

Brief to the Committee on Culture and Education

Special consultations and public hearings on
Bill 105, An Act to amend the Education Act

**Presented by the
Quebec Community Groups Network**

September 2016

Introduction

The Quebec Community Groups Network (QCGN) represents forty-eight (48) English-language community groups across Quebec. QCGN recognizes that Quebec's English public school system is a key institution of the English-speaking community of Quebec - a linguistic minority community. The management and control of these institutions is a matter of governance subject to minority language educational rights contained in the Canadian Charter of Rights and Freedoms, and Quebec's democratic tradition, expressed in the political rights guaranteed by the Quebec Charter of Human Rights and Freedoms.

Community Vitality and the Role of Education

QCGN recognizes that schools provide the foundation for the vitality of Quebec's cultural, social, linguistic and economic development in communities, large and small, urban and rural. We also believe that the Education Act should ensure that school boards, schools, as well as adult and vocational centres support the development and vitality of their respective communities, and that this be defined as a role and responsibility within the Education Act rather than being discretionary on the part of school boards, schools and centres.

As we stated in our recent brief on Bill 86, the purpose of all schools is to provide the best educational experience possible for its students. English schools – institutions of our linguistic minority community – have the added responsibility of preserving and promoting the unique culture of English-speaking Quebec.¹ These are institutions of English-speaking Quebec, not institutions that provide services in English. Caring for these institutions, ensuring our children receive an excellent education, and reinforcing the school's role as the centre of community life are responsibilities shared between the English-speaking community of Quebec and the Minister.

We have carefully reviewed Bill 105 and are pleased that many of our concerns with Bill 86 have been addressed. However, the notion of community and aspects of cultural, social and economic development are virtually absent from the bill. We believe our educational institutions must tie their activities to the vitality of the communities they serve. Within Bill 105, clauses 3 and 12 make minimal reference to community. The references appear as an add-on, rather than as a defined responsibility within the proposed modifications to the Education Act.

QCGN is disappointed the concept of sustaining the vitality of linguistic communities is not defined as a responsibility of school boards. While the responsibility for community, social, cultural and economic development may be tacitly noted within the law and the proposed

¹ Mahe v. Alberta, [1990] 1 S.C.R. 342

modifications to the Education Act, it is not identified or prescribed as a subject to be included in the Educational Project of schools and centres nor the Commitment to Success Plan of school boards. Without being prescribed, actions taken pertaining to the concept of community and community vitality will not be elements that require evaluation nor will they be required in reporting results to the public and to the Minister. Policies and objectives that are included in Educational Projects and Commitment-to-success Plans, which pertain to the social and cultural development of the communities they serve, must be evaluated and reported on to their respective communities.

The QCGN also believes the definition of co-opted commissioners is too restrictive and fails to recognize social and cultural aspects of the community. We would therefore recommend a broadening of the definition and a clearer definition of eligibility.

We are also concerned with the extraordinary vote required by the Council of Commissioners to disagree with recommendations of the Allocation of Resources Committee, whose function we note is advisory. To be sure, the opinion of this committee – which will be composed of education experts and administrators – will carry significant weight. However, requiring a super-majority by a council of elected officials to reject or modify recommendations, effectively gives the Allocation of Resources Committee – whose individual members are employees of the school board - executive decisional power. This is not good corporate governance. Imagine the National Assembly requiring a 2/3 majority to amend recommendations of an administrative council of deputy ministers.

While the powers of a minister to exercise oversight on the expenditure of public funds has been confirmed by the Supreme Court in decisions like *Arsenault-Cameron v Prince Edward Island*, these powers are bounded by the protection of the principles enshrined in section 23; the right of management and control, and its purpose to protect and promote the minority language and culture.² This is not a prescriptive part of the proposed legislation, and it should be. Treating the French and English school boards as equal under the law is a fiction that will expose the exercise of ministerial decisions to legal action.

Conclusion

The QCGN strongly cautions the Government that adoption of this Bill without major modifications proposed by our community could render it unconstitutional. We are confident that the recommendations formulated above and presented in the form of amendments in Appendix 1, are supportive of education, our English-language school boards, their schools and centres and the communities they serve. We also believe that adopting these changes would add

² *Arsenault-Cameron v. Prince Edward Island*, [2000] 1 S.C.R. 3

to the credibility of the Education Act within the greater population of Quebec, and enhance the responsibility of our educational institutions to serve their communities.

As the primary representative of Quebec's English-speaking community, the QCGN would welcome the opportunity to work collaboratively with officials of the Government and Ministry of Education to further elaborate on these proposals and to help develop programs, directives and policies that can further enhance our educational institutions and the success of our students.

Before concluding, we must say that we are particularly pleased with last week's decision by the Minister of Education to hold public consultations this fall on the future of education in Quebec. We believe this type of consultation is long overdue. In our brief to this Committee on Bill 86, the QCGN called upon the Government of Quebec to recognize and constructively engage the English-speaking community of Quebec in policy discussions. A consultation on education – which includes a specific discussion on the future of the public English school system – is exactly what we had hoped for. The QCGN looks forward to being an engaged partner in this consultation, and working to improve the future of public education in Quebec for our children and our communities.

Appendix 1 - Proposed amendments to Bill 105

Bill 105 / Education Act	Current Text of Bill 105	Recommended Text
EDUCATIONAL PROJECTS		
<p>Education Act Clause 36</p>	<p>The school's Educational Project which may be updated if necessary shall contain ...</p>	<p>The school's Educational Project which may be updated if necessary shall contain ... <u>Add as sub-clause 3:</u> The specific policies of the school and the objectives selected to support the social and cultural development of the linguistic community it serves.</p>
<p>Bill 105 Clause 2 <i>Reference Section 37</i></p>	<p>It is also the mission of centres to contribute to the social and cultural development of the community.</p>	<p>In addition, the mission and responsibility of centres is to contribute and support the social, cultural, and economic development of the community it serves.</p>
<p>Education Act Clause 97</p>	<p>The centre's Educational Project which may be updated if necessary shall contain ...</p>	<p>The centre's Educational Project which may be updated if necessary shall contain ... <u>Add as sub-clause 3:</u> The specific policies of the centre and the objectives selected to support the social and cultural development of the linguistic community it serves.</p>
<p>Bill 105 Clause 12 <i>Reference Section 97.1</i></p>	<p>A school board may... (2) provide cultural, social, sports, scientific or community services</p>	<p><u>Replace 255 (2) with 255.1</u> It is also the mission of a school board to contribute to and support the social and cultural development of the community it serves.</p>

COMMITMENT-TO-SUCCESS PLANS		
<p>Bill 105 Clause 33 <i>Reference</i> <i>Section 209.1</i></p>	<p>For the exercise of its functions and powers, every school board shall establish a Commitment-to-success Plan ... this plan, which the school board may update if necessary, must contain ...</p>	<p>For the exercise of its functions and powers, every school board shall establish a Commitment-to-success Plan ... this plan, which the school board may update if necessary, must contain ...</p> <p>Add as sub-clause 3 The specific policies of the school board and the objectives selected to support the social and cultural development of the community it serves.</p>
CO-OPTED COMMISSIONERS		
<p>Bill 105 / Education Act <i>Reference</i> <i>Section 143</i></p>	<p>A co-opted commissioner who is active in the sports or health sector ...</p>	<p>A co-opted commissioner who is active in a community organization within the social, cultural, sports, or health sectors ...</p>
<p>Bill 105 Clause 18 <i>Reference</i> <i>Section 143</i> <i>Par. 2.1</i></p>	<p>... with a view of promoting consideration for healthy lifestyles in school board decisions.</p>	<p>... with a view of promoting consideration of healthy lifestyles, and the social and cultural values of the community in school board decisions.</p>
<p>Bill 105 Clause 18 <i>Reference</i> <i>Section 143.02</i></p>	<p>To be eligible for a co-opted commissioner seat persons must be domiciled in the territory of the school board.....</p>	<p>To be eligible for a co-opted commissioner seat persons must be domiciled in the territory of the school board and a member of the linguistic community served by the school board and.....</p>
<p>Bill 105 Clause 19 <i>Reference</i> <i>Section 143.01</i></p>	<p>A school is an educational institution whose object is ... and to contribute to the social and cultural development of the community.</p>	<p>A school is an educational institution whose object is ... and contribute to and support the social and cultural development of the community it serves.</p>

ALLOCATION OF RESOURCES COMMITTEES		
<p>Bill 105 Clause 31 <i>Reference 193.3</i></p>	<p>A recommendation of the committee concerning the school board's annual allocation of revenues is deemed to be adopted by the council of commissioners unless the latter rejects the recommendation by a vote of at least two-thirds of the commissioners present and entitled to vote.</p>	<p>The council of commissioners may approve, reject, or modify or the recommendation of the Allocation of Resources Committee for the board's annual allocation of revenues.</p>
POWERS OF THE MINISTER		
<p>Bill 105 <i>Reference</i> <i>Clause 47</i> <i>Section 459.6</i></p>	<p>Within the scope of the Minister's responsibilities, the Minister may issue directives to a school board concerning its administration, organization, operation and actions.</p>	<p>Within the scope of the Minister's responsibilities, the Minister may issue directives to a school board concerning its administration, organization, operation and actions in the case of a school board that is not in conformity with the Education Act, or regulations, or the decrees of the Ministry.</p>

Appendix 2 – QCGN Board resolution

Resolution of the QCGN Board of Directors related to: Bill 105 - An Act to amend the Education Act

September 16, 2016

Recalling the QCGN Board of Directors' resolution of September 11, 2015 supporting the recommendations of the English School Boards Election Systems Study Panel (ESSP), and determination to ensure the implementation of the Panel's recommendations;

Noting the will of QCGN Members expressed in their resolution of 3 June, 2016, to continue to raise awareness of, protect, and advance the Minority Language Education Rights of Quebecers in cooperation with community partners and institutions;

Committed to the principles contained in the QCGN presentation to the National Assembly's Committee on Culture and Education during its hearings on Bill 86 on 24 March, 2016;

Determines that *Bill 105 - An Act to amend the Education Act*, in its current form is contrary to the best interests of the vitality of the English-speaking Community of Quebec;

Requests the Director General further study Bill 86 and present this Board a detailed position with recommendations on how the proposed legislation could be amended to protect and promote our linguistic minority community's interests no later than 17 September, 2016;

Mandates the Director General (or a Board Director) to submit a brief to, and appear before the National Assembly's Committee on Culture and Education with the Quebec English School Boards Association (QESBA) on 21 September to advance the community's interest in this matter.

Moved by: Walter Duszara

Seconded by: Joe Rabinovich

Passed unanimously