

Increasing the Effectiveness of School Board Governance in Nova Scotia
Consultation Report and Recommendations

September 8, 2008

1.0 Introduction

In July 2008, the Nova Scotia Department of Education proposed changes to the Education Act with the goal of increasing the effectiveness of school board governance in the province. The legislative changes were proposed to ensure that resources are well-managed, relationships are respectful, and the best interests of the province's students are considered in all decisions. In addition, the legislative changes will work to strengthen and clarify the authority of school boards and the Minister of Education with respect to school board member conduct and other related procedural issues.

The proposed changes were made available to the public in both English and French through the department's website (<http://www.ednet.ns.ca>) and the *Increasing the Effectiveness of School Board Governance in Nova Scotia* white paper. The Department of Education encouraged input from its partners and the public with respect to the proposed amendments to the Education Act.

2.0 The Review Process

On July 31, 2008, the Honourable Karen Casey, Minister of Education, announced the proposed amendments to the Education Act and launched a public consultation. Education partners, stakeholders, and the public were invited to make written submissions to the department. Based on the input received, the department will prepare new legislation for consideration by government.

The *Increasing the Effectiveness of School Board Governance in Nova Scotia* white paper was made available to the public through the department's website (<http://www.ednet.ns.ca>). It could also be obtained by emailing educonsultations@gov.ns.ca or calling 902-424-5294.

The original closing date for the consultation was August 22, 2008. However, the consultation was extended and responses were received via mail, email, and fax until midnight, September 2, 2008. The time-frame for the consultations was revised to strike the appropriate balance between providing sufficient time for public comment and ensuring potential candidates for elected school board positions were aware of any changes to school board governance made prior to the deadline for nominations on September 9, 2008.

This report provides a summary of the information gathered through the written responses submitted during the consultation process. It further highlights key issues and concerns to be addressed to improve the effectiveness of school board governance in Nova Scotia.

3.0 Key Findings

Respondents in the consultation process expressed dissatisfaction with both the amount of time provided for the consultation and the timing of the consultation. Even after the consultation was extended, respondents expressed their concern that the public still did not have enough time to offer feedback.

Respondent feedback supported the need to change the Education Act with respect to school board governance. In general, respondents were supportive of the eleven (11) recommended changes to legislation. That said, there were common areas of concern among respondents.

The following table summarizes the responses received during the consultation process.

Recommendation	Response
Recommendation 1, 2, and 3	Respondents strongly support recommendations 1, 2, and 3, but feel that the code of ethics should be made public and that the procedural by-law for the conduct of meetings should be reviewed by each school board prior to being implemented.
Recommendation 4	Respondents support recommendation 4, but feel that the grounds and authority for censure must be expressly outlined in the legislation and that the majority (defined as either 50% +1 or 2/3 of the board members present) of the board must vote to censure members.
Recommendation 5	Respondents support recommendation 5, but feel that three (3) adjudicators would be more effective than one (1).
Recommendation 6	Respondents support recommendation 6, but are concerned that it offers the potential for misuse of political power.
Recommendation 7	Respondents agree with recommendation 7 that the Minister should have the authority to appoint one or more persons to replace an entire board; however, they feel that by-elections were crucial to the democratic process.
Recommendation 8	Respondents support recommendation 8.
Recommendation 9 and 10	Respondents have mixed reactions to recommendations 9 and 10. A number of respondents feel that by-elections are crucial; however, some respondents feel that the Minister should appoint replacements through an expression of interest, provided that the candidate represents the geographical area or district.
Recommendation 11	Respondents have mixed reactions to recommendation 11. A number of respondents agree with the proposed change, while others feel that a one-year term for the board chair is sufficient.

Throughout the consultation, both individuals and organizations suggested a number of recommendations to improve the effectiveness of school board governance in Nova Scotia. In

many cases, these recommendations were intended to help clarify or improve upon the proposed legislative changes.

The following is a summary of the recommendations provided by respondents and organizations throughout the public consultation:

1. Background checks for potential school board members: Candidates should complete a child abuse registry check and a criminal record check prior to serving as school board members.
2. Prerequisite experience for potential school board members: Candidates should have prerequisite experience, such as involvement in the School Advisory Council, prior to serving as school board members. In the case where a new member is appointed to fill a vacant seat, preference should be given to candidates that have previous involvement in the education system.
3. Professional development for board members: Professional development and training should be made available to all board members. Specifically, there should be mandatory training with respect to rules of order, principles of leadership, conflict resolution, communication and media skills, and the code of ethics. One stakeholder organization recommends that the Department of Education establish a Director of Governance Support position. One of the roles of the Director would be to oversee the professional development of boards and invest in proactive team building.
4. Strict guidelines for absenteeism: The legislation should reflect the importance of board member attendance at meetings. If board members are perpetually absent without valid reason, they should be replaced.

4.0 Consultation Feedback

The Department of Education received written feedback from the public, teachers, as well as both current and former school board chairs and members. Feedback was received from thirty-one (31) individuals including teachers and current and former school board members from six (6) school boards. Feedback was also received from eleven (11) organizations, including three (3) school boards.

Each of the eleven recommendations received varying levels of support and opposition from individual participants and organizations. Some met with a higher degree of support, while others met with a higher degree of opposition.

This section of the report provides a summary of the key issues, concerns, and comments with respect to the recommendations for legislative change expressed by individual participants and organizations through the public consultation.

Recommendation 1

School board members will be required to take an oath of office that will include reference to a code of ethics.

Recommendation 1 received a very high level of support. All respondents felt that it was important that board members take public responsibility for their actions. They agreed that an oath of office would ensure that board members understood their duties and the behaviour that was expected of them.

Recommendation 2

School boards will be required to adopt standardized codes of ethics. There will be required elements that each board must include in their code of ethics concerning respect and confidentiality.

Recommendation 2 received a fairly high level of support. Feedback indicated that all respondents supported adopting a code of ethics. A number of organizations included samples of their codes of ethics and/or conduct as references or potential guides for the creation of a standardized code of ethics for school boards. The major criticism with respect to recommendation 2 was that many respondents felt it was difficult to fully support the requirement to adhere to a code of ethics without having the opportunity to review it. A number of respondents felt that the code of ethics should be made public on each school board's website.

Recommendation 3

School boards will be required to adopt a standardized procedural by-law for the conduct of meetings, to be established by the Minister.

Recommendation 3 received a fairly high level of support. There was some concern that this recommendation would have a negative impact on board members' right to freedom of expression. In general, however, both individual participants and organizations were supportive of the recommendation. A number of organizations suggested that the Minister submit the procedural by-laws to the school boards for review and comment before making them mandatory for all board members. Respondents also felt that it was important to clearly outline the roles and responsibilities of board members to ensure that they do not go beyond their mandate.

Recommendation 4

School boards will be granted authority to censure individual members. In censuring one of its members, a school board will be authorized to: revoke that member's privileges between one and three months; order a suspension of between one and three months; issue a public reprimand; or, recommend to the Minister that the member's seat be vacated. The Minister will be granted authority to vacate a member's seat.

Recommendation 4 received a relatively low level of support. A large number of respondents support elements of the recommendation, but suggested that the grounds for authority to censure individual members must be expressly outlined in legislation. Many respondents agreed that school boards should have the authority to censure individual members but felt that the term *public reprimand* should be removed from the recommendation. Further, some respondents felt that the Minister should not have the power to vacate a member's seat. Finally, respondents felt that the legislation should clearly state that a majority, consisting of either 50% +1 or 2/3 of board members, is needed to censure an individual member.

Recommendation 5

A censured board member will have the right to appeal the censure by the board through a one-person adjudicator. The Minister will appoint the adjudicator from an existing roster.

Recommendation 5 received a high level of support. Respondents in the consultation agreed that an appeal process should be available to censured board members. Some respondents suggested that three people serve as adjudicators. Further, a number of respondents suggested that the adjudicator be appointed through a democratic process; there was some concern that an adjudicator appointed by the Minister might have a degree of political bias. Finally, respondents expressed the need for a timely appeal process to ensure that conflicts are swiftly and effectively resolved.

Recommendation 6

If the school board does not take appropriate action to censure a member when necessary, the Minister of Education may issue a directive to require a school board to make a motion, including the appropriate censure.

Respondents expressed a number of concerns with respect to recommendation 6. One individual participant stated that only the board and not the Minister should have the right to censure members. A number of stakeholder organizations opposed the recommendation, stating that they were concerned about the potential for misuse of political power. The respondents that supported recommendation 6 stated that the legislation must clearly define the grounds that would trigger censure and a time-line should be in place to ensure that the Minister takes quick, appropriate action.

Recommendation 7

If the board does not follow the Minister's directive (concerning a censure or any other situation), the Minister may use her authority as currently described in the Education Act (Section 68) to replace the board. This section of the Act will be amended to provide the Minister authority to appoint one or more persons to replace the entire board. Currently, the Minister has authority to only appoint one person to replace an entire board. The grounds for this action will be the same as those which are currently described in the Education Act: health, safety, or educational welfare of the students of a school are endangered, resources of the school board not being used responsibly, school board failed to meet standards, or school board failed to comply with a request by the Minister to take corrective action.

Recommendation 7 received a fairly high level of support. However, it was also one of the more controversial proposed legislative changes. A number of respondents were strongly opposed to the recommendation, stating that giving the Minister the power to replace board members without by-election would compromise the democratic process. However, recommendation 7 was also strongly supported by a number of individuals and organizations. One individual participant stated that the recommendation is the core of the legislative change. One stakeholder organization recommended that the Minister have the authority to censure an individual board member without first issuing a directive to require a school board to do so. Further, a number of organizations agreed that the Education Act should be amended to give the Minister the authority to appoint one or more persons to replace an entire board.

Recommendation 8

Any action taken by the Minister can only be challenged through the courts.

Recommendation 8 received a fairly high level of support. However, respondents felt that it was important to ensure that the process remained transparent. Further, there was some concern with respect to who would cover the associated legal fees.

Recommendation 9

The requirement to hold a school board by-election to fill a vacant school board seat will be removed. A seat may be vacant due to a lack of nominations at the time of an election, vacated through censure of an individual member as described above, or through other circumstances as described in Section 51 of the Education Act.

Recommendation 9 received a high level of opposition. The majority of respondents felt that by-elections were essential to the democratic process. One organization requested that the recommendations be amended to remove any proposed changes to the election provisions.

Recommendation 10

If a seat will be vacant for less than six months before the next election, the seat will remain vacant. If the seat will be vacant for more than six months before the next election, the Minister will appoint a replacement from the geographic area or representational unit, with no requirement to hold a by-election.

Recommendation 10 received a relatively high level of opposition. The majority of respondents felt that allowing the Minister to appoint board members to fill vacancies would compromise the democratic process. A number of respondents noted that members of the public living in a specific region would be better suited to choosing a board member than would the Minister. A majority of respondents stated that they strongly believe in the importance of by-elections.

While recommendation 10 met with substantial opposition, some respondents did support the proposed change. A number of respondents recommended establishing a clear process outlining how the Minister would appoint replacements for vacant seats. For example, a School Advisory Council could submit names for review so that the nomination is not mistaken for a political motivated appointment. Further, a number of stakeholder organizations supported the recommendation, provided that the Minister appoint a replacement from the geographic area or district by means of an expression of interest, or through consultation with the board and/or community.

Recommendation 11

The term of the chair of the school board membership will be extended from one year to two years.

Recommendation 11 received a mix of support and opposition. A number of respondents supported the recommendation, some of whom believed that a two-year term should also apply to the board executive. A similar number of respondents felt that a single-year term, with the opportunity for re-election, was sufficient and would help ensure that ineffective chairs were quickly replaced. Most respondents felt that a mechanism was necessary to deal with ineffective chairs.

5.0 Conclusion

The proposed legislative changes to the Education Act were generally well received by individuals and organizations that participated in the consultation. That said, respondents made a number of important recommendations aimed at amending the proposed changes. There were significant concerns related to proposed changes that recommended removing the need for school board by-elections or suggested that vacant seats could be filled through ministerial appointment. A number of respondents were concerned that these recommendations would compromise the democratic process and had the potential to lead to a misuse of political power. Respondents suggested a number of amendments to these recommendations, with the goal of ensuring that by-elections remain part of the selection process and that appointments are made through a fair, impartial process.