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# OECTA Submission to the Standing Committee on Social Policy

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## Bill 48, the *Safe and Supportive Classrooms Act*

February 2019

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The Ontario English Catholic Teachers' Association (OECTA) represents the 45,000 passionate and qualified teachers in Ontario's publicly funded English Catholic schools, from Kindergarten to Grade 12.

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## 1. INTRODUCTION

- 1.01** The Ontario English Catholic Teachers' Association (OECTA) is writing to present issues that are of importance to our 45,000 members as the Standing Committee on Social Policy reviews and considers amendments to Bill 48, the *Safe and Supportive Classrooms Act*.
- 1.02** Ontario's education system is widely considered one of the most successful and high-performing in the world. In 2017, the five-year high school graduation rate reached 86.3 per cent (Ministry of Education 2018), representing a more than 18 per cent increase since 2004. Even in mathematics, where much attention has been paid to declining test scores, the most recent results from the Programme for International Student Assessment (PISA) indicate that Ontario is among the most successful jurisdictions in the world (OECD 2016). In large part, these results are due to the co-operative relationship between policymakers and teachers.
- 1.03** Evidence from around the world shows that education systems work best when teachers' professionalism is respected and education policy is developed collaboratively (OECD 2011; Carini 2008). This collaborative approach to policymaking allows diverse stakeholders to better understand competing objectives and motivations, identify shared priorities, and work toward constructive solutions (Innes and Booher 2010). With this in mind, it is unfortunate that the government did not consult with OECTA in developing Bill 48.
- 1.04** After Bill 48 was introduced, the majority of media attention focused on proposals that would empower the Ontario College of Teachers (OCT, or "the College") to test new teachers on their math skills, and that would mandate the OCT to revoke teachers' licenses in certain circumstances. It is important to review each of these proposals in more detail. At the same time, there are other facets of the bill that, although less-publicized, are no less important. For instance, several proposed changes to the *Ontario College of Teachers Act* could potentially alter the structure and governance of the OCT, and in so doing, impact the principle of self-regulation on which the College is based.

- 1.05** Bill 48 gives rise to several important questions. For instance, with particular sections of the bill, it is unclear what policy problems the government is trying to solve. There is also a question around timing. Bill 48 was introduced in the midst of the government's province-wide education consultation. Several features of that consultation dealt directly with aspects contained in Bill 48. As such, why did the government introduce Bill 48 prior to completing, analyzing, and releasing the results of the consultation? Finally, why were teacher-affiliates not consulted in drafting the bill?
- 1.06** Having reviewed the proposed Bill 48, OECTA has several recommendations that would sharpen the bill's focus, and work toward improving Ontario's system of publicly funded education. We thank the Standing Committee on Social Policy for receiving this submission, and urge the government to take this opportunity to reconsider some of its proposals.

## **2. *ONTARIO COLLEGE OF TEACHERS ACT***

### **2.01 Composition of the Ontario College of Teachers**

One strength of the Ontario College of Teachers is its governance structure. Since its establishment in 1997, this basic structure – including the composition of the Governing Council and committees – has enabled the College to meet its objectives as a self-governing body. The current composition of the Governing Council – 23 elected and 14 appointed Councillors – was recommended as a result of research efforts to determine the appropriate mix of elected and appointed members, and is legislated in the *Ontario College of Teachers Act*, in clauses 4(2) (a) and 4(2) (b).

- 2.03** This compositional mix brings several important benefits. First, the size and composition of the Council ensures that members offer a range of lived experiences, which affords Council diverse perspectives. Second, the current mix satisfies the necessary criteria as a self-regulated body, insofar as it recognizes the maturity of the teaching profession, and delegates regulatory functions to those who have the specialized knowledge necessary to do the job. At the committee level, the structure allows committees to execute their respective mandates.

- 2.04** When the Royal Commission on Learning proposed creating a College of Teachers in 1995, it made self-regulation one of its strategic priorities. Explaining this position, the report's authors noted: "Our views here reflect our confidence in the professionalism of the teaching profession. And we take this position to its logical conclusion. Our conviction is that teaching should be a self-governing profession, with greater responsibility and greater autonomy for teachers" (Ontario 1994).
- 2.05** Proposed changes in Bill 48 open the possibility for government to alter the composition of the OCT Governing Council and committees, thus undermining the principles of self-regulation. In particular, Bill 48 proposes to remove the specified number of members, elected or appointed, who comprise the Governing Council. Instead, the amended clauses 4(2) (a) and 4(2) (b) would read, "The Council shall be composed of the prescribed number of persons." With respect to the composition of committees, the government has proposed to amend the *Ontario College of Teachers Act* by adding a new clause, section 15 (4), to read, "The membership of a committee shall be composed, in accordance with the regulations, of persons elected to the Council under clause 4(2) (a) and persons appointed to the Council under clause 4(2) (b)." Further amendments repeal the Public Interest Committee (Part II.1), and remove the specified number of members to sit on the Discipline Committee (27(1), 27(2)) and Fitness to Practice Committee (28(1) and 28(2)).
- 2.06** During legislative debate, the Minister of Education presented the government's rationale for these amendments, noting it is necessary for the government to broaden its compositional power over the OCT in order to respond to the OCT governance review. However, the government has not offered a rationale as to why it did not consult with teacher-affiliates ahead of proposing this legislation. No empirical evidence suggests the current structure or composition of the Ontario College of Teachers is ineffective. As such, any changes to the governance structure or composition could potentially undermine the College's regulatory effectiveness, and could diminish the principle of self-regulation upon which the College currently operates.

**Recommendation:**

**That the government withdraw proposed amendments to clauses 4(2) (a), 4(2) (b), 15, 17, 25(1), 25(2), 27(1), 27(2), 28(1), 28(2), and Part II.1 of the *Ontario College of Teachers Act*.**

**2.07 Regulation and By-law-making Authority**

In addition to proposed changes to the OCT composition and governance structure, Bill 48 includes several amendments that would expand the government's power to make regulations and by-laws.

**2.08** A proposed amendment to clause 42(1) would enable the government to "[prescribe] the number of persons elected to the Council under clause 4(2) (a) and the number of persons appointed to the Council under 4(2) (b)." In effect, not only would the government be able to alter the composition of the OCT Governing Council, but also it would be able to make those changes via regulation, bypassing the more rigorous and transparent process associated with legislative changes.

**2.09** A similar broadening of regulation-making authority would occur at the committee level. Currently the *Ontario College of Teachers Act* places a number restrictions that prohibit the government from making regulations regarding OCT committees. However, a proposed amendment to clause 40(1) would remove all restrictions, effectively allowing the government to make changes to OCT committees via regulation. A final proposed amendment to clause 42(1) would empower the government to appoint the Chair of the Governing Council, and prescribe their duties.

**2.10** As noted in the previous section, it is unclear why the government requires such broad powers to make compositional changes to the OCT, or why changes need to be made via regulation rather than through legislation. These proposals raise important questions about what kinds of policies and practices the government plans to implement, and how changes to the OCT would impact the teaching profession and the principle of self-regulation.

**Recommendation:**

**That the government withdraw proposed amendments to clauses 40(1), 41(1), 42(1) (a.1), 42(1) (b.1), and 42(1) (b.2) of the *Ontario College of Teachers Act*.**

**2.11 Professional Misconduct and Discipline**

Ensuring that students have a safe and healthy environment in which to learn is of paramount importance to every teacher in Ontario. As discussion on the *Safe and Supportive Classrooms Act* unfolds, we must not lose sight of the fact that teachers are responsible adults who maintain the highest standards of professionalism each and every day. They work hard to create safe, healthy, and welcoming environments, and to forge positive relationships that will help students learn and grow. As an Association, we strive to educate our members on professional standards and boundaries. As a result, the overwhelming majority of Ontario's 200,000-plus certified teachers will never encounter the Ontario College of Teachers.

**2.12** Of course, we understand that in every profession there are individuals who are accused of wrongdoing, and thus require disciplinary adjudication. We also understand that, given the vulnerability of young students, accusations in the education sector must be dealt with swiftly and effectively. Teachers certainly do not condone inappropriate or dangerous behaviour by their colleagues. The objective to "protect students" is not a controversial point. Still, all teachers are entitled to due process, including the presumption of innocence, in the event that they are alleged to have breached professional standards. Any legislation that governs OCT must ensure that the College's proceedings uphold the principles of natural justice.

**2.13** Bill 48 proposes two amendments that would alter the *Ontario College of Teachers Act* with respect to discipline. The first change would impact the current definition of "professional misconduct" (1(1)). The legislation proposes to provide regulation-making authority to the Lieutenant Governor to expand the category of offenses captured under "professional misconduct," to include "sexual offenses" enumerated in the *Criminal Code of Canada*. The amended clause 1(1) would also include a set of exemptions for what does not constitute "sexual abuse" under the act. The second relevant amendment, to clause 30, would require mandatory revocation of a person's

teaching certificate following a finding of professional misconduct for acts of a sexual nature or prescribed criminal offences that are of a sexual nature.

- 2.14** The definition of professional misconduct already includes acts of a sexual nature, and the College already possesses the ability to revoke a members' teaching certificate. It is not clear why it would be necessary to expand the definition or remove all discretion as to how these cases are handled. Catholic teachers agree that protecting students is a top priority, but we will continue to advocate for legislation that strikes the appropriate balance between due process, the rights of victims, and serving the public interest.

**Recommendation:**

**That the government ensure any amendments to the *Ontario College of Teachers Act* under clause 30, respect and maintain the principles of natural justice and due process.**

**2.15 Math Proficiency Test for Teacher-candidates**

There has been a great deal of media attention paid in recent years to Ontario students' performance in mathematics. But the evidence shows that no "crisis" exists. The data on which this misperception is based come from Education Quality and Accountability Office testing, which is a problematic and incomplete measure of student learning (Kempf 2016). Results from the Pan-Canadian Assessment Program and PISA also indicate that Ontario's students continue to excel by national and international standards (CMEC 2016; OECD 2016).

- 2.16** While there is always room to improve, the Association has concerns as to whether the government's proposed course of action will adequately address the issue, as intended. Specifically, if the government is intent on improving math outcomes for students, it is questionable whether enacting a proficiency test for new teachers is an effective use of resources. Our Association is unaware of any research that demonstrates a link between testing teacher-candidates and improving student outcomes. Instead, a more fruitful avenue would be to ensure that teachers have the proper funding for resources and supports to deliver math content, including funding for teacher-led professional development, such as Additional Qualification courses.

**2.17** The decision to include a math proficiency test as part of Bill 48 also raises broader questions about the validity and utility of the government’s ongoing, province-wide education consultation. The open submission, online survey, and telephone town hall – which comprise the consultation – each contain sections specifically dedicated to math. It is unclear why the government is proposing amendments to deal with the issue before the consultation process is completed.

**Recommendations:**

**That the government withdraw proposed amendments to clause 18(1) of the *Ontario College of Teachers Act*.**

**That the government await the findings of the province-wide consultation before proposing education-related legislation.**

**That the government maintain funding subsidies for Additional Qualifications courses related to mathematics.**

**That the government provide additional funding through the Grants for Student Needs for resources and supports related to mathematics instruction, such as teacher-led professional development.**

**3. *EDUCATION ACT***

**3.01 Service Animals**

Many Ontario students with special needs benefit from the support that service animals provide. Bill 48 stops short of mandating a specific policy; however, if passed it would allow the Minister to, “Establish policies and guidelines respecting service animals in schools, and require boards to comply with the policies and guidelines and to develop policies in accordance with those policies and guidelines.” As justification, the government has pointed to increased requests for service animal accommodations in recent years, and notes that only 39 of 72 school boards currently have a policy in place.

- 3.02** The Association agrees that a consistent approach is helpful. However, we caution that consistency cannot come at the expense of other students' or teachers' rights. As the government turns its mind to drafting policy, we would urge that it remain cognizant of students or teachers who may suffer from allergies, possess phobias, or have cultural sensitivities toward animals. A blanket policy that rigidly enforces the right to have service animals in school may negatively impact the educational or work experience of others in that environment. As such, we ask that any policy include enough flexibility to be adaptable to a particular school's context and circumstances.
- 3.03** There is also an issue to consider on the topic of legal designation. It is important to note that while "service animals" are afforded specific legal protections, the same is not necessarily true of "emotional support animals" (ESA) (Goldblatt 2017). Although there may be some overlap in services, these designations generally fall within separate categories. As the debate moves forward, it will be helpful for the government to explain whether its policy will apply specifically to service animals, or if ESAs will be included.

**Recommendation:**

**That the government ensure any policy developed with respect to service animals, include flexibility, so as to be adaptable to local contexts and circumstances.**

**4. CONCLUSION**

- 4.01** Teachers, parents, school administrators, political leaders, and the broader public generally want the same things for students in the publicly funded education system. If we are to continue improving our already world-renowned system, education policies should be developed collaboratively. Developing policy in isolation from teacher-affiliates and other education stakeholders breeds misunderstanding, and weakens the quality of legislation. We urge the committee to consider and adopt the recommendations proposed by OECTA, which ultimately would strengthen and improve the *Safe and Supportive Classrooms Act*.

## **5. RECOMMENDATIONS**

- 5.01** That the government withdraw proposed amendments to clauses 4(2) (a), 4(2) (b), 15, 17, 25(1), 25(2), 27(1), 27(2), 28(1), 28(2), and Part II.1 of the *Ontario College of Teachers Act*.
- 5.02** That the government withdraw proposed amendments to clauses 40(1), 41(1), 42(1) (a.1), 42(1) (b.1), and 42(1) (b.2) of the *Ontario College of Teachers Act*.
- 5.03** That the government ensure any amendments to the *Ontario College of Teachers Act* under clause 30, respect and maintain the principles of natural justice and due process.
- 5.04** That the government withdraw proposed amendments to clause 18(1) of the *Ontario College of Teachers Act*.
- 5.05** That the government await the findings of the province-wide consultation before proposing education-related legislation.
- 5.06** That the government maintain funding subsidies for Additional Qualifications courses related to mathematics.
- 5.07** That the government provide additional funding through the Grants for Student Needs for resources and supports related to mathematics instruction, such as teacher-led professional development.
- 5.08** That the government ensure any policy developed with respect to service animals, include flexibility, so as to be adaptable to local contexts and circumstances.

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