

**QCGN Brief for Committee on Culture and Education**  
**Special Consultations on Bill 40: An Act to amend mainly the Education Act with regard to school organization and governance**  
November 12, 2019

**EXECUTIVE SUMMARY**

The Quebec Community Groups Network (“QCGN”) has not been invited to appear before the Committee in the course of its special consultations on Bill 40. Nonetheless, the QCGN submits this brief to the Committee.

**Context: Schools and Quebec’s English-speaking Minority**

In addition to providing an excellent education to students, Quebec’s English public schools exist to preserve and promote the language and unique culture of English-speaking Quebec. The Government of Quebec must recognize and support the linguistic and cultural rights of Quebec’s English-speaking community.

At the same time, the English-speaking community of Quebec recognizes the need for reforms. In 2015, the community conducted a wide-ranging consultation, and prepared recommendations to the Minister of Education and Higher Education on the matter. Bill 40 largely ignores those recommendations, particularly the recommendations for improving the electoral system. It does not reflect a model of education governance by and for the English-speaking community.

**QCGN’s Concerns with Bill 40**

The QCGN has serious concerns related to:

1. the **constitutionality of the legislation**, particularly its compliance with s. 23 of the *Charter of Rights and Freedoms*;
2. the **failure of the Government of Quebec to demonstrate that the reforms are necessary**, i.e. that they will improve the efficiency and effectiveness of school governance and improve student achievement; and
3. the **introduction of a major education governance reform without broad-based public consultations**.

## **1. Bill 40 infringes s. 23 of the *Charter of Rights and Freedoms***

Although it purports to set up a system of elected representation, this Bill does not provide a vehicle by which the community can exercise any meaningful level of management and control over education. **Taken as a whole, Bill 40 creates an empty shell for community representation in which true management and control is likely to be exercised by staff and Ministry officials rather than rights-holders and the wider community.** As such, it violates the right to management and control guaranteed by s. 23 of the *Canadian Charter of Rights and Freedoms* (“the Charter”).

The Bill falls short of the constitutional standard for two reasons:

- i. Composition and Selection of School Service Centre (“SSC”) Boards: Rights-holders’ exercise of management and control through representatives on SSC Boards is stifled by restrictions on who can serve on these Boards and the lack of resources provided to these representatives.
- ii. Power of School Service Centre Boards: The decrease in the decision-making powers of SSC Boards paired with greater control by the Minister means that the SSC Boards will likely not exercise much meaningful decision-making power over education. The Minister’s statements at Committee demonstrate that the SSC Boards are intended to have only a minor role in Board decision-making.

Our minority constitutional rights are shared by Francophone minority communities outside Quebec. This Bill erodes those constitutional rights for the English-speaking community of Quebec, and by extension, those of the Francophone minority communities outside Quebec.

## **2. The Government of Quebec has not demonstrated that this model will either improve education governance or student success**

Why is this reform necessary, and what problem is it meant to solve? The purpose of Bill 40 seems to be mainly administrative. It makes no claim either to directly improve the scholastic performance of Quebec’s students or improve or maintain existing educational services.

## **3. No reform to governance of the English education system should take place without proper consultation with the English-speaking community**

By all accounts, this Bill is the most important reform in school governance since the change from confessional to linguistic school boards in the 1990’s. Such a major reform warrants major reflection and consultation. This has not been done here.

This Bill cannot be passed in its current form. **The QCGN requests that this Committee:**

- Amend the Bill so that the English system is exempt from the reform, pending a full consultation with the community to design a governance system by and for the community; and/or
- Request a reference on the constitutionality of Bill 40 to the Quebec Court of Appeal.