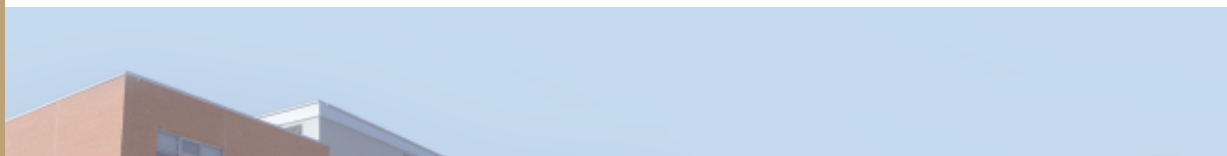

A Focus on Achievement

Report of the Governance
Review Committee to the
Minister of Education of Ontario

April 2009



School Board Governance

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The essence of trusteeship is to hold something, a property, a responsibility, an ideal, in one's care for a period of time and then pass it on undiminished to those who follow.

– School board

April 20, 2009

The Honourable Kathleen Wynne
Minister of Education

Dear Minister,

The Governance Review Committee is pleased to present its report – *School Board Governance: A Focus on Achievement*.

Pursuant to its mandate, the Committee held province-wide consultations, and the feedback we received at those consultations informs the Committee's twenty-five recommendations relating to duties and accountability of school boards, chairs, individual trustees and directors of education; effective practices in governance; capacity building for trustees; and the provincial interest regulations relating to student outcomes that the government intends to develop.

We were impressed by the genuine interest and quality of participation of those who contributed to this review. The input from participants at the regional consultations and the thoughtful submissions from various stakeholder groups nourished our discussions and guided our recommendations.

The Committee, comprising Harold Brathwaite, Denis Chartrand, Penny Milton, Paula Peroni, Peggy Sattler and myself, believes that these recommendations will strengthen and modernize school board governance in Ontario.

The Committee wishes to acknowledge the contribution of Rick Johnson, who initially co-chaired the Committee. We also wish to thank Ministry staff for their dedication and support in helping us fulfil our mandate.

It has been an honour to serve on this committee and contribute to strengthening publicly funded education.

Madeleine Chevalier
Chair



MEMBERS OF THE GOVERNANCE REVIEW COMMITTEE

Madeleine Chevalier, Chair

Trustee and former chair, Conseil des écoles catholiques de langue française du Centre-Est; former president, Fédération nationale des conseils scolaires francophones

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Chief Executive Officer, Canadian Education Association; former chair, Toronto Board of Education; former Executive Director, Ontario Public School Boards' Association

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Trustee and former chair, Sudbury Catholic District School Board; president, Ontario Catholic School Trustees' Association; vice-president, Canadian Catholic School Trustees' Association

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Une publication équivalente est disponible en français sous le titre suivant :

La gouvernance des conseils scolaires : L'accent sur le rendement.

Rapport du comité pour l'examen de la gouvernance remis à la ministre de l'Éducation de l'Ontario

This publication is available on the Ministry of Education's website, at www.edu.gov.on.ca.

There is a deep consensus among ... boards that setting the conditions that will provide a high quality education for every student to succeed in school and in life is the absolute first priority of a school board.

– Stakeholder organization

I

Mandate of the Governance Review Committee

ON NOVEMBER 4, 2008, the Honourable Kathleen Wynne, Minister of Education, established the Governance Review Committee and mandated the Committee to consult with trustees, chairs, parents, directors of education and others and make recommendations on the following:

- ways to modernize and clarify in the *Education Act* the duties, powers and accountabilities of school boards, chairs, individual trustees and directors of education, while reinforcing the relationship between elected officials as a group and the director of education as sole employee accountable to the board;
- effective practices in governance applicable to the education sector including codes of conduct and audit committees;
- an appropriate long-term capacity-building program for trustees;
- appropriate content and format of eventual provincial interest regulations designed to ensure that a board achieves student outcomes specified in the regulation, such as improved literacy and numeracy and higher graduation rates.

Trustee expenses, trustee honoraria, board boundaries and the regime of four school systems were specifically identified as being outside the Committee's mandate.

On February 20, 2009, at the request of the Minister, the Committee submitted a progress report to advise her on issues related to legislation to be introduced in the spring. The Minister also requested that the Committee submit its final report by April 20, 2009.

Consultation Process and Committee Deliberations

The Committee developed a consultation paper that was posted on the Ministry's public website and was sent to all chairs of district school boards and school authorities and to directors of education. During January and February 2009, the Committee held regional consultations with trustees, directors of education, and parent representatives in Toronto, Sudbury, Ottawa, Thunder Bay, Barrie and London and consulted directly with the directors of French-language boards. Additional consultations were held with the chairs and past chairs of the English-language and French-language public boards and English-language and French-language Catholic boards. School boards, organizations, and members of the public were invited to send written submissions or respond to the consultation paper directly on the Ministry's website.

As a result, Committee members met with representatives of 70 school boards, including 137 trustees, 54 directors of education and 71 parent representatives. We also received 148 written responses to the consultation paper (see Appendix C).

The Committee also sought the advice of individuals with expertise and experience in governance from different Canadian jurisdictions: Carole Olsen (Superintendent, Halifax Regional School Board); Michael Fullan (Special Advisor to the Premier of Ontario and Professor, Ontario Institute for Studies in Education); Patricia Bradshaw (Associate Professor of Organizational Behaviour, Schulich School of Business, York University); Veronica Lacey (President and CEO, Learning Partnership); Marilyn Gouthro (former Director of Education); and Marc Godbout (former Director of Education and former Assistant Deputy Minister, Ontario Ministry of Education).

In addition to holding consultations, the Committee met formally ten times between November 2008 and April 2009 and had many lively discussions based on the wealth of information it received. The recommendations in this final report are the result.

Through their discussions, Committee members identified a number of shared beliefs and principles that underlie the recommendations contained in this report:

- Locally elected school boards in all four publicly funded systems are what makes and keeps public education “public”.
- School boards are accountable both to their electorates and to the public at large, as well as for acting within the provincial legislative framework and policy requirements.
- School boards direct the provision of education through the establishment of policy.
- Trustees are an essential link to their communities and bring local considerations to the process of establishing policy.
- It is important to encourage good candidates to run for office. Since trusteeship is an elected position, the current minimum qualifications for nomination are appropriate.
- The director of education is hired by the board and is accountable to the board for the implementation of the board’s policy within the legislative framework of the province.
- Increased clarity about the respective roles of trustees, boards, chairs and directors of education will help individuals in those roles to better carry them out and to work collaboratively to support student success.

Under each major topic, we have outlined the issue being addressed and what we heard and read on that topic, followed by the Committee’s opinion and recommendations. In keeping with the mandate, these recommendations are framed so as to be applicable to all school boards and school authorities in Ontario; where the term “school board” is used, it includes school authorities.

Context and Challenges

II

SCHOOL BOARDS are responsible for the provision of publicly funded education within their jurisdictions according to all relevant statutes and regulations and using funds provided to them by the Province of Ontario. Boards provide facilities, transportation, programs and services and manage risk associated with the operation of school systems.

Elected school boards have governed the local provision of education since the nineteenth century. Yet the shift in focus from the responsibility for providing educational opportunities for all students with a right to attend school to the responsibility for the educational outcomes of all students occurred only recently. Today there is widespread agreement that effective local governance is essential to achieving desired outcomes for students. Although there is little research and limited experience to provide direction to school boards in exercising a mandate for improving student achievement, there is an emerging consensus that boards need to establish high expectations for student outcomes, establish strategic directions for improvement, assign resources to support strategies and hold the system to account by regular performance monitoring.

The new mandate for student achievement arises in a context of major changes affecting long standing governance arrangements in Ontario that have produced challenges for elected school boards:

- The establishment of a provincial funding model and equalization of per pupil funding, with the concomitant loss of discretion regarding local taxation;

- The amalgamation of school boards, resulting in larger organizations and/or territories;
- Demographic shifts including immigration, migration, declining enrolment and population growth;
- Increased societal expectations and demands on schools;
- Increased participation by parents and students in decision making;
- A substantial increase in provincial direction and intervention in the provision of education.

These changes have led many boards to re-examine their mandate and the governance model that best serves that mandate. While all boards feel it is their role to maintain an infrastructure that supports the delivery of educational programs, an increasing number are also assuming responsibility for, and holding themselves accountable for, the quality of learning that goes on in their schools.

In recent years the Ministry of Education has taken an increasingly active role in establishing provincial goals, priorities and targets and supporting their achievement through the provision of expertise and financial resources. However, a provincial vision for education must allow sufficient scope for school boards' creative and innovative responses to local needs.

... the “road” to good governance is often blocked by barriers: lack of sufficient time, resources or expertise; numerous urgent pressures requiring immediate attention; damaged governance relationships; misunderstanding of roles and responsibilities (or disregard for them); poorly executed board meetings, etc. Removing or at least minimizing these barriers is the paramount governance challenge facing school boards today.

– School board

What Is Good Governance?

III

GOVERNANCE IS ABOUT the allocation of responsibilities within an organization. Good governance provides a framework and a process for the allocation of decision-making powers. The benefits of good governance are clear, even when there is divergence in precisely how it should be accomplished. Good governance requires clarity and shared understanding of roles, responsibilities, rules and reporting.

Education governance is not simply a question of the role and responsibilities of school boards. There are many players in education governance with significant roles in the policy-making process: school boards comprising elected trustees and First Nations trustees (referred to in this report as the “board of trustees”), student trustees, directors of education, Parent Involvement Committees and School Councils. In addition, school boards may enter into partnership agreements with municipalities and other agencies that can have an impact on governance. Boards are required to balance their responsibility for local priorities and issues while meeting legal requirements under the *Education Act*, associated regulations and the policies of the Ministry of Education. It was also clear from consultations that an additional hallmark of good governance is the quality of the relationship and the synergy that exists between the board of trustees and the director of education.

Through the Committee’s consultations and the written submissions it received, it became evident that boards have a variety of governance models in place. While all boards recognize that they govern by policy, some have developed specific forms of “policy governance” in which the

scope of action of the board and its administration are clearly delineated. Others rely on past practice and the rules established within by-laws. The Committee found that there is little, if any, support for the imposition of a single or particular model of governance.

Governance by an elected board is not “corporate” governance, and cannot be made so. The Committee concludes that there is no one best model for boards of trustees; in each setting, governance arrangements must take account of the organization’s mission, culture, traditions and relationships. School board governance must also accommodate political processes, including political advocacy and tolerance for dissent. The Committee offers the following principles or indicators of effective school board governance:

- The board of trustees has a clearly stated mission that includes high expectations for student achievement;
- The board of trustees allocates its resources in support of the goals it has set;
- The board of trustees holds its system accountable for student achievement through its director of education by regular monitoring of evidence of student achievement;
- The board of trustees engages with its constituents in the creation of policies that affect them and communicates its progress in raising student achievement;
- The board of trustees monitors its own performance and takes action to continually improve its governance processes.

School boards should be accountable for creating a caring, compassionate school system that reflects the local culture, managing the board’s resources effectively and ensuring that all students are prepared to have a successful life.

– School board

Clarifying Roles and Responsibilities in the *Education Act*

IV

THE VAST MAJORITY of participants and submissions emphasized that clarification of the respective roles and responsibilities of school boards, board chairs, individual trustees and the director of education in the *Education Act* was long overdue and would enhance good governance.

The various duties and powers of school boards are scattered throughout the *Education Act*. In making its recommendations, the Committee has focused on key duties of boards, chairs, trustees and directors of education that should be clarified in order to reflect the essential functions they carry out and to support good governance. While it appreciates the complexity of such a task, the Committee also suggests that the Act as a whole be reviewed to consolidate and harmonize provisions regarding duties and powers and to eliminate those that are out of date, so as to enable school boards to carry out their responsibilities more effectively.

School boards, trustees, board chairs and directors of education operate within an extensive legislative framework established by the *Education Act*, the *Municipal Elections Act*, the *Ontario Human Rights Code*, the *Labour Relations Act*, and other relevant statutes. Their general duty to act in accordance with relevant legislation, regulations and policy is assumed.

As a corporate entity, we are ultimately responsible for the success of each student and for the financial and operational performance of the organization, even when these responsibilities are delegated to our sole employee, the director of education.

– School board

School Boards

In the consultations and submissions, school boards were considered to be stewards of the resources allocated to them for the provision of education. Setting the strategic direction, policy making, and oversight or monitoring of policy implementation were generally regarded as the role of the board of trustees. The director of education was widely held to be responsible for ensuring the implementation of policy and of the strategic direction. It was also clear that, within this general framework, the particular model of governance varied among boards. In the same way, boards varied with respect to what they considered to be policy, implementation and operational matters.

At the present time, the broad purposes of publicly funded education for which school boards exist are assumed but not stated in the *Education Act*. The Act empowers boards to do such things as purchase milk for students, establish cadet corps and erect fences, but it makes no mention of student achievement or well-being. And nowhere does it identify educational outcomes as the core business of school boards.

In the Committee's opinion, the following is the mandate of school boards, to be reflected in legislation. School boards are to:

- Promote student achievement and well-being;
- Deliver effective and appropriate education programs for students;
- Provide effective stewardship of board resources.

The Committee further recommends that the mandate of the Ministry of Education, and the broad purposes it seeks to achieve, similarly be articulated in the Act.

Finally, the legislation should also make clear distinctions in the terminology used to refer to school boards as corporate entities, in contrast to the body of elected and appointed members referred to in this report as the board of trustees.

RECOMMENDATIONS REGARDING THE ROLE OF SCHOOL BOARDS

1. The *Education Act* should be amended to include a statement that the mandate of school boards is to promote student achievement and well-being, deliver effective and appropriate education programs for students, and provide effective stewardship of the board's resources.
2. The broad purposes for which the Ministry of Education exists should be included in the Act.
3. The *Education Act* as a whole should be reviewed so as to consolidate and harmonize provisions and remove those that are outdated, and possibly, to enable school boards to carry out their responsibilities without the need to refer to a detailed list.

RECOMMENDATIONS REGARDING THE DUTIES OF SCHOOL BOARDS

4. The board of trustees should be responsible for establishing the policies that govern the provision of education in its school district.
5. The board of trustees should hire a director of education, who will be the chief executive officer of the corporation.
6. The board of trustees should be responsible for the performance management of the director of education.
7. The board of trustees should approve a multi-year strategic plan that includes goals for student outcomes.
8. The school board should report annually to the public and to the Minister on its progress in meeting the goals of its strategic plan.
9. The school board should report annually to the public and to the Minister on steps undertaken to ensure effective, transparent governance of the school board, including compliance with provincial statutes and regulations and fiduciary responsibilities.
10. The legislation should make clear distinctions in the terms used to refer to a school board, as a corporate entity, as distinguished from the body of elected and appointed members.

Trustees

Boards of trustees derive their power from statute, and political governance is the established form of local governance for education in Ontario. Its defining characteristics include the election of trustees, trustee accountability to an electorate, management of constituency relations and public input. The board of trustees makes public policy decisions on matters about which reasonable people may disagree. Policy debates are necessarily messy when they involve the sorting out of conflicting values or beliefs or the allocation of scarce resources. Trustees are expected to act in the broad public interest while simultaneously representing identifiable constituencies. Although boards no longer have discretion with regard to local taxation, trustees maintain a strong sense of accountability to local constituents. As a member of the board, an individual trustee is expected to act within the board's by-laws and to be loyal to the board's decisions. However, as elected persons, trustees are also expected to advocate for the interests of their constituencies. Some trustees who appeared before the Committee stated that their accountability is first and foremost to their electorate. This dual responsibility to the board and to a constituency sometimes creates tensions at the local level.

During the Committee's consultations, trustees often spoke of the challenge of reconciling their obligation to bring forward the values and interests of their constituents with the obligation of the board to make decisions for the good of all students in the system and consistent with the policy frameworks and initiatives of the Ministry. Questions arose about whether the current scope for decision making by boards of trustees is conducive to effective local political governance.

The lack of clarity that exists concerning the role of trustees and of boards leads to varying interpretations and perceptions on the part of trustees, and the public in general, with regard to issues such as communication with board staff, communication with constituents and public support for board decisions. Many trustees spoke of the challenge of "figuring out the role" and also of the tension that could occur when their views on issues differed from the views of parents and constituents. Differences that arise between an elected board and its director of education, among the trustees

on a board, or between a trustee and his or her constituents, can distract from the board's focus on student achievement. A number of boards address some of these issues through their governance model or in policy, but clarity at the provincial level is needed.

Although it is widely understood that individual trustees do not have independent decision-making authority, there are occasions when the board delegates certain powers to a member to act in its stead – for example, as the board's representative on multipartite committees or task forces, and in specific quasi-judicial processes.

Some trustees described their role as developers and monitors of policy, and the role of administration as implementers of policy. Others reported some involvement in key operational issues and felt this was an appropriate role for them to play. Directors from a number of boards, however, expressed concerns that attempts by individual trustees to actively direct staff can undermine the director's authority and accountability.

Both trustees and directors from boards that operated under some form of policy governance model spoke favourably of this type of model and emphasized the benefits of clearer role boundaries for trustees, directors and senior administration.

The Committee concludes that the legislation should include duties of trustees.

RECOMMENDATION REGARDING THE DUTIES OF INDIVIDUAL TRUSTEES

- 11. Individual trustees should be required to:**
 - i. Act in accordance with board policy and by-laws;
 - ii. Bring the interests of the local community to the attention of the board;
 - iii. Communicate, explain and uphold board decisions.

School Board Chairs

Although board chairs play a key role in the effective functioning of a board, the Act is silent with regard to their duties. Participants stressed the importance of the leadership role of chairs and the value of an effective chair with respect to a board's ability to govern. Among other responsibilities, an effective chair enforces procedural fairness and adherence to the code of conduct during meetings, sets agendas in collaboration with the director and ensures that the board has sufficient information to make decisions. A high quality working relationship between the chair and the director of education was widely felt to be an essential element of effective governance, since the chair often acts as the liaison between the board and the director. Chairs were unanimously recognized as the public spokespersons for the board on policy issues.

The Committee concludes that the essential roles of the school board chair should be reflected in legislation.

RECOMMENDATION REGARDING THE DUTIES OF THE SCHOOL BOARD CHAIR

- 12.** School board chairs should be required to:
- i. Preside over all meetings of the board of trustees, except as provided otherwise;
 - ii. Conduct meetings in accordance with the board's policies and by-laws;
 - iii. Establish agendas for meetings of the board, in consultation with the director of education;
 - iv. Represent the board to the director of education;
 - v. Act as the official spokesperson for the school board, unless otherwise determined by the board.

The chair holds a position of influence and has the opportunity to positively influence relationships with both members of the board and stakeholders in order to further the interests of public education in the community.

Directors of Education

The director of education was widely acknowledged to be the educational leader as well as the chief executive officer of the school board, responsible to the board for the administration of the school system through her or his staff. However, the Committee heard and read that the director of education and senior staff may differ from trustees in their perceptions of matters that are operational, and therefore within the director's domain, and matters that are policy, and therefore the domain of the board of trustees. While this difference in perception can cause friction, it can also be a creative tension that generates new ideas from differing perspectives when a trusting relationship exists between the board and its director.

The vast majority of those who expressed their views to the Committee believed that the director of education is the sole employee who formally reports directly to the board and is accountable to the board for all operations and outcomes that result from his or her direction. Most respondents noted that, since boards and directors must abide by legislation, the expectation that directors of education submit various reports to the Minister of Education on behalf of the school board is reasonable and does not imply any direct accountability to any body other than the employing school board.

Conflicts can arise for directors of education if there are differences between the policy objectives of the board and directives from the Ministry of Education. The Committee heard that unless there is clarification in the *Education Act* regarding the responsibilities of directors of education with regard to the Ministry, this tension will remain, with consequences for the effectiveness of directors and boards alike.

The lack of clarity around the role of staff/management and trustees is probably one of the biggest challenges boards face. It is only exacerbated by the fact that the roles are not clearly defined in the Act, or anywhere else, for that matter.

– Trustee

RECOMMENDATIONS REGARDING THE DUTIES OF THE DIRECTOR OF EDUCATION

- 13.** Directors of education should be required to:
- i. Develop and implement plans to achieve the school board's strategic goals;
 - ii. Report regularly to the board on the implementation of the board's goals;
 - iii. Make recommendations to the board on improving student achievement;
 - iv. Implement policies and directives of the board;
 - v. Direct and monitor all operations of the school board in a manner consistent with the strategic direction and operational objectives approved by the board;
 - vi. Advise the board if, in the director of education's opinion, its decisions or actions are not consistent with legislation;
 - vii. Advise the Deputy Minister of Education if, in the director of education's opinion, the board's decisions or actions are not consistent with legislation;
 - viii. Inform the board of trustees of relevant issues, including those that may be contentious;
 - ix. Hire, allocate and manage the performance of board staff in a manner consistent with the board's goals;
 - x. Manage the administration of the corporation.
- 14.** The Committee recommends that in cases where the positions of treasurer and of director of education are not held by the same individual, it should be clear that the treasurer reports to the board through the director of education.

While trustees should be interested and engaged, they should not be doing the work of principals, board staff or senior board administration.

– Stakeholder organization

Practices That Support Good Governance

V

GOOD GOVERNANCE is supported by effective practices. Several indicators of good governance were outlined in section 3, “What Is Good Governance?”, above. Effective boards have clear priorities and goals based on their context and within the parameters of the legislative and policy framework; these goals guide their resource allocation. Boards hold their system accountable by regularly monitoring data and evidence of student achievement, engage their communities when they create policy, and continually monitor their own performance as a board and make adjustments as necessary. A shared understanding of roles, responsibilities and accountability is essential, as is a commitment to build an effective working relationship between the board and senior administration and among board members. The importance of mutual trust and the quality of the relationship between a board and its director was consistently highlighted in the consultations and submissions.

Transparency and maintaining an effective and appropriate flow of information between the board, the administration, parents and the community are also essential. Effective information sharing and reporting to the board appear to be skills that are learned and cultivated by directors of education. The effective board is one that learns to make clear decisions to guide senior administration.

Boards must develop effective practices that suit their context, and reflect on them regularly in order to adjust and refine them on an ongoing basis.

During the regional consultations, trustees and directors shared many examples of board practices and policies that contribute to responsible

and transparent governance. The written submissions received by the Committee similarly offered examples of effective governance practices.

The following examples are illustrative of good practices that were brought to the attention of the Committee:

To support governance in general:

- Ensure ongoing review of board by-laws, policies, procedures, and agendas;
- Support and encourage research-based practices;
- Undertake annual governance evaluations, and conduct informal evaluations through post-meeting reflective dialogue;
- Develop short-term (annual) plans to ensure that all necessary aspects of oversight regarding goals and priorities are included;
- Establish a policy review process to ensure policies are current and appropriate.

To support multi-year strategic planning and decision-making processes:

- Develop short- and long-term goals to promote student achievement and to address gaps in student achievement;
- Establish procedures and measures to monitor progress towards goals, and make adjustments where necessary;
- Plan for revenue as well as expenses;
- Use data effectively to support monitoring and decision making;
- Establish mechanisms for consulting the community.

To foster transparency and communication:

- Develop a communications plan that supports the two-way exchange of information between the board and the community;
- Establish policies and practices that facilitate public input on board policy matters;
- Develop and publicize a communications protocol for trustees and staff in order to direct enquiries or constituent concerns to the appropriate people;
- Make proactive efforts to ensure affected stakeholders or communities are kept informed of policy decisions under consideration that could have significant impact on them.

The Committee feels that while it is not appropriate to include specific practices in legislation, it is appropriate to encourage sharing of best practices among school boards. This can be done through professional development sessions with boards and directors, as well as through orientation and educational materials prepared by the Ministry, trustee associations, and/or a body responsible for delivering professional development to trustees and directors.

Good Governance Tools

The Committee was asked to make recommendations regarding two effective governance practices in particular: audit committees and codes of conduct. Both are widely recognized for their contribution to effective governance.

► **AUDIT COMMITTEES**

The establishment of audit committees reporting to governing boards has emerged as a generally recommended governance practice. Although the Committee heard few references to school board audit committees, participants in the regional consultations and written submissions identified the fiduciary responsibilities of boards of trustees as a critical feature of school board governance.

Some school boards currently have audit committees in place. These committees provide valuable oversight of the board's policies and administrative/financial controls, and can assist boards in governing in a transparent, fiscally prudent manner. The purpose of an audit committee that reports directly to the board is to support the achievement of the board's goals and objectives by bringing a systematic, disciplined approach to evaluate and improve controls, governance processes and risk management. Audit committee mandates may focus exclusively on financial and risk management, or they may extend to reviewing and making recommendations on a broader range of issues, including protection of the board's reputation, environmental stewardship and the board's relations with its employees. Some larger organizations choose to employ a professional internal auditor, who, with appropriate independence, can be

invaluable to boards and directors of education in advising on the management of risk and other strategic issues.

Audit committees are “expert” committees in that their members need to have sufficient knowledge of accounting principles and related management processes in order to evaluate the information associated with activities under their purview. A common practice is to appoint to the audit committee one or more appropriately qualified external members who can be fully objective and who are professionally experienced in financial matters.

At this time, the Committee recommends that school boards be required to establish audit committees to provide oversight and make recommendations on financial and risk management. Boards that wish to audit a wider range of functions would not be prevented from doing so.

RECOMMENDATION REGARDING AUDIT COMMITTEES

- 15.** School boards should be required to establish an audit committee as a standing committee of the board to provide oversight of financial policy, at a minimum, and report on the management of risk. An audit committee should comprise a minimum of two trustees, where possible with appropriate knowledge of financial reporting, and at least one external member who has experience with financial and operational management and an understanding of accounting principles.

School boards are multimillion dollar public organizations with mandates to safeguard public money.

– Stakeholder organization

► CODE OF CONDUCT

Many school boards have board policies dealing with ethics or conduct for trustees. These policies are useful and effective mechanisms for setting the parameters of acceptable behaviour in meetings and on board-related business. Effectively used, they can also serve to encourage respect for divergent views and dissenting voices, which must be distinguished from obstructive and inappropriate behaviour. Currently, nothing in the Act or regulations requires boards to have a code of conduct for trustees, and there is no legislative authority for boards to impose sanctions for breach of such a code. The scope of the code of conduct required under the *Safe Schools Act* covers the behaviour of all persons in schools, including trustees. It does not, however, extend to conduct of trustees as members of the board or at the board table.

While the consultations revealed widespread support for an enforceable code of conduct to enable boards to address inappropriate behaviour, some trustees expressed concern that such a code would hold trustees to a different standard than other elected officials.

There was a divergence of opinion on whether the code of conduct should be a uniform provincial code, a provincial framework on which boards can build, or a locally developed code. Opinions also varied regarding enforcement mechanisms. Many felt that enforcement should occur at the board level, using a progressive scale of sanctions, while others proposed a neutral third party at the provincial level, who could also play a role in assisting boards and chairs to foster resolution and avoid escalation.

In order to ensure some level of consistency across the province, the Committee believes the government should require boards to adopt codes of conduct for the board of trustees and should set the minimum standards for those codes. These minimum provisions should be applicable to all four systems, without affecting Constitutional and Charter rights of separate boards and French-language boards. Each school board should be permitted to include additional provisions to meet its particular circumstances.

The provincial standards for a code of conduct could include elements requiring trustees to:

- Act with integrity and with the obligation to maintain the dignity of the office;
- Avoid personal advantage and conflict of interest;
- Respect others who may have differing opinions;
- Adhere to board policies;
- Respect confidentiality of information obtained in private and closed sessions of the board and of confidential information obtained in their capacity as members of the board;
- Accept that authority rests with the board and that an individual trustee has no individual authority outside the board, unless expressly conferred by the board;
- Uphold decisions made by the board, even if an individual trustee does not agree with them.

The legislative framework should also allow a board to impose sanctions for breaches of its code of conduct, and set out the allowable range of sanctions that can be imposed. The board should specify in its policy the procedures that it will use to enforce its code. Enforcement and compliance should be implemented through a progressive system of sanctions. Boards interested in developing an overarching code of ethics that complements the code of conduct would still be free to do so.

Possible sanctions available to boards could include a motion of censure, the withholding of an honorarium, barring a trustee from representing the board at public functions or on external bodies, and excluding a trustee from meetings or portions thereof, up to a maximum of three meetings. Several submissions proposed using the declaration of office as a means to reinforce a trustee's obligation to adhere to the code of conduct.

It is essential that trustees understand their board's code of conduct. In addition, information on the code of conduct should be made widely available in order to ensure that prospective trustees, parents and other supporters are aware of it.

The Committee heard from many participants about the value of having a neutral third party to which a trustee or a board could turn. Boards need the possibility of recourse to a neutral and independent third party of their choice, on an as-needed basis, for advice or in cases where a trustee seeks to appeal the sanction imposed by the board. This person could investigate and report back to the board on the investigation, with a recommended course of action or sanction.

RECOMMENDATIONS REGARDING A CODE OF CONDUCT

16. The Minister should establish a minimum code of conduct for trustees, in consultation with trustees or their representative associations.
17. Boards of trustees should be required to adopt a code of conduct for board members that, at a minimum, would include all provisions of a provincial code of conduct.
18. If a board determines that a trustee is in violation of the school board's code of conduct, the board should be given the power to impose sanctions on a trustee, in accordance with sanctions and enforcement provisions set out in legislation.
19. Chairs of boards of trustees should be given authority to carry out sanctions against a trustee when the board, by resolution and in due process, has determined that a trustee is in violation of the board's code of conduct.
20. Boards of trustees should be able to appoint an external neutral third party to investigate alleged violations of the code of conduct or to hear appeals with respect to a sanction and to advise the board accordingly.

... boards should be held accountable for how they spend their time; for where they choose to focus their attention; and for the culture and climate they create to support the continued focus on student achievement. While perhaps hard to measure, these things are within our ability to control as trustees and directly contribute to improved student achievement.

– Trustee

VI Capacity Building

SCHOOL BOARDS ARE complex corporate entities, with budgets that often surpass those of the municipalities that make up their districts. The combined skill set and knowledge of trustees and their ability to function in a collaborative manner are crucial to the effective governance of the corporation.

The Committee often heard participants speak of the steep learning curve facing new trustees, as well as the time and effort required to enhance their knowledge and skills. Many mentioned that skill development, as well as sufficient knowledge of specific education topics, is important, and that training on both the practical skills of effective trusteeship and issues in education would be useful and welcome. There was broad support for having widely available information about the role and expectations of trustees, for the public in general, but particularly for prospective candidates for the office of trustee.

Provincial and national associations offer a variety of professional development opportunities to trustees, as do individual school boards, although there is variation in their capacity to do so. *Educating Together: A Handbook for Trustees, School Boards, and Communities*, published collaboratively by the four Ontario provincial trustee associations, is an excellent resource. Regional orientation sessions were also offered by the Ministry after the last three school board elections, although trustee participation was voluntary. Directors of education play a significant role in orienting new trustees and board chairs.

Although no consensus emerged, either at the consultations or in the written submissions, on whether some or all orientation and professional development should be mandatory for trustees, there was widespread agreement that participation in orientation and ongoing professional development helps trustees become better informed and more effective as individuals, thereby enhancing a board's capacity to govern effectively.

Frequently it was suggested that directors of education and trustees should participate in joint professional development on governance in order to enhance their shared understanding of effective governance in their specific context and to foster a productive working relationship. This type of professional development is especially important for the director of education and the board chair.

Although the Committee was not specifically asked to comment on professional development for directors of education, it recognizes, as did many participants, that the director makes a critical contribution to effective governance and that directors of education may benefit from enhanced knowledge and skills in working with an elected board of trustees. The Committee was informed that the demographics of the senior ranks of school systems have resulted in an apparent trend towards hiring directors of education with less direct experience of working with a board and little exposure to governance. It was suggested that associations representing school boards, trustees, directors and supervisory officers work together to increase directors' and superintendents' knowledge of and exposure to school board governance. This strategy would have the added advantage of enhancing succession planning in the system as a whole.

Effective school board governance results from the collective knowledge and skill of the board members and their capacity or willingness to work together, to manage or resolve conflicting beliefs and values about what constitutes the public interest and to balance the responsibility of constituency representation with the best interests of the whole organization. This last task may have become both more essential and more difficult in situations where school board amalgamation incorporated rural, suburban and/or urban areas that have distinct values and competing interests with respect to public education.

Board development is an aspect of capacity building that focuses on enhancing the ability of board members to function as a group. A useful approach to building this capacity is through board self-evaluation, which can serve a number of purposes, including developing a shared understanding of effective governance, enhancing the board's strategic capacity, improving decision-making processes and identifying governance information needs. Board evaluations generally focus on core areas of the board's mandate. They can be conducted by the board itself or through engagement of qualified consultants. Ideally, either approach will result in a governance improvement plan that is executed by the board.

Trustees have other occupations and responsibilities, and their personal or geographic circumstances can place very real limitations on their ability to participate in professional development. In addition to the traditional ways in which professional development is offered – such as workshops and conferences – creative methods using technology should be exploited in order to enhance access and flexibility and to lower costs for individual trustees and for their boards. Among the suggestions offered were web conferencing, videoconferencing and online education.

Trustees must be strongly encouraged and offered support to participate in initial orientation and ongoing professional development in order to continually refine their skills and enhance their capacity to participate effectively on a board. Capacity building must be explicitly valued by the Ministry and by school boards as an important investment in good governance. The need for good governance across all sectors of society has been established. Through the course of their work, trustees often develop the skills and aptitudes essential to effective governance in any public or not-for-profit domain. Yet the knowledge and skills of effective trustees may have little currency beyond elected office. The Committee suggests that the establishment of a voluntary certification program on public sector governance with a focus on school governance, through an institution such as one with links to an academic institution, could emphasize the importance of governance and provide trustees with recognition for valuable and transferable skills.

While the Committee concludes that certain basic skills and knowledge are essential to being an effective trustee, it does not support mandatory orientation and professional development. Rather, the Committee recommends that trustee orientation and professional development be strongly encouraged and made widely accessible. It also recommends that the Ministry provide funding to boards and associations to support initial orientation and subsequent professional development for trustees and boards of trustees.

Orientation and ongoing professional development should be offered using a tri-level approach that involves the Ministry of Education, provincial associations and school boards. Some common aspects of training should be offered at a provincial level, in French and in English. Other more particular aspects could be offered by individual associations as well as at the board level. Similar collaboration should be encouraged in the development of appropriate resources. At all levels, the Ministry needs to provide funding to support capacity development.

SUGGESTED TOPICS FOR ORIENTATION AND PROFESSIONAL DEVELOPMENT

Legislative and Policy Frameworks

- Responsibilities of boards and directors of education under the *Education Act* and other statutes
- Roles of board chairs and vice-chairs
- Role of individual trustees, including First Nations trustees and student trustees
- Public education and responsibilities of school boards
- Constitutional provisions, including the *Canadian Charter of Rights and Freedoms*
- Ministry of Education policies and funding model
- Provincial curriculum
- Closed sessions and public access to information
- Conflict of interest and the *Municipal Conflict of Interest Act*
- Legal responsibilities and risks

Governance Practice

- Orientation to the district school board: governance model, specific mandate of board and related policies (e.g., denominational,

linguistic); organizational structure; committee structure; code of conduct

- Chairs: rules of order, agenda setting and team building
- Effective use of audit committees
- Mentorship of new trustees by experienced trustees
- Effective hiring and performance management of the director of education
- Confidentiality
- Processes in group dynamics: consensus building, problem solving, conflict resolution
- Oversight of financial reporting
- Effective use of technology
- Conduct of meetings and rules of order/procedure used by the board
- Board self-appraisal
- Quasi-judicial processes (expulsions)
- Accommodation Review Committees

Strategic Planning

- Planning for student achievement and well-being
- Policy development procedures; setting results and indicators
- Capital planning
- Equity and diversity
- Budgets and budgeting process

Communications

- Communication policies and processes in the board
- Effective communication strategies; protocols for teleconferencing and videoconferencing
- Issues management

Community

- Liaison with School Councils and Parent Involvement Committees
- Interaction with the public, including procedures for responding to concerns from the public and for interacting with board staff
- Board processes for public consultation and communication with the public

RECOMMENDATIONS REGARDING CAPACITY BUILDING

21. Professional development for trustees should be planned and delivered using a tri-level approach involving the Ministry, trustee associations and individual boards in order to make effective use of resources and compensate for differences in the capacity of boards and associations to provide comprehensive programs due to their size, location or ready access to expertise.
22. Professional development opportunities should be made accessible and affordable for trustees in all regions of the province. They should be delivered using a variety of modes, both in person and through remote access, taking full advantage of current technology.
23. In addition to ongoing professional development opportunities, a voluntary certification program on school board governance should be explored with a view to setting up a program through an appropriate institution, such as one with links to a college or university.
24. A standard information package explaining the roles and responsibilities of individual trustees and of school boards should be developed to inform the public and prospective trustees. It should be made widely available in print and electronic format through the Ministry of Education and school boards and associations and given to all individuals who present themselves as candidates for election to the office of school trustee.

... it is my view that the majority of individuals seeking this position are highly motivated, skilled individuals with a deep commitment to the promotion of public education. Many are well educated and come from professional backgrounds; some have experience in managing large and complex organizations. Still it is a given that every individual in a position of responsibility will have a need for training and skill development. Change is constant and, regardless of the skill set an individual might bring to the trustee role, everyone will encounter a need to expand knowledge and skills related to the role.

VII Provincial Interest Regulations

AS PART OF ITS MANDATE, the Committee was asked to recommend the content and format of eventual provincial interest regulations relating to student achievement. Sections 11.1 and 230 of the *Education Act* allow the government to establish, by regulation, standards for student outcomes and to intervene when these standards are not met. Once these standards are developed and approved, the Minister will have the authority to direct an investigation into a board's affairs if the Minister has reason to believe that a board's actions or inaction does not comply with the regulation. If a board fails to implement recommendations to address these concerns, the Minister would have the authority to put the board under supervision.

The Committee notes that, within the current strategies for improving student achievement, the Ministry has adopted a consultative and supportive approach towards school boards and schools facing challenges in raising student achievement. The Committee further notes that there is no record to date of a school board or school that has refused to accept and cooperate with the Ministry on ways to improve student outcomes. The Committee therefore believes that the current collaborative and supportive strategy should be reflected in the provincial interest regulation pertaining to student achievement. We note that the legislation requires that trustee associations be consulted for a period of 60 days prior to the filing of the regulation, and we believe this consultation will be critical to the effectiveness of the regulation.

Many participants in our Committee consultations expressed considerable apprehension that the regulatory power could be overused, or used by

... accountability implies some sort of measurement of our “product”, the young people we serve. While testing and other tools used to measure student achievement are useful, they can never tell the whole story. Student success is more than graduation rates and EQAO test scores.

– School board

governments to penalize boards financially. Though there was general agreement that school boards should ultimately be responsible for student achievement, participants raised concerns about holding boards of trustees directly responsible for student results over which they do not have direct control.

At the same time, the Committee also heard expressions of appreciation for the unprecedented alignment between Ministry and board priorities for student achievement. There are increasingly sophisticated methods of data collection and analysis, including trend analysis, that permit the Ministry to analyse student outcomes with reference to a broad range of contexts and to identify relative areas of strength and weakness within and among boards. There have been many experiences to date where, in response to weaknesses identified by these analyses, the Ministry has partnered with boards to support measures to address those weaknesses and facilitate strategies to improve student achievement. Currently, boards provide the Ministry with separate improvement plans for students in Kindergarten–Grade 6 and Grades 7–12. The Committee is aware that, as of 2009–10, boards will be asked to develop a common Board Improvement Plan for student achievement from Kindergarten to Grade 12.

Many participants emphasized that standards to which boards should be held accountable should not be expressed exclusively as a provincial norm based on a single measure, such as Education Quality and Accountability Office (EQAO) scores. They expressed concern about the way these scores are often misinterpreted and misused in the public realm by non-governmental interests and are used to draw inappropriate or overly simplistic comparisons among schools and boards. Parents were particularly adamant that student success should not be defined exclusively by provincial

assessment scores. Many stressed the need to respect local autonomy and argued that targets for systematic improvement should be set by boards. Support from the Ministry was most appreciated when it was offered and carried out in a collaborative manner that respected boards' culture and knowledge of their local circumstances.

Boards of trustees should ensure that their strategic plans include not only goals for student outcomes that are aligned with provincial priorities, but also provisions for monitoring progress in reaching these goals. Budget decisions and resource allocation should support these priorities. The Board Improvement Plan developed by staff should be the critical implementation process for the board's strategic plan. It is assumed that a good strategic plan takes into account the local context and particular circumstances of that specific board. Target setting at the board level should be informed by both local contexts and provincial targets.

A range of indicators is currently used to measure progress in literacy and numeracy and in graduation rates, and data gathering and analysis have become increasingly sophisticated. Monitoring by both the board and the Ministry should focus on progress in meeting goals and provincial standards, not simply on whether targets are met. Circumstances that would trigger an inquiry by the Ministry, and the provision of support to a board, would include stagnation or decline over time in levels of student achievement based on the predetermined indicators. Initial intervention by the Ministry should be done in partnership with the school board and within an agreed upon time period for bringing about the desired changes. Support should be provided, as appropriate, and any measures put in place should be sustainable over time by the school board. The Committee strongly and unequivocally believes that funding levels should not be used as a penalty for lack of success in meeting goals. Ultimately, if a board demonstrates a persistent pattern of inaction or ineffective action in the improvement of student outcomes, the Minister may put the board under supervision. A similar type of intervention for financial reasons has rarely been used and is typically preceded by a continuum of interventions.

The Committee was asked to consider what mitigating factors might be taken into account in determining whether a board has systematically

failed to achieve required standards of student achievement. Many respondents referenced demographic variables, such as socio-economic status, as possible mitigating factors. Though there are well-documented correlations between demographics and student achievement, correlation does not imply causality. The Committee notes that there is ample evidence to demonstrate that schools with similar demographic characteristics can have very different patterns of achievement. Though certain factors can and do pose challenges for school boards, how each board responds over time to its own unique set of community characteristics is what matters. Therefore, the Committee believes that factors that mitigate lower levels of achievement should be restricted to factors such as sudden disruptions caused by a serious calamity or by an unanticipated and significant change to the demographic profiles of schools.

RECOMMENDATION REGARDING PROVINCIAL INTEREST REGULATIONS

- 25.** The following principles should guide the drafting of the provincial interest regulations:
- i. Indicators of the need for Ministry intervention in a school board include, but are not limited to, results of provincial assessments and other indicators that reflect the increased sophistication in gathering and analysing data relevant to understanding progress in improving student achievement;
 - ii. Attention should be placed on both a board's rate of progress in reaching goals as well as on its actual results;
 - iii. Measures applied to judge a board's performance should be developed through evidence-based "best practices" and should allow for valid adjustments and innovation at the local level;
 - iv. Interventions by the Ministry should be supportive and offered on a continuum of intervention levels;
 - v. Intervention measures to address an identified problem should be developed cooperatively between the Ministry and the board, taking into account local context and the characteristics of the community the board serves;

- vi. Measures put in place to address identified problems should be sustainable by the board after the initial intervention is complete;
- vii. The Ministry should monitor the implementation of plans for improving student achievement and, where necessary, investigate and make further recommendations to bring the board into compliance with expectations for student achievement;
- viii. If a board fails to comply with the continuum of measures, and if there is no improvement or a continued pattern of decline in student achievement, then the Minister may appoint a supervisor for that board, as set out in legislation.

Any Ministry intervention must involve partnership, collaboration and dialogue between the board and the Ministry, who together agree on a strategy to address an identified problem.

– Stakeholder organization

THE COMMITTEE valued the richness of responses received from stakeholders during the regional consultations and through the written submissions. Among these responses and submissions were several issues that fell outside of the Committee's mandate. The Committee believes it is important to bring these issues to the attention of the Minister of Education, although we have refrained from offering specific advice on them.

The Role of First Nations Trustees

Some participants and written submissions indicated that the existing regulation governing the appointment of First Nations trustees to boards unnecessarily restricts the participation of First Nations trustees in local school board decision making. The current regulation conflicts with the actual practices in a number of boards, which provide a broader, more inclusive role for First Nations trustees, and regard First Nations trustees appointed through tuition agreements as equal to other elected trustees.

Increasing Democratic Participation in Board Elections

The low level of voter turnout in municipal and school board elections is discouraging, and the number of acclaimed positions on district school boards, particularly in geographically large boards, is equally troubling. In the interests of democracy, the Ministry of Education, in cooperation with trustee associations and municipal governments, should work together to promote the position of school board trustee and encourage citizen participation in local school communities and local board elections.

Innovation and Experimentation

The Committee engaged in a number of discussions with stakeholders about their desire to develop innovative strategies and approaches. There is a deep awareness of and support for the provincial goals of improving literacy, closing achievement gaps and enhancing public support for public education. Ministry initiatives in support of these goals are designed generally for adoption in all districts but may impede local initiatives. The Committee heard of examples such as a board already engaged in a promising strategy that needed to be redesigned to meet specific funding or reporting criteria; it heard concerns that the timelines required by the Ministry interfered with initiatives already underway in the districts; and it heard of the need for coherence among Ministry initiatives as well as a desire for coherence between school board and Ministry initiatives. The most extreme statement of this problem was rejection of the concept of school board accountability for student achievement because “the Ministry controls the curriculum, the achievement targets, the achievement assessments, the achievement strategy and the funding envelopes. Therefore the Ministry is accountable for the outcomes.”

Examples of where greater local scope in the design of interventions may be warranted included integrating a range of local preschool program providers into a coherent early learning and care system, and more radical innovations in secondary schools to reverse student disengagement.

Several barriers to innovation were identified: a perception of insufficient flexibility in the design of some Ministry initiatives, which precludes alternative approaches; too limited allocation of funds for local priorities; and policies that are prescriptive or directive rather than enabling. All participants who discussed the matter with the Committee agree that local flexibility in the allocation of resources has declined in recent years.

Collaboration Among Municipalities, Coterminous Boards and Other Ministries

Several participants emphasized that children’s readiness to learn and to be successful at school depends on much more than the provision of education through school boards. Responding to children’s educational needs is a shared responsibility that involves multi-level coordination and

meaningful cooperation among ministries, municipalities and community agencies, as well as joint planning for facilities and services to address community needs. In light of recent government initiatives, such as the report of the Declining Enrolment Working Group and Ontario's Poverty Reduction Strategy, the Committee recognizes and supports an expanded role for school boards in the development of partnerships between coterminous boards, government ministries and agencies, municipalities and community organizations in order to respond to local priorities and meet the social, health, education, recreation, economic and other needs of students and their families.

Conflict of Interest

A number of participants mentioned that the area of conflict of interest, which is governed by the *Municipal Conflict of Interest Act*, is not well understood by many trustees and can lead to difficult situations for boards to deal with. Increased training and information about this topic should be encouraged. The Committee has included conflict of interest under suggested topics for professional development and notes that school boards that have already adopted codes of conduct are also likely to have set out expectations for behaviour in situations of actual or perceived conflict of interest.

Student Trustees

Some participants indicated that there is a wide variation in the degree to which student trustees are allowed to participate in board meetings and discussions as provided for in the *Education Act* and the student trustee regulation. It would appear that, in some boards, these provisions are not sufficiently understood. Accurate information regarding the role and qualifications of student trustees should be made widely available to school boards and students.

In public education, good governance is the balance between the demands of constituents and the goal of balancing the needs of all students within a defined budget and according to legislation.... Good governance is the path to achieving goals. It is the means to an end.

– Director of education

IX Conclusion

THE TWENTY-FIVE recommendations in this report address the four areas of the Committee's mandate.

First, the recommendations address the duties, powers and accountabilities of school boards, chairs, individual trustees and directors of education and clarify their respective roles.

Second, there are recommendations on effective practices in governance. The Committee has strived to reflect current effective practices of school boards in the context of emerging governance principles that apply to all sectors. The recommendations respect that local school boards should reflect common principles in practices suited to their specific local contexts. Effective practices in governance should be shared and supported, and the Committee has made recommendations regarding two key governance tools, audit committees and a provincial code of conduct, in support of this principle.

Capacity building for trustees and boards of trustees, the third element of the Committee's mandate, should be explicitly valued and supported by the Ministry and by school boards, and the Committee's recommendations regarding professional development offer guidance in this area.

Finally, the series of principles we propose to guide the development of provincial interest regulations announced by the government builds on the consultative and supportive approach that has already been adopted by the Ministry towards school boards and schools facing challenges in raising student achievement.

The Committee wishes to thank the school boards, associations, organizations and individuals who demonstrated their interest in education by contributing to the governance review process, through their participation in regional consultations and their online and written submissions. The quality of submissions and thoughtfulness and candour of discussion during consultations reinforced the Committee's belief that participants in the governance of our schools care deeply about student well-being and achievement and about the quality of education in publicly funded schools. Clearly, divergent voices nourish and stimulate deeper thinking about education governance. This input was essential in informing our deliberations and recommendations. We trust that the input of all participants in the process and the Committee's deliberations will prove to have been worthwhile.

X

List of Recommendations

RECOMMENDATIONS REGARDING THE ROLE OF SCHOOL BOARDS

1. The *Education Act* should be amended to include a statement that the mandate of school boards is to promote student achievement and well-being, deliver effective and appropriate education programs for students, and provide effective stewardship of the board's resources.
2. The broad purposes for which the Ministry of Education exists should be included in the Act.
3. The *Education Act* as a whole should be reviewed so as to consolidate and harmonize provisions and remove those that are outdated, and possibly, to enable school boards to carry out their responsibilities without the need to refer to a detailed list.

RECOMMENDATIONS REGARDING THE DUTIES OF SCHOOL BOARDS

4. The board of trustees should be responsible for establishing the policies that govern the provision of education in its school district.
5. The board of trustees should hire a director of education, who will be the chief executive officer of the corporation.
6. The board of trustees should be responsible for the performance management of the director of education.
7. The board of trustees should approve a multi-year strategic plan that includes goals for student outcomes.

8. The school board should report annually to the public and to the Minister on its progress in meeting the goals of its strategic plan.
9. The school board should report annually to the public and to the Minister on steps undertaken to ensure effective, transparent governance of the school board, including compliance with provincial statutes and regulations and fiduciary responsibilities.
10. The legislation should make clear distinctions in the terms used to refer to a school board, as a corporate entity, as distinguished from the body of elected and appointed members.

RECOMMENDATION REGARDING THE DUTIES OF INDIVIDUAL TRUSTEES

11. Individual trustees should be required to:
 - i. Act in accordance with board policy and by-laws;
 - ii. Bring the interests of the local community to the attention of the board;
 - iii. Communicate, explain and uphold board decisions.

RECOMMENDATION REGARDING THE DUTIES OF THE SCHOOL BOARD CHAIR

12. School board chairs should be required to:
 - i. Preside over all meetings of the board of trustees, except as provided otherwise;
 - ii. Conduct meetings in accordance with the board's policies and by-laws;
 - iii. Establish agendas for meetings of the board, in consultation with the director of education;
 - iv. Represent the board to the director of education;
 - v. Act as the official spokesperson for the school board, unless otherwise determined by the board.

RECOMMENDATIONS REGARDING THE DUTIES OF THE DIRECTOR OF EDUCATION

- 13.** Directors of education should be required to:
- i. Develop and implement plans to achieve the school board's strategic goals;
 - ii. Report regularly to the board on the implementation of the board's goals;
 - iii. Make recommendations to the board on improving student achievement;
 - iv. Implement policies and directives of the board;
 - v. Direct and monitor all operations of the school board in a manner consistent with the strategic direction and operational objectives approved by the board;
 - vi. Advise the board if, in the director of education's opinion, its decisions or actions are not consistent with legislation;
 - vii. Advise the Deputy Minister of Education if, in the director of education's opinion, the board's decisions or actions are not consistent with legislation;
 - viii. Inform the board of trustees of relevant issues, including those that may be contentious;
 - ix. Hire, allocate and manage the performance of board staff in a manner consistent with the board's goals;
 - x. Manage the administration of the corporation.
- 14.** The Committee recommends that in cases where the positions of treasurer and of director of education are not held by the same individual, it should be clear that the treasurer reports to the board through the director of education.

RECOMMENDATION REGARDING AUDIT COMMITTEES

- 15.** School boards should be required to establish an audit committee as a standing committee of the board to provide oversight of financial policy, at a minimum, and report on the management of risk. An audit committee should comprise a minimum of two trustees, where possible with appropriate knowledge of financial reporting, and at least one external

member who has experience with financial and operational management and an understanding of accounting principles.

RECOMMENDATIONS REGARDING A CODE OF CONDUCT

- 16.** The Minister should establish a minimum code of conduct for trustees, in consultation with trustees or their representative associations.
- 17.** Boards of trustees should be required to adopt a code of conduct for board members that, at a minimum, would include all provisions of a provincial code of conduct.
- 18.** If a board determines that a trustee is in violation of the school board's code of conduct, the board should be given the power to impose sanctions on a trustee, in accordance with sanctions and enforcement provisions set out in legislation.
- 19.** Chairs of boards of trustees should be given authority to carry out sanctions against a trustee when the board, by resolution and in due process, has determined that a trustee is in violation of the board's code of conduct.
- 20.** Boards of trustees should be able to appoint an external neutral third party to investigate alleged violations of the code of conduct or to hear appeals with respect to a sanction and to advise the board accordingly.

RECOMMENDATIONS REGARDING CAPACITY BUILDING

- 21.** Professional development for trustees should be planned and delivered using a tri-level approach involving the Ministry, trustee associations and individual boards in order to make effective use of resources and compensate for differences in the capacity of boards and associations to provide comprehensive programs due to their size, location or ready access to expertise.
- 22.** Professional development opportunities should be made accessible and affordable for trustees in all regions of the province. They should be delivered using a variety of modes, both in person and through remote access, taking full advantage of current technology.

23. In addition to ongoing professional development opportunities, a voluntary certification program on school board governance should be explored with a view to setting up a program through an appropriate institution, such as one with links to a college or university.
24. A standard information package explaining the roles and responsibilities of individual trustees and of school boards should be developed to inform the public and prospective trustees. It should be made widely available in print and electronic format through the Ministry of Education and school boards and associations and given to all individuals who present themselves as candidates for election to the office of school trustee.

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 - ii. Attention should be placed on both a board's rate of progress in reaching goals as well as on its actual results;
 - iii. Measures applied to judge a board's performance should be developed through evidence-based "best practices" and should allow for valid adjustments and innovation at the local level;
 - iv. Interventions by the Ministry should be supportive and offered on a continuum of intervention levels;
 - v. Intervention measures to address an identified problem should be developed cooperatively between the Ministry and the board, taking into account local context and the characteristics of the community the board serves;
 - vi. Measures put in place to address identified problems should be sustainable by the board after the initial intervention is complete;

- vii. The Ministry should monitor the implementation of plans for improving student achievement and, where necessary, investigate and make further recommendations to bring the board into compliance with expectations for student achievement;
- viii. If a board fails to comply with the continuum of measures, and if there is no improvement or a continued pattern of decline in student achievement, then the Minister may appoint a supervisor for that board, as set out in legislation.

Appendix A

Participating Boards at Regional Consultations

The following boards participated in the regional consultations with the Governance Review Committee:

Toronto, January 8, 2009

Dufferin-Peel Catholic District
School Board

Halton Catholic District School
Board

Toronto District School Board

Upper Grand District School Board

Conseil scolaire de district des écoles
catholiques du Sud-Ouest

Halton District School Board

Peel District School Board

Toronto Catholic District School
Board

Conseil scolaire de district catholique
Centre-Sud

Sudbury, January 12, 2009

Algoma District School Board

Huron-Superior Catholic District
School Board

Nipissing-Parry Sound Catholic
District School Board

Rainbow District School Board

Conseil scolaire de district catholique
des Aurores boréales

Conseil scolaire public du Grand
Nord de l'Ontario

Conseil scolaire public du Nord-Est
de l'Ontario

District School Board Ontario
North East

Near North District School Board

Northeastern Catholic District
School Board

Sudbury Catholic District School
Board

Conseil scolaire catholique
Franco-Nord

Conseil scolaire catholique de
district des Grandes Rivières

Conseil scolaire catholique du
Nouvel-Ontario

Ottawa, February 4, 2009

Algonquin and Lakeshore Catholic
District School Board

Hastings and Prince Edward District
School Board

Ottawa Catholic District School
Board

Renfrew County Catholic District
School Board
Upper Canada District School Board
Conseil scolaire de district catholique
de l'Est ontarien
Catholic District School Board of
Eastern Ontario
Limestone District School Board
Ottawa-Carleton District School
Board
Renfrew County District School
Board
Conseil des écoles publiques de l'Est
de l'Ontario
Conseil des écoles catholiques de
langue française du Centre-Est

Thunder Bay, February 6, 2009

Kenora Catholic District School
Board
Lakehead District School Board
Rainy River District School Board
Superior North Catholic District
School Board
Keewatin-Patricia District School
Board
Northwest Catholic District School
Board
Superior-Greenstone District School
Board
Thunder Bay Catholic District
School Board

Barrie, February 18, 2009

Bluewater District School Board
Durham District School Board
Kawartha Pine Ridge District School
Board
Simcoe County District School
Board

Trillium Lakelands District School
Board
York Catholic District School Board
Bruce-Grey Catholic District School
Board
Durham Catholic District School
Board
Peterborough Victoria
Northumberland Catholic
District School Board
Simcoe Muskoka Catholic District
School Board
York Region District School Board
Peel District School Board

London, February 20, 2009

Avon Maitland District School Board
District School Board of Niagara
Greater Essex County District School
Board
Hamilton Wentworth District School
Board
Lambton Kent District School Board
Niagara Catholic District School
Board
Waterloo Catholic District School
Board
Windsor Essex Catholic District
School Board
Brant-Haldimand Norfolk Catholic
District School Board
Grand Erie District School Board
Hamilton Wentworth Catholic
District School Board
Huron Perth Catholic District School
Board
London District Catholic School
Board
Thames Valley District School Board
Waterloo Region District School
Board

Appendix B

Terms of Reference

Mandate of the Governance Review Committee

Pursuant to the government's commitment in *Energizing Ontario Education*, the Committee's mandate is to:

- Recommend to the Minister ways to modernize and clarify in the *Education Act* the duties, powers and accountability of school boards, chairs, individual trustees and directors of education, reinforcing the relationship between elected officials as a group and the director of education as sole employee accountable to the board;
- Identify and recommend effective practices in governance applicable to the education sector, including:
 - Codes of conduct for trustees, enforceable at the provincial or board level;
 - Audit committees with external members;
- Propose an appropriate long-term capacity-building program for trustees;
- Recommend, after consultation with trustee associations, appropriate content and format of eventual provincial interest regulations designed to ensure that a board achieves student outcomes specified in the regulation, such as improved literacy and numeracy and higher graduation rates.

The following matters are outside the scope of the mandate:

- Trustee expenses
- Trustee honoraria
- Board boundaries
- The current regime of four school systems

Appendix C

Consultation Paper

**ONTARIO SCHOOL BOARD GOVERNANCE
FOR THE 21ST CENTURY**

CONSULTATION PAPER

December 2008

Governance Review Committee

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1. INTRODUCTION

Locally elected school boards play a vital role in Ontario's publicly funded education system. The decisions made by boards across the province can have a significant and direct impact on teaching, learning and student achievement in our schools. Historically, local school boards have been responsible for determining the educational facilities, services and other resources that would be made available to the community's schools and students, as well as for raising the money through local taxes to pay for these resources. Since 1998, when school boards' authority to levy taxes was removed, boards have received their funding from the province through funding formulas.

Locally elected school boards remain responsible for allocating the resources they receive in support of provincial priorities – enhancing student achievement, closing the achievement gap among students who have not traditionally enjoyed equal benefits of education, and enhancing public confidence in public education. The province-wide focus on student achievement over the past several years, along with the changes to board funding, have profoundly affected the governance relationship between the province and school boards.

As our school system and our society evolve and become increasingly complex, there is a growing and widespread concern that we need to ensure that governance by school boards effectively responds to both provincial priorities and local contexts. Part of the evolving context includes an increased importance placed on equitable outcomes in education for all students, community engagement, accountability and transparency.

The concern regarding governance has been expressed in numerous reports. * In *Energizing Ontario Education*, the government formally recognized this need and, in October 2008, the Minister of Education, the Honourable Kathleen Wynne, called for the creation of a Governance Review Committee.

On November 4th, 2008 the Minister announced the establishment of a governance review committee comprised of trusted and experienced leaders in the education community to consult with their peers on this important initiative. As part of that consultation process, you are invited to provide input into the governance model of the 21st century.

“School board leadership (trustees, directors and supervisory officers) also needs ongoing development to improve the ability of board leaders to act together within the district to implement the core priorities and provide the supporting conditions required. In this respect, further efforts are needed to improve school board governance and the relationship between trustees and directors. Ten years after substantial changes to school board governance, it is time to clarify and modernize the role of trustees to ensure that they have the supports they need to make sound decisions essential to student success.”

Energizing Ontario Education, 2008

* The Royal Commission on Learning (1995); Ontario School Board Reduction Task Force (1996); The Road Ahead II: A Report on the Role of School Boards and Trustees (1997); Report of the Education Equality Task Force (2002); Report on the Feasibility of the Proposed Multi-Year Budget Management Plan and Possible Alternatives for the Toronto District School Board (2006); Report on the Feasibility of the Proposed Multi-Year Budget Management Plan and Possible Alternatives for the Ottawa Carleton District School Board (2007).

2. BACKGROUND AND SCOPE

Steps Taken

This governance review is the next step in a series of initiatives undertaken by the government to enhance board effectiveness. In 2006, the Ministry released the paper, "Respect for Ontario School Trustees," where it affirmed "the standing of trustees as key decision makers," acknowledged trustees' valuable contribution to our education system and paved the way for increased trustee honoraria later that year. In the summer of 2007, the Ministry embarked upon a multi-year initiative to perform Operational Reviews of the 72 District School Boards (DSB) within the province to assess the efficiency and effectiveness of DSB operations, identify best practices, develop recommendations for improvement and provide the Ministry with important input on the on-going development of policy and funding mechanisms.

On October 31, 2008, the Minister announced her intention to develop guidelines on trustee expenditures and sought the advice of key education stakeholders. The Ministry is also working with the sector on a number of leadership initiatives aimed at strengthening the capacity of education leaders.

Unaddressed Issues

The Education Act and its regulations make up the legislative framework which, among other things, sets out the components of school board governance. Many of these provisions, however, are badly outdated. For example, while the public expects school boards and schools to be accountable for student achievement, the *Act* empowers boards to do such things as purchase milk for students, establish cadet corps, and erect fences. Nowhere does it identify educational outcomes as the core business of school boards. Other governance issues have been raised, often by trustees and by directors of education:

- Lack of clarity regarding their roles and responsibilities
- The importance of clarifying the relationship between trustees and the Director of Education
- Concerns that some board members may be insufficiently prepared to assume the duties of office
- The need for training in effective governance.

Terms of Reference of the Governance Review

The government maintains its commitment to the constitutional framework governing education in Ontario. In this context, the governance review will address:

1. Modernizing the *Education Act* to update and clarify the duties, powers and accountabilities of school boards, chairs, individual board members and directors of education, and reinforce the relationship between elected officials as a group and the director of education as the sole employee reporting to the board;
2. Identifying and recommending effective governance practices, including codes of conduct for board members enforceable at the provincial or board level, and audit committees with external members;
3. Proposing appropriate long-term professional development programs for board members to support them in their roles;
4. Recommending a format and content for eventual provincial interest regulations to strengthen the accountability of school boards with respect to student achievement.

3. DISCUSSION: PARTICIPANT GUIDES

The participant guides below and on the following pages provide key background information and highlight issues to explore.

Discussion Guide 1

Modernizing the *Education Act*

Discussion Guide 2

Identifying Effective Governance Practices

Discussion Guide 3

Supporting School Board Leaders

Discussion Guide 4

Strengthening School Board Accountability

Discussion Guide 1:

Modernizing the *Education Act*

Key considerations:

- Legislation is outdated in regard to the duties and powers of school boards and does not address expectations for educational outcomes.
- There is a lack of clarity with regard to the roles of school boards, chairs, individual board members, and directors of education.
- While the legislation identifies and gives powers to a school board as one entity, some individual board members deal directly with supervisory officers and/or other staff members.
- A number of other provinces and boards have recently modernized the governance of their elementary/secondary sector. British Columbia, for example, requires boards to submit an achievement contract annually to the Minister of Education. In Québec, school boards must adopt and make public a strategic plan that includes ways of assessing the achievement of objectives.
- The Director of Education has a significant impact on a board's performance. However, conflicts may arise for a Director from differences between the policy objectives of the board and directives from the Ministry.
- Some have suggested that Directors of Education should have a dual accountability—to the board and to the Minister, as was the case in the past in Ontario.

Discussion guide 1:

- 1) For what should school boards be accountable?
- 2) What are the appropriate roles and responsibilities of:
 - a) the board?
 - b) the Chair?
 - c) individual trustees?
 - d) the Director of Education?
- 3) Should Directors of Education have a dual reporting relationship - to the board and to the Minister as was the case not long ago in Ontario? If so, how should any conflicts between the mandates from the Minister and a school board be resolved?

Discussion Guide 2: Identifying Effective Governance Practices

Key considerations:

- Effective governance is essential for school boards as public bodies responsible to their communities and to government.
- A number of boards have made significant changes in their governance models and practices in recent years, but there remains a need for sector-wide discussion about what constitutes effective governance and relevant indicators of effectiveness.
- Transparency, accountability and public confidence are enhanced by some boards through clear public communication (such as posting board meeting minutes on their websites in a timely fashion, communicating procedures and opportunities for public presentations, and communicating effectively with the broader community).
- Many jurisdictions have focussed on the need for an enforceable Code of Ethics and/or Code of Conduct for school board members. Boards in Québec, for example, are required under legislation to establish a Code of Ethics and to designate persons who will enforce the code. Legislation also requires boards to publish their code of ethics policy in their annual report, state the number of cases dealt with, the breaches of the policy and the penalties imposed. Nova Scotia has recently passed legislation that will require boards to adopt a standardized, enforceable code of ethics as well as procedural by-laws for the conduct of meetings. In August 2008, the Halifax Regional School Board released a discussion paper entitled “Good Governance” in order to gather public input and inform the next elected board about public expectations in this regard. Legislation in Newfoundland & Labrador, Saskatchewan, and Alberta includes provisions for the removal of individual board members for specified conduct or breaches of duty.
- A number of education experts propose that in order to be effective and function well, school boards must focus on student achievement and have few distractions from that primary focus.

Discussion guide 2:

- 1) What is effective governance by elected school boards?
- 2) What would enhance the ability of boards to address local needs within the context of provincially mandated priorities?
- 3) What governance practices have you seen that work well?
- 4) What practices and policies support effective governance?
- 5) Should there be a provincial code of conduct/ethics for school board members or should such a code be developed locally? How should codes of conduct/ethics be enforced?
- 6) Should boards be required to establish and implement specific policies and procedures to enhance good governance? What would these be?

Discussion Guide 3: Supporting School Board Leaders

Key considerations:

- In *Energizing Ontario Education*, the government committed to ensuring that board members have the supports they need to make sound decisions to further student achievement, reduce gaps in achievement, and increase confidence in publicly funded education.
- Although trustee organizations and some individual school boards provide professional development for trustees, participation is generally voluntary. Some board members or chairs report that they feel ill-equipped to act effectively and are unclear about their roles and responsibilities.
- While supports are available to help board members develop their capacities there is no consistent, long-term graduated approach to board capacity-building.
- A number of U.S. states have mandatory training programs for school trustees (e.g. Kentucky, South Carolina, and New York). Other public sectors have modernized board capacity building; The Ontario Hospitals Association, for example, has established a Governance Centre of Excellence and offers certificate courses to board members appropriate to their level of experience.

Discussion guide 3:

- 1) What type of training might be offered to school board members?
- 2) Should training be mandatory?
- 3) What type of ongoing support can be offered to enable board members and Chairs to continue to build the capacity of elected boards? How could this support be delivered?
- 4) What supports should be offered to Directors of Education to assist them in providing effective leadership for governance functions?

Discussion Guide 4: Strengthening School Board Accountability

Key considerations:

- The current legislative framework is not specific about school boards' mandate in relation to the government's three key priorities: improving student outcomes, closing gaps in achievement, and increasing confidence in our publicly funded education system.
- While the government has goals concerning student achievement, the "standards" to which boards should be held accountable have not been discussed. Legislation (Section 11.1 of the Act) provides the government with the ability to set standards by regulation, and the Minister with authority to intervene if there is evidence those standards are not being achieved. As yet, no regulations have been made regarding what those standards would be, what circumstances would trigger government intervention or in what stages.

Discussion guide 4:

- 1) To what standards should boards be held accountable in the areas of literacy and numeracy, and graduation rates?
- 2) What other student outcomes and implementation measures should be specified in regulation in order to ensure quality of education?
- 3) How should school boards demonstrate accountability for student outcomes?
- 4) Should the Minister intervene if a board is systematically underperforming and failing to meet a provincial standard? At what points and in what manner should intervention occur? What stages should be involved and what supports should be made available to a board in such a situation?
- 5) Are there mitigating factors that should be considered in contexts where standards are not met?

4. CONCLUSION: RESPONDING TO THIS PAPER

We value your contributions to this important consultation. If you wish to provide your comments and views on the four topics under review by the committee, please write to the following:

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This paper will also be available in January 2009 on the Ministry of Education website at www.edu.gov.on.ca/eng and responses may be submitted online.

Please provide your response no later than
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