challenged

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Montreal, May 10, 2023 – The Quebec English School Boards Association's (QESBA) Executive Committee met today to discuss the implications of Bill 23, the latest school governance reform, on the constitutional rights of our community to control and manage our education system.

The government introduced Bill 23 last week in Québec City, which empowers the Government of Québec to appoint the directors general of school boards, and authorizes the Minister of Education to annul decisions of school boards "not consistent with targets, objectives, policy directions and directives the Minister has established".

"Certain provisions of Bill 23 are manifestly unconstitutional. We will spend the next weeks trying to convince MNAs to modify Bill 23 in order to fully respect our constitutional rights. However, if the bill remains in its present form the QESBA will have no other option than to quickly initiate a legal challenge of the legislation," declared QESBA President Dan Lamoureux.

QESBA is the voice of English public education in Québec and represents 100,000 students in over 300 elementary, high schools, and adult and vocational centres across Québec.

-30-

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YET ANOTHER THREAT TO ENGLISH EDUCATION IN QUÉBEC

By

Dan Lamoureux and Russell Copeman
Respectively President and Executive Director
Quebec English School Boards Association

French-language minority communities in Canada have long fought for control and management of their education systems, crucial to the vitality of their communities. They have battled provincial governments for their rights, under section 23 of the Canadian Charter of Rights and Freedoms, to open French-language schools and to obtain appropriate installations and funding. Disappointingly, the Government of Québec has often been a legal adversary in these cases, likely worried that the resulting jurisprudence will force it to do more for its English-language minority.

In February 2020, the CAQ Government adopted Bill 40, reforming school governance in Québec. Québec's English school boards, with broad support from our community, challenged the constitutionality of the legislation, arguing many provisions infringed on the control and management rights of our community. Bill 40 replaces school boards with school "service centres" governed by boards of directors. Our elected councils of school commissioners would lose significant autonomy, with many decision-making powers transferred to the Minister of Education and his department.

In August 2020, the Quebec Superior Court issued a rare stay of legislation, suspending Bill 40's application to English school boards. That stay was subsequently upheld by the Quebec Court of Appeal. We have been waiting for a judgement on the merits of the case for almost two years.

Now, the CAQ Government has piled on another infringement of our community's control and management rights with the recent introduction of Bill 23, reforming its own governance reform of three years ago. This despite the stay of Bill 40 which is still in effect.

Bill 23 provides that the Government of Québec will appoint--and may therefore dismiss--directors general of English school boards. This is currently the responsibility of councils of commissioners. It also empowers the Minister of Education to annul a decision of a school board "not consistent with targets, objectives, policy directions and directives the Minister has established". In the landmark *Mahé v Alberta* case, the Supreme Court of Canada wrote: "The minority language representatives should have exclusive authority to make decisions relating to the minority language instruction and facilities including: ... appointment and direction of those responsible for the administration of such instruction and facilities".

This increased centralization of power in the hands of the Government of Québec is a further clear infringement of the English-speaking community of Québec's constitutional rights to control and manage our school system. Interestingly, Bill 23 would not apply to the Inuit or Cree school boards, presumably because of the James Bay and Northern Québec Agreement with those communities.

Apparently, the CAQ Government is willing to respect that agreement, which is appropriate, but not the Constitution of Canada.

Independent, community-controlled school boards matter to Québec's English-speaking community.

- The popular and successful French immersion programs across the country were pioneered in Québec, not by the Department of Education, but by local English school boards.
- Keeping small rural English schools open outside the greater Montréal area is a priority for our boards. With its partners, school boards have initiated remote learning opportunities in English for students in small schools, where a full range of in-person specialty courses cannot be offered.
- During the COVID-19 pandemic, a number of English school boards installed air purifiers in classrooms without mechanical ventilation, in defiance of the Government of Québec which would not authorize or pay for them.
- The English Montreal School Board successfully challenged Bill 21, the CAQ's secularism law, which prevents the hiring of teachers who wear religious symbols such as hijabs, turbans, or kippahs, in the Superior Court.

All of these actions would be imperilled under the CAQ Government's new Bill 23.

Members of the Québec National Assembly should think long and hard before they adopt legislation which so clearly violates both jurisprudence around the Canadian Charter of Rights and Freedoms and the spirit of the current stay of Bill 40.

And federal Parliamentarians should be very wary of the further infringement of the rights of the English-speaking community of Québec under the Canadian Charter of Rights and Freedoms, which they have a responsibility to uphold.



Brief presented by
the Quebec English School Boards Association
to the National Assembly Committee
on Culture and Education

on Bill 23

An Act to amend mainly the Education Act and to enact
the Act respecting the Institut national d'excellence en éducation

June 2023

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Introduction

The Quebec English School Boards Association (QESBA) is and has always been guided by the imperative that all legislation concerning education in Québec must firstly contribute to student success and secondly be effective and efficient in setting out the framework by which our public education system ensures that success. QESBA's analysis of Bill 23 considers the additional imperative, for the English-language minority in Québec, that the positive obligations imposed on the government of Québec by Section 23 of The Canadian Charter of Rights and Freedoms (The Charter), as interpreted by various judgments of the courts of Canada, be respected. Notably, in this regard, QESBA's analysis of Bill 23 considers the legislation's impact on the English-language minority's right to the management and control of its community's institutions, rights repeatedly expressed in the legal decisions up to and including the Supreme Court of Canada, and constitutionalized in The Charter for the protection of both the English-language minority in Québec and the French-language minority in the rest of Canada. It is demonstrable that the current Government of Québec, either through a lack of understanding or deliberately, does not appreciate the scope and breadth of the constitutional rights of the English-speaking community of Québec to manage and control our educational system (the importance of Section 23 of The Charter will be expanded upon later).

We affirm this based on court judgements on the Government of Québec's Bill 21 and Bill 40 and on the fact that Bill 23, currently before the National Assembly, contains provisions

which are manifestly unconstitutional and violate the spirit of the stay of Bill 40 issued in August 2020 and in force until a judgement on the merits.

It bears reminding Members of the National Assembly that the application of Bill 21, *An Act respecting the laicity of the State*, to English school boards was struck down on April 20, 2021 by the Quebec Superior Court, based on the management and control rights of our community. This decision was appealed by the Attorney General of Québec.

Additionally, Bill 40, *An Act to amend mainly the Education Act with regard to school organization and governance*, which was forced through the National Assembly with closure in February 2020, is subject to a stay issued by the Québec Superior Court and confirmed by the Quebec Court of Appeal, pending a judgement on the merits of a constitutional challenge undertaken by the QESBA and all nine English school boards.

Furthermore, the current Government of Québec also proposed Bill 96, *An Act Respecting French, the Official and Common Language of Québec*, which was adopted by the National Assembly in May 2022. Bill 96 is being contested by the English Montreal School Board on the grounds that it violates Section 23 of The Charter and Section 133 of the Constitution Act 1867 regarding access to the courts in English and French. Regarding the Section 133 violation, the Superior Court issued a stay in August 2022. A second stay was issued by the Superior Court regarding the non-bilingual requirement for judges (a stay which has recently been upheld by the Quebec Court of Appeal).

In the three court cases relating to legislation proposed by this Government cited above, Ministers loudly proclaimed that the rights of the English-speaking community of Québec were being respected. The courts have since struck down the application of Bill 21 to English school boards and have issued three stays on Bill 40 and 96. Thus far the Government is zero for three in terms of the respect of the rights of our community in the courts. With Bill 23, we are convinced they will be zero for four.

We urge the government to re-examine its interpretation of the constitutional rights of the English-speaking community in light of the case law and to listen to our community, in order to avoid unnecessary legal debates and focus on measures that will really contribute to the educational success of our students.

The English Education Network

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. There are English-language schools in every administrative region of Québec with the exception of the Grand Nord. The nine member school boards of QESBA serve roughly 100,000 students in 340 elementary schools, high schools, and adult education and vocational training centres across Québec. Each Board has its unique demographics, orientations, and history. All of them share a "made-in-English-Québec" sensibility to delivering public education services, with equal regard for the needs and wants of all students, parents, staff and communities. Our member boards have

successively proven themselves, always placing student success as the primary focus of what they do.

QESBA points to at least five elements to describe this “made-in-English-Québec” sensibility:

- a) *An educational approach based on “teaching the student, not the subject”*, that is to say, in the spirit of Québec’s curriculum, to focus on the acquisition of competencies as well as knowledge and to encourage critical thinking, citizenship, enquiry and teamwork;
- b) *Parent and community involvement*: As our school boards answer to our community, our schools have always been accessible to and transparent towards all members of the community, of which parents are a crucial element. Our boards place high value on input from parents and their local communities. Community Learning Centres (CLCs) in English schools are a unique model of service to local communities;
- c) *A commitment to preparing our students for a future in Québec*: This commitment starts with the extensive concentration on French second-language acquisition. It is one of the prime missions of each of our school boards to provide every student with the opportunity to master French. Our commitment contributes to ensuring that every student graduating from the English school system has the capacity to live and work in Québec. This commitment extends to a general approach to teaching the arts, literature and history and includes extracurricular activities –

an approach that is cognizant and respectful of Québec's rich and unique character;

d) *A recognition of our particular status as English-speaking institutions:* Québec's English-speaking community, in all its diversity, continues to contribute to the rich culture of Québec life. English public school boards, representing the sole level of elected government answerable directly to our community, assume as part of their mission, the job of teaching and strengthening that fundamental contribution;

e) *The recognition of Section 23 of The Canadian Charter of Rights and Freedoms:* Québec English-language public school boards are the manifestation of the constitutional rights of Québec's English-speaking community to obtain and maintain public education instruction in English through the management and control of English-language educational institutions. Our school boards and the schools they operate reflect the commitment to the English language and culture within the context of providing our students with the tools to live, thrive and contribute to Québec.

Elected school board commissioners are made up of a wide spectrum from the community. They are parents, grandparents, former educators and interested community members who are on the front lines of all decisions that will affect and ultimately benefit students.

Student Success in the English Network¹

The English education network is very proud of the fact that at 86.8%, our student success rate, as measured by the 7-year graduation rate from high school used by the MEQ, surpasses by a full 5 percentage points the overall Québec average of 81.8%.

Looking only at the public education system, the Québec average 7-year high school graduation rate is 78.6%. Six of the nine English school boards (two-thirds) surpass this average.

Regionally, six of the nine English school boards surpass all the school service centres located in their regions in terms of the 7-year high school graduation rate.

Five English school boards are among the top ten school service centres and school boards combined in terms of the 7-year high school graduation rate. This is quite remarkable considering there are only nine English school boards and 61 school service centres in Québec. Finally, three English school boards have a 7-year high school graduation rate above 90%, a success rate unrivalled by any school service centre.

Public policy initiatives, such as Bill 23, are supposed to address or correct a problem. Looking at educational policy through the lens of student success, or perhaps more broadly

¹ All statistics on student success rates are taken from : *Diplomation et qualification au secondaire*, Édition 2021, Direction des indicateurs et des statistiques, Ministère de l'Éducation.

in terms of excellence in education, these statistics would appear to indicate that there is no significant governance problem in the English public education network in Québec.

Management and Control Rights as per Section 23 of the Canadian Charter of Rights and Freedoms

As was mentioned earlier, it is our contention that the current Government of Québec, and indeed the National Assembly of Québec, do not understand and do not respect the scope and breadth of the management and control rights of the English-speaking community of Québec guaranteed by Section 23 of the Canadian Charter of Rights and Freedoms (The Charter).

According to jurisprudence (up to and including the Supreme Court of Canada) Section 23 is understood to:

- Encompass both individual and collective rights of the minority official language
- Be remedial in nature; it is designed to correct, on a national scale, the erosion of minority language groups²
- Be interpreted purposively; it provides official language minority groups with equal access to high quality education in their own language in circumstances where community development will be enhanced

² This is significant because enrollment in the English language education system has gone from 250,000 in the mid 1970s to under 100,000 today, a decline of 60%

Regarding the constitutional challenge of Bill 40, the Quebec Court of Appeal reaffirmed, on September 17, 2020, the importance of the management and control rights of the linguistic minority contained in section 23 of The Charter:

In *Mahe*, the Supreme Court of Canada recognized that s. 23(3) of the Canadian Charter includes the right for linguistic minorities to exercise a measure of management and control over the schools that provide education in their language. Such management and control “is vital to ensure that their language and culture flourish”: *Mahe*, p. 372 [...]

But even where the number of children does not warrant the creation of school boards for the linguistic minority, in most cases in which the number justifies at least one separate educational institution, the “measure of management and control” of schools guaranteed by s. 23 must **at a minimum** ensure “exclusive control over all of the aspects of minority education which pertain to linguistic and cultural concerns”: *Mahe*, pp. 375-376 (emphasis added), which includes, **at a minimum, exclusive control** over expenditures of funds relating to instruction in its language and the facilities for doing so, the appointment and direction of those responsible for the administration of such instruction and facilities, the establishment of programs of instruction, the recruitment and assignment of personnel, including teachers, and the making of agreements for education and services for minority language pupils, as Dickson, C.J. indicated in *Mahe*, p. 377 [...]³

Furthermore, the deliberate exclusion of Section 23 from the application of the notwithstanding clause in the Canadian Charter of Rights and Freedoms highlights its significance as a constitutional protection and makes any infringement of Section 23 particularly difficult to justify, as explained by the Supreme Court of Canada in *Conseil scolaire francophone de la Colombie-Britannique* (2020 SCC 13).

By excluding s. 23 from the scope of the notwithstanding clause, the framers of the [Charter](#) sought to prevent the majority from being able to shirk its constitutional obligations and thus avert a return to the time when the minority was unable to develop in its own language and culture.

³ Arrêt 500-09-029030-202 PGQ c. QESBA et al.

The following Bills have been the subject of constitutional challenges based on the management and control rights of the English-speaking community:

- Certain provisions of Bill 40 - stay pronounced in August 2020 by the Quebec Superior Court and upheld by the Court of Appeal in September 2020. A decision on the merits is pending.
- Bill 21 on the laicity of the state, the application of which to the English school boards was struck down in April of 2021 by the Quebec Superior Court. This judgement has been appealed by the Attorney General of Québec. A decision is pending.
- Certain provisions of Bill 96. This case is before the Quebec Superior Court.

In all these cases, English school boards have felt compelled to contest legislation because such legislation violated the management and control rights of Section 23. The courts have thus far sided with the English school boards in two cases, namely Bill 21 and Bill 40.

Additionally, certain provisions of Bill 23, which is the object of these Parliamentary consultations, are manifestly unconstitutional.

Bill 23 – General Observations

Before we examine in greater detail the specific content of Bill 23, the QESBA would like to make a couple of general observations.

Firstly, the QESBA deplores the fact that the original list of witnesses to be heard at this Parliamentary consultation on Bill 23 contained only one group from the English-speaking community of Québec despite a number having asked to appear.

Secondly, the introduction of Bill 23 in the National Assembly in advance of a Quebec Superior Court decision having been rendered on the merits of the QESBA et al v. the Attorney General of Québec case on the constitutionality of Bill 40 is, to say the least, unfortunate and some would say provocative. This action on the part of the Government of Québec certainly violates the spirit of the stay of Bill 40 in the English education network issued by the Superior Court in August of 2020 and upheld by the Quebec Court of Appeal in September of 2020.

Thirdly, it is significant that Bill 23 as drafted would not apply to the Cree School Board or Kativik Ilisarniliriniq (the school board of Nunavik). These two school boards are exempted from Bill 21 on the laicity of the state and they are exempted from Bill 23. During the Parliamentary Committee hearings on Bill 21, the QESBA was told that Bill 21 would not apply to the Cree School Board or to Kativik Ilisarniliriniq because of the James Bay and Northern Québec Agreement (JBNQA). This demonstrates that the Government of Québec and the legislature recognizes that these indigenous communities have a significant level of autonomous management and control of their education system by virtue of the JBNQA, a position that the QESBA fully supports.

Why then, does the Government of Québec and the National Assembly recognize the significance of respecting the JBNQA but not Section 23 of the Canadian Charter of Rights and Freedoms, which is part of the Constitution of Canada? Are the constitutional rights of Québec's English-speaking minority less important than the rights of the Cree and Inuit of Québec?

Fourthly, the QESBA maintains, like a number of other educational organizations and observers, that Bill 23 is part of the tendency on the part of the current government of Québec to centralize decision-making in the hands of the government and of the minister of Education. This tendency began with Bill 40 which, despite protestations to the contrary by the former Minister of Education, clearly concentrated greater authority in the Minister and Department of Education, to the detriment of local decision-making.

All informed observers understand that regarding governance, Bill 23 is an unambiguous power grab by the Government of Québec. Councils of commissioners in the English network and board of directors of school service centres in the French network lose authority over an array of administrative appointments and may have their decisions annulled by the Minister of Education.

Finally, even in Bill 40, the National Assembly recognized that a separate governance regime was necessary in the English education network by virtue of the management and control rights under Section 23 of The Charter. Québec's English school boards, which are public bodies, challenged the constitutionality of various provisions of Bill 40 alleging that they did not fully respect these constitutional rights.

However, Bill 23 treats English school boards in the exact same way as French school service centres. There is absolutely no recognition of any elements of a separate governance regime (as established in Bill 40) for the minority language community. This is a significant

departure from government policy since the creation of linguistic school boards more than 25 years ago.

Bill 23 – Specific Provisions

The following section of the brief is divided into two parts: infringements of the constitutional management and control rights of the English-speaking community under Section 23 of the Canadian Charter of Rights and Freedoms and; more general observations on other provisions of the Bill.

Constitutional infringements

The following are a non-exhaustive enumeration of the violations of Section 23 of The Charter contained in Bill 23:

1. Appointment and removal of directors general by the Government of Québec (s. 18)⁴
 - In all nine English school boards, the director general is named by the Council of Commissioners
 - Transferring this authority to the Government of Québec is manifestly unconstitutional. The Supreme Court of Canada in *Mahe v Alberta* wrote:

“the minority language representatives should have exclusive authority

to make decisions relating to minority language instruction and facilities

⁴ s. refers to the pertinent section of Bill 23

including: (b) **appointment and direction of those responsible for the administration of such instruction and facilities**” (p 377). This exclusive authority was recently reaffirmed by the Quebec Court of Appeal in QESBA et al v. the Attorney General of Québec.

- The Minister of Education’s statement that Bill 23 respects this right because the Government of Québec will name directors general of school boards from the English-speaking community completely misses the constitutional point. It is not *who* is named that is the right, it is *who has the authority to name*.

2. Directors general must carry out any mandate entrusted to them by the Minister (s. 20)

- This clearly establishes that directors general report to the Minister of Education and not to the Council of Commissioners which are the representatives of the community (see Mahe cited above)
- Directors general become the “executants” of the Minister and are accountable to the Minister, not to the Council of Commissioners

3. Directors general appoint assistant directors general (s. 18), principals and vice-principals (s. 4-6, 10-12)

- Currently the Council of Commissioners in eight school boards appoint their assistant directors general. The ninth is named by the director general on the delegated authority of the Council of Commissioners

- Regarding principals and vice-principals, in five school boards they are appointed by the Council of Commissioners. In the other four the Council of Commissioners has delegated this authority to the director general
 - This new authority attributed solely to the directors general is indirect ministerial control over the appointment of school administrators and is manifestly unconstitutional (see Mahe above)
4. Councils of commissioners will no longer be able to remove directors general (s. 19)
- See Mahe cited above
5. The Minister is given the authority to designate interim directors general (until the Government appoints a new director general) in the event of a vacancy (s. 23)
- See Mahe cited above
6. Ministerial power to annul a decision made by a school board or make a decision for the school board at the Minister's initiative (s. 40)
- The Minister can annul decisions "not consistent with targets, objectives, policy directions and directives **the Minister has established.**"
 - This power would enable the Minister of Education to annul a decision by a school board simply on the grounds that he disagrees with the priorities established by the community's elected officials, whether it be a decision to keep a small school open in order to maintain the vitality of an English-speaking community in small communities, the decision to install air purifiers

in classrooms without mechanical ventilation (as was done during the COVID-19 pandemic)

- This is excessive interference in the management and control rights of the English-speaking community and is an impermissible infringement on those rights

7. Obligation to conclude an annual “management and accountability agreement” with the Minister which enables the Minister to set objectives and priorities of the school board (s. 25)

- The right to determine the objectives and priorities for minority language education is at the heart of the right to management and control

8. Ministerial power to determine “policy directions that must be taken into account in organizing educational services” (s. 36)

- This is excessive interference in the management and control rights of the English-speaking community and is an impermissible infringement
- Is the Minister not satisfied with the student success rates in the English education network which exceed the Québec average?

9. Role of human resources committee of the school board in determining the evaluation criteria of the director general removed (s. 17)

- See Mahe cited above

These examples are not necessarily exhaustive and there may be other sections of Bill 23 which are intertwined with the ones highlighted above.

Other comments

Institut national d'excellence en éducation (INEE)

Regarding the creation, mandate and role of the INEE, the QESBA questions its impact on the initial training, continuing education and the professional autonomy of teachers in the area of pedagogy. Bill 40 was supposed to give greater authority and autonomy to those who were closest to students; teachers and parents. The creation of the INEE appears to be a step in the other direction, namely a further centralization of authority.

We are also concerned that the INEE appears to not have the same level of independence to advise the Minister of Education that the Conseil supérieure de l'éducation currently has.

Distance Educational Services

Bill 23 also introduces amendments to the Education Act regarding distance instructional services. Section 33 of the Bill gives the Government regulatory authority in determining under what "exceptional or unforeseen circumstances" such services can be provided. The regulations may "empower the Minister to grant, following a request giving reasons,

authorization for a student or a group of students to receive educational services from a distance...”.

The English education network has successfully delivered distance instructional services for many years. Amongst other things, distance instructional services allow students in small English schools throughout Québec access to specialized, higher-level courses where the numbers of such students do not allow for a class to be given in their school. Without this option, certain educational pathways would be closed off to them.

Furthermore, the COVID-19 pandemic appears to have demonstrated the benefits of distance educational services for some students with special needs in learning.

While the QESBA agrees that distance instructional services should be regulated by a broad legislative and/or regulatory framework, we are concerned that such a future regulatory framework could be too restrictive and narrow and not be adapted to the particular situation of students in English schools. By virtue of the principle of subsidiarity and to best respond to the needs of students in our network, the details of who is eligible for such services and under what conditions should be left to the student (in conjunction with their parents), and the school board/school service centre based on the pedagogical needs of the student.

Information in education

Bill 23 establishes a sweeping information filing and communications system which will house a vast amount of data, including nominal information. The QESBA does not specialize in information technology, we simply want to be reassured that all the necessary safeguards have been considered in the establishment of this system. The Government of Québec's recent track record on the management of information technology has not necessarily been stellar.

Conclusion

Bill 23 further centralizes decision-making to the Government of Québec at the expenses of local communities. A number of provisions related to governance are impermissible infringements on the constitutional rights of the English-speaking community of Québec to manage and control our education system, a system which is often cited as an example to be followed rather than compromised by unnecessary Government interference.

Public policy is supposed to address or correct problems. What are the problems the Government of Québec wants to address in Bill 23? If it is a deficient information gathering system, then modify the Info-collecte system the Department of Education currently uses.

If it is a search for excellence in education, it is up to the Government to demonstrate how the Bill will improve on the better-than-Québec-average success in the high school

graduation rates in the English public education network. There is always room for improvement and no-one is resting on their laurels, but in addition to being unconstitutional, the governance changes proposed in Bill 23 will cause what we believe to be unnecessary and unjustified disruption in Québec's education system, a mere three years after the major governance reform brought in by Bill 40.

The one-size-fits-all approach in Bill 23 regarding English school board is also at odds with decades of recognition of a distinct governance regime for the English education network, recognized in the current Government's own Bill 40, which produces enviable results – a student graduation rate 5% higher than the overall Québec average. The phrase "if it isn't broken, don't fix it" comes to mind.

Finally, a number of provisions of Bill 23 are a further infringement on the constitutional rights of the English-speaking community of Québec to manage and control our education system as per the jurisprudence around Section 23 of the Canadian Charter of Rights and Freedoms, this while the courts are still adjudicating the QESBA et al's constitutional challenge to Bill 40 and while a stay is still in place.

With Bill 23 as drafted, the QESBA and its nine member school boards would have no other option than to initiate yet another constitutional challenge. It is our fervent hope that given the time before us, we will, with a number of other organizations, be able to convince Members of the National Assembly to modify Bill 23 by exempting English school boards

from those provisions which infringe on our constitutional rights, as Bill 23 appropriately does (and Bill 21 did) with the Cree and Inuit of Québec.

The respect of Section 23 of the Canadian Charter of Rights and Freedoms is no less necessary.