



## **Bill 40 Submission by APPELE-Québec**

*November 6, 2019*

APPELE-Québec – the Alliance for the Promotion of Public English-language Education in Québec – is a broadly-based, Quebec-wide community coalition formed to promote the continued existence of English school boards, and to ensure they are governed by commissioners who are democratically elected by the English-speaking community at large. Over the past few weeks we have had the opportunity to review Bill 40 and to consult with our 16 supporting organizations and nine observer groups. (See Appendix 1). We welcome the opportunity to share our views on this proposed major change to the governance of our school system, the most significant reform since the change to linguistic school boards nearly two decades ago.

### **About APPELE-Québec**

When APPELE-Québec was formed we made the following founding statement which reflects the mission and values which unites our organization:

We the undersigned, believe in the importance of democratically elected school boards in Quebec. Their abolition would be an erosion of local democracy and of local decision-making. As one of Canada's official minority-language communities, we understand the critical role our schools play in the vitality of English-speaking communities across Quebec. English schools are at the very foundation of our community's vitality, transmitting our language, culture, and values to future generations. Particularly in smaller communities, our schools and centres are a cornerstone of the community that act as a hub for a wide range of activities that go far beyond reading, writing and arithmetic. Input from our community through elected school boards is essential to ensure our schools maintain their indispensable role as mainstays that breathe life into our communities.

As an official minority-language community in Canada, we English-speaking Quebecers have the Constitutional right to control and manage our educational institutions. We are particularly

concerned about any attempt to weaken this right by abolishing our school boards and school board elections.

We call upon the Government of Québec to maintain school boards governed by commissioners who are democratically elected by the population at large.

We wish to point out that this position is endorsed by a number of organizations from across Canada such as Canadian Parents for French (CPF), Fédération nationale des conseils scolaires francophones (FNCSF) and Canadian School Boards Association (CSBA). These groups are concerned about the precedent set by Bill 40 the impact on the French-speaking minority in other provinces. We are enclosing in Appendix II letters that we have received from the leadership of these organizations.

In drafting Bill 40, legislation to replace School Boards with school Service Centres, the Quebec government has attempted to respect the constitutional rights of English-speaking Quebecers to "manage and control" (Mahé v. Alberta, Supreme Court of Canada, 1990) our school system. We are pleased that school board elections would continue in the English system; indeed, we believe that elected school boards are important for all Quebecers, regardless of language.

After reviewing Bill 40 many members of our community have significant doubts about whether constitutional right to manage and control our school system is indeed being fully respected and have indicated that they are prepared to launch a court challenge. Our purpose in presenting this brief is to urge the Quebec government to take steps now to ensure our rights are being respected and to avoid an unnecessary, costly and lengthy legal battle. It is in this context that we are sharing our views on the draft legislation and suggesting potential paths forward.

After studying Bill 40, a complex law which amends 84 separate Acts of the National Assembly, we believe that it is unworkable and presents unnecessary obstacles to the exercise of our constitutional rights in its current format. We fear that it will discourage community and volunteer involvement and increase control of our school system by the education minister and officials in Quebec City.

Faced with this reality APPELE-Quebec has identified two distinct paths.

The first, and our preferred option, is for the Bill to be either withdrawn or for our school boards, like the Cree School Board, the Kativik Ilisarniliriniq, the school board of Nunavik, and the Commission scolaire du Littoral, to be exempted from the legislation. Excluding the minority language school boards is in fact the path that was taken by other provinces and territories that adopted similar reforms.

The second and less desirable option is to adopt significant amendments to the Bill. We are seeking changes to the composition of the boards of directors of Service Centres, the electoral process and the distribution of powers between the Minister and the individual Service Centres. All of these obstacles and barriers to the English-speaking Community's right to control and management of its schools must be addressed for the Bill to have any chance of success.

## **Option 1: Maintain the Current Governance Structure**

We had difficulty coming up with constructive proposals to amend the Bill because the societal ill that the Bill seeks to remedy or improve upon is not immediately apparent. It is not clear what, exactly, the Bill hopes to address.

The nine English school boards are working, not only to the benefit of students and their families but also for that of the entire community.

The English public school network's student success rates is six (6) percentage points above the Quebec average for a cohort of students that started high school in 2011.

It is important to put these results in context. The Advisory Board on English Education [ABEE] is appointed by the Minister of Education to advise on all matters affecting the educational services offered to English elementary and secondary schools. In 2013 ABEE made a point that is still valid:

*"Taking into account that Québec's English School Boards cover vast territories (with the exception of the Island of Montreal), work with smaller/widely dispersed/declining student populations, have important size differences between boards and their respective access to financial resources, have smaller schools with fewer professional resources and teachers to address the diverse needs of students, and are under an obligation to graduate bilingual and bi-literate students despite its impact on resources, further demonstrates the significance of their above-average performance in regards to graduation and qualification rates of students."*

The research supports the benefits of elected school boards. An August 2019 paper entitled *"Elected School Boards and High-Quality Public Education - A literature review examining the relationship between high-quality public education systems and governing school boards,"* written by Valerie Overgaard for the Canadian School Boards Association states:

*"Starting in a focused way with the "Lighthouse Study" in Iowa, two decades of research have consistently shown that school boards can make a difference in student achievement. Literally hundreds of studies since then, conducted in many countries around the world, have shown a significant relationship between good school board governance and student achievement."*

A key to the success of our school boards is that they allow members of Quebec's English-speaking minority to engage directly with their elected representatives and to participate in setting a vision for education in their region. Local commissioners are aware of community concerns as well as of the issues that affect their neighbour's children. They serve as critical bridges and advocates, ensuring that programming reflects community priorities and values.

Almost fifty years ago, our school boards took the lead in developing French immersion programs for our students in every corner of the province. This was not a government led initiative. It was our boards listening to the community and taking steps to equip our graduates with the linguistic skills they need to

thrive in Quebec. Similarly, we have developed successful programs for special needs students as well as a robust and effective vocational education sector.

English Minority communities have strong ties to their school boards, the only public institutions whose directors are elected exclusively by their members. Furthermore, English school boards help ensure community vitality by providing academic and cultural services. Schools are where much of community life takes place.

For all of these reasons, the current system of school boards has widespread support amongst English-speaking Quebecers. APPELÉ-Québec commissioned Leger Marketing last March to conduct research on the minority's perceptions of school boards in general and English school boards in particular. The survey revealed the following:

- A vast majority (88%) of respondents are aware of the existence of their region's English school board;
- Seven out of ten respondents (68%) believe that school boards should be elected by the population.
- Two thirds of respondents (67%) believe that school boards contribute to the efficient functioning of elementary and secondary public schools. Overall, 85% of respondents say that English school boards are important to them.
- 89% of respondents consider the English school board that serves their area important for their community's identity.
- Three quarters of respondents (76%) feel that a local elected school board official would do a better job at making decisions on English public school education than a Government of Quebec civil servant (6%).
- Respondents are very committed to protecting the rights of their community: 90% of them say that their minority language education rights are very important to them, and 87% think that school boards should remain independent from the Government of Quebec in order to protect these rights. Moreover, with regards to elections, 84% of respondents agree that the population at large should be able to vote in school board elections when it is a question of protecting the rights of English-speaking Quebecers to control and manage their educational facilities.

The evidence is strong. Our school system is effectively meeting the needs of English-speaking students and their families and enjoy wide-spread support within our community. We have demonstrated our capacity to respond to an evolving learning environment.

### **Recommendation**

We urge the Government to reconsider and either to withdraw Bill 40 or to exempt our elected school boards from it.

### **Option 2: Modify Bill 40**

APPELÉ-Québec has repeatedly stated that Bill 40 is unworkable, overly complicated and presents barriers to our exercising our constitutional rights. We have come to this conclusion after having

reviewed the provisions regarding Board composition, the role of the Board, the electoral process and the division of powers between the Service Centre Boards and the Ministry in Quebec City.

### Board Composition

A majority (between 8 and 17 members) of the members of the boards of directors of English Service Centres is to consist of parents of students in the local school system, and another four are to be community representatives; all of these are to be elected by universal suffrage. There would also be four members from the Centre's staff (including teachers), chosen by their peers.

Although universal suffrage was maintained, the added criteria for being a candidate create several unnecessary barriers to the exercise of our right to manage and control our school system.

First, parent board members must also be members of the governing board of an individual school. This would exclude the vast majority of parents within the system from being a candidate for the board of directors of the new Centres. Additionally, for working parents who are already struggling to bring their children to after-school activities, prepare dinner and supervise homework this represents an unrealistic time commitment, particularly when committee work is taken into account. To shift the burden from moderately paid commissioners to volunteer parents and expect the same quality and quantity of work to be performed is simply unreasonable.

Second, unlike parent representatives, the community representatives will not be elected from individual wards; each of them will be elected by universal suffrage across the entire territory of the Service Centre. How does a candidate from Val D'Or run a successful campaign for a volunteer position against someone from Gatineau, the location of the majority of voters? English school boards cover vast territories. The Bill ignores the need to guarantee community representation from the far corners of each Service Centre territory.

A further obstacle is the requirement that the community representatives must have an expertise in specific areas, from finance to governance. Can a twenty-eight year old accountant who coaches a pee-wee hockey team run simultaneously for four positions?

Establishing categories of candidates works for an appointed board, not an elected one. Placing limitations on who can become a candidate will only discourage participation and make it harder to attract qualified individuals in a minority context. Furthermore, Boards would not benefit from broader community input as well as the energy and historical knowledge and perspective of past parents and other community representatives.

We note in addition that the four board members from the Service Centre's staff will find themselves in the uncomfortable position of reporting to a director-general while in theory acting as the director-general's boss in their capacity as board members. Furthermore, there is no guarantee that the four staff representatives will be members of the English-speaking community.

Finally, another barrier to entry is that the Bill currently does not allow for the monetary compensation of Board members.

Overall, the conditions are so restrictive that it will be difficult to find volunteers to fill all the positions, turnover will be high and experienced members of our community will not be able to apply.

### **Recommendations**

In order to remove these obstacles APPEL-Québec recommends:

That there be parity between parent and community representatives on the Board and that they both be elected through the ward system.

The requirement should be that parent representatives should be or have been members of a school's governing council. The Chair and Vice-Chair should be elected by the Board from among the parent and community representatives.

The four criteria for community representatives should be removed; community representatives should simply have to be rights-holders under the Charter of the French Language who reside in the service centre's territory.

Representatives of the staff should be non-voting members of the board.

Board members should be moderately compensated as commissioners are today.

### **Role of the Director General**

Bill 40 names the director general - the senior employee of a Service Centre - as the sole spokesperson, thereby silencing the chair and other members of the board. This practice was adopted in the health care reform and has meant that the essential voices of stakeholders, from patients and their families to health care practitioners, have been lost, to the detriment of care. Such an approach to our education system is unacceptable.

### **Recommendation**

The Chair of the board or his/her delegate should be the official spokesperson of the Service Centre.

### **Centralization of Power**

Bill 40 tends to centralize power in Quebec City to the detriment of the community. Examples of the Minister's increased powers are that he can unilaterally modify the territories of English-language school service centres and change the names of the school boards (section 46), retroactively annul certain decisions of school boards (section 308), determine objectives or targets relating to the administration, organization or operation of school service centres (section 137) and prescribe the information that a school service centre's annual report must contain (section 134).

Our concern is that the autonomy and independence of our elected institutions is at risk.

### **Recommendation**

APPELE-Québec recommends that sections 46, 308, 137 and 134 be removed from the Bill.

### **Electoral Reform**

Voter participation in school board elections has been a concern of the English-speaking community for some time. In the last election in 2014 only 17% of eligible voters participated in the electoral process, a less than desired turn-out.

Concerned by the situation, the Quebec English School Boards Association (QESBA), the English Parents' Committee Association (EPCA), the Québec Community Groups Network (QCGN) and the Québec Federation of Home and School Associations (QFHSA) joined forces in 2015, setting up the Election Systems Study Panel chaired by the Honourable Marlene Jennings, former Member of Parliament. As part of its work the Panel reviewed numerous election systems, consulted with English Minority organizations and individuals with expertise on the various options and studied past elections.

While we are pleased that Bill 40 calls for the election by universal suffrage of parent and community representatives on the Boards of Directors of Service Centres, we are disappointed that the analysis and recommendations of the Jennings Panel do not seem to have been considered. The Bill calls for elections to be held on November 1, 2020 and subsequently on June 1 2023. By shortening the current mandates of school board commissioners, the Government will be increasing the costs of the Service Centres.

The Bill is silent on measures designed to encourage members of the English-speaking minority to vote.

#### **1. Voter lists**

As made clear during the Jennings Panel consultation, voter registration and access to voting stations represented major hurdles in the 2015 election.

In its report the Jennings Panel states:

*"A litany of the problems that these legislative rules have incurred was described by many if not all of those who made submissions to the ESSP, from voters who had exercised their right to vote in English School Board elections prior to the 2014 election and had not been informed that they were no longer on the English Schools' voter list and who tried, unsuccessfully to be returned to the correct list, to those who turned up on election day to vote in their respective English School Board election only to be turned away because unbeknownst to those voters, under the current law, their names had been moved to the French School Board's voter list."*

With regards to electoral lists APPELE Quebec is calling upon the Government of Quebec and the Director General of Elections, the expert in this area, to take the necessary steps to ensure Service Centres are provided with accurate and up-to-date electoral lists well in advance of the election planned for next year. We do not want to repeat the errors of June 1998 and the first election of linguistic school board commissioners when the Act on School Board Elections had to be amended between the advance polls and the voting day. We must avoid another fiasco, even if it means delaying the elections until the Director General of Elections can update the lists and sort out who can vote in these elections. This must

be done before the transfer of this responsibility to the Service Centres. If this, as we expect, is cannot be completed by next November, the elections should must be delayed.

## 2. Voting Stations

In the last election one of the challenges was the lack of voting stations. Many English-speaking Quebecers report having to travel up to two hours in both directions in order to vote.

One option for addressing this challenge is to allow English-speaking Quebecers to exercise voting rights via telephone, online platforms, or mail-in ballots. This would be particularly beneficial for Quebecers living in rural and remote areas.

Another option is to twin Service Centre elections with municipal elections which is the case in both New Brunswick and Ontario. An advantage of this approach is that it will also lower the costs of holding an election. Bill 40 proposes holding stand-alone elections next November and then in June 2023. These will be costly initiatives with the full cost being borne by individual Service Centres. Sharing the costs means that funds would be freed up to invest in student success. We should also point out that we favour four-year mandates for commissioners.

### **Recommendations**

The Director General of Elections should be mandated to ensure that electoral lists are up-to-date.

The inaugural election should be delayed until 2021 if this work cannot be completed in a timely fashion;

Mandates of Board members should be for four rather than three years;

Strategies should be adopted to facilitate voter participation. These could include electronic voting or the holding of elections on the same date as municipal elections. On election day voters would be handed two ballots: one to elect a community representative and the other to elect a parent representative.

### **Conclusion**

The essential fact is that our elected English school boards are working in every region of the province. Now is the time to step back and reflect on what is in the best interest of young Quebecers. APPEL-Québec maintains that rather than looking at unnecessary and unworkable structural reform, all of the partners in our school system including the Government should be focusing on the development of strategies for promoting student success.

Together we need to address a number of critical challenges ranging from a shortage of French teachers to meeting the needs of children who learn differently and the modernization of our facilities. Our elected school boards have proven they have the foresight and the expertise to lead the way. We, as English-speaking Quebecers, have a solid foundation to build upon, and we urge legislators to allow

us to continue to move forward and to exempt our school boards from Bill 40. The alternative is to modify the draft legislation in order to ensure obstacles to our exercising our constitutional right to manage and control our school system are removed. In this manner the rights of linguistic minorities in every region of Canada will be respected.

## Appendix I

### APPELE MEMBERS

- Black Community Resource Centre (BCRC)
- Catholic Action Montreal
- Canadian Parents for French (CPF)
- Community Economic Development and Employability Corporation (CEDEC)
- English Community Organization of Lanaudière (ECOL)
- English-Speaking Catholic Council (ESCC)
- Montérégie West Community Partners (MWCP)
- Quebec Board of Black Educators (QBBE)
- Quebec Community Groups Network (QCGN)
- Quebec English School Boards Association (QESBA)
- Quebec Federation of Home and School Associations (QFHSA)
- Regional Association of West Quebecers (RAWQ)
- Saint-Columba House
- Townshippers' Association
- Vision Gaspé Percé Now

### APPELE OBSERVERS

- Association of Administrators of English Schools of Quebec (AAESQ)
- Association of Directors General of English School Boards of Québec (ADGESBQ)
- Canadian School Boards Association (CSBA)
- English Parents' Committee Association (EPCA)
- Fédération des commissions scolaires du Québec (FCSQ)
- Fédération nationale des conseils scolaires francophones (FNCSF)
- Leading English Education and Resource Network (LEARN)
- Quebec Provincial Association of Retired School Educators (QPARSE)
- Seniors Action Quebec
- Youth Employment Services

Appendix II

(Letters follow)





Opinion Editorial Letter from Canadian School Boards Association President,  
Laurie French

Friday, October 4, 2019

Following a difficult and frustrating week for school board trustees across the country, we watch our colleagues in Quebec under the threat of a potentially devastating piece of legislation tabled by their provincial government. The CSBA, our members and the communities we represent across the country are shocked and dismayed to hear the Quebec provincial government's interest in robbing its French-speaking citizens of a public education system governed by democratically elected community members dedicated to public education.

We have seen the effects of dissolving governing school boards and it's not good. The loss of majority English governing school boards in Nova Scotia has had a negative effect on the education community. Parents, guardians, students and education staff have spoken out that they no longer have access to policy and decision makers. This elimination of community voice has not improved public education. Having community members govern public education is vital for both majority and minority communities. All people of Quebec have a right to democratically elected governing school boards in their public education systems, regardless if schooling is in French or English.

Like the situation in Nova Scotia, the provincial government in Quebec is obligated to provide some form of self-governance to its minority language education system under a charter designed to protect minority languages, never imagining it is majority language students and citizens who will lose these democratic processes. In Nova Scotia that means the Conseil scolaire acadien provincial was able to survive the elimination of governing boards, but we have heard directly of the loss of voice at a provincial level with no local access in response to concerns. In Quebec the English boards will remain under charter protection, but they too will be weakened.

The democratic practice of electing representatives to serve the needs of citizens is a cornerstone of Canadian society, and this applies to representation supporting public education. Governing school boards are members of the communities they serve, dedicated to the public education system, and providing access and transparency to local decisions. The solution to concerns with a democratic system is to improve it, not to eliminate it. If the provincial government of Quebec has such concerns with governing school boards, we call on it to work WITH the provincial

school boards associations to strengthen these roles in service of students to whom they are accountable.

Recent research strongly indicates that “high functioning governing school boards support student success and quality public education”, found here <http://www.cdnsba.org/Literature-Review>. Governments would be wise to strengthen this partnership. For governments to criticize governing boards for not being effective is a reflection on themselves, as we have seen governments strip away the autonomy and influence governing school boards have on public education. If the government feels school boards are not effective, we would like to remind them that they have brought us to this place.

The Quebec government should also consider the election process for governing school boards if voter turnout is a concern – a problem that touches all levels of government. In other jurisdictions across Canada, school board elections are tied with municipal elections to support participation, reduce duplication of costs and improve accessibility. Quebec should consider following a similar approach.

We strongly urge the government to conduct broad consultations, and work with the Trustee Associations in partnership before any change is made to strengthen governance in support of student success.

Public education deserves community representation via all governing school boards who have the autonomy to make the best decisions for their students. We urge the Minister to reconsider this legislation and work with school boards to strengthen student success for all citizens, for now and future generations.



Le 8 avril 2019

Monsieur Dan Lamoureux, président  
Association des commissions scolaires anglophones du Québec  
185, avenue Dorval, bureau 502  
Dorval (Québec) H9S 5J9

Objet : Appui de la FNCSF au groupe APPELE

Monsieur Lamoureux,

Par la présente, nous aimerais confirmer l'adhésion de la FNCSF au groupe APPELE, à titre d'observatrice. Nous sommes très heureux de nous joindre à ce regroupement d'organismes.

Il va de soi que la FNCSF offre son appui moral au groupe APPELE qui a décidé d'unir ses efforts pour rappeler au gouvernement québécois que la livraison des services éducatifs doit être confiée aux commissions scolaires.

Nos organismes respectifs ont en commun la cause des droits des minorités linguistiques à travers le Canada et plus particulièrement l'application du droit de gestion scolaire.

L'intention du gouvernement du Québec d'abolir les commissions scolaires, gouvernées par des commissaires démocratiquement élus par la population générale, constitue clairement une atteinte aux droits des minorités linguistiques tels qu'ils sont identifiés par l'article 23 de la *Charte canadienne des droits et libertés*. Cela nous préoccupe vivement puisque cela pourrait avoir un impact sur le maintien des droits linguistiques des francophones et Acadiens vivant dans les neuf autres provinces et trois territoires.

Veuillez agréer, cher président, l'expression de nos sentiments les meilleurs.

Le président,

Mario Pelletier

c.c. Russell Copeman, directeur général, ACSAQ

*La FNCSF joue un rôle de premier plan dans les efforts déployés pour l'amélioration constante de l'éducation de langue française. Grâce à 28 conseils scolaires situés dans neuf provinces et trois territoires canadiens, à l'exception du Québec, plus de 165 000 élèves étudient en français dans 700 établissements.*

