Bill 98: What school boards need to know about Ontario's new education bill

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The Ontario government has introduced Bill 98, *Better Schools and Student Outcomes Act, 2023*, which proposes amendments to the *Education Act*, *Ontario College of Teachers Act, 1996* and *Early Childhood Educators Act, 2007*, and introduces changes to the complaints and discipline procedures for regulated individuals in the education sector, including school board trustees, teachers and early childhood educators.

Here's what you need to know about the coming changes to the education and child care regulatory landscape in Ontario.

Proposed amendments to the *Education Act*

The *Education Act* governs the public education system in Ontario, including the public and Catholic school boards that operate the province's publicly-funded schools.

Reviewing trustee conduct

Bill 98 proposes amendments that would overhaul the process for reviewing alleged misconduct by school board trustees, placing power over investigations, determinations of misconduct and the imposition of sanctions with an integrity commissioner, rather than the boards themselves. Other proposed elements of this new process include:

- A 60-day time limit for complaints.
- The discretion not to commence an investigation into a complaint that is in bad faith, frivolous or vexatious.
- Expanded investigatory powers to compel the disclosure of documents and summon witnesses.
- A broader list of available sanctions for board members who breach the code of conduct.
- A right of appeal to a panel of integrity commissioners.

Review of school board activities

Another major area of change to the *Education Act* contemplated by Bill 98 is increased powers to the Ontario government, including the Minister of Education, with respect to school board activities. Several amendments would give the Minister expanded powers and regulatory authority over school boards and other education related matters under the *Education Act*, including powers to establish policies and guidelines with respect to:

- Provincial education priorities in the area of student achievement.
- The review and revision of curricula, including based on pedagogy and labour market needs.
- Required training for board members, directors of education, supervisory officers and superintendents.
- Equivalent apprenticeship learning under the *Building Opportunities in the Skilled Trades Act, 2021*.
- School boards' communications with parents and guardians.
- Student mental health.

Additional regulatory powers for the Minister and Lieutenant Governor in Council are also contemplated, with respect to equal apprenticeship training, school boards' business activities, school board-controlled entities, and provincial priorities in student achievement.

Bill 98 would also permit the Minister to charge a fee for the evaluation of textbooks, library books, reference books or other learning materials in exercising his power to select and approve such materials under s. 8(1)(6) of the *Education Act*.

School board property

Bill 98 contemplates increased Ministerial authority over school property. This includes the imposition of new reporting obligations on the board to provide the Minister with information on the condition of school sites and property, and plans for its acquisition, sale, lease or other disposition. It also would grant new powers to the Minister to make regulations and directions over board decisions respecting property.

Proposed amendments to the *Ontario College of Teachers Act, 1996* and *Early Childhood Educators Act, 2007*

Bill 98 proposes amendments to the complaints procedures that apply with respect to teachers and early childhood educators under the *Ontario College of Teachers Act, 1996* and *Early Childhood Educators Act, 2007*. These amendments would, among other things:

- Expand the available remedies to include remedial training or education.
- Remove the right to a hearing where a complaint is filed in respect of conduct that has resulted in a conviction under the *Criminal Code*.

- Expand eligibility for a funding order in sexual abuse cases by removing the statutory precondition that required the child complainant to have been supervised by the member.

Bill 98 would also reinforce employers' reporting obligations to the Ontario College of Teachers where an employee teacher has been disciplined for professional misconduct, charged with specified offences under the *Criminal Code*, or engaged in other conduct that should be reviewed by the College, including by making the failure to report an offence punishable by a fine of up to $25,000.

Takeaways for school boards

As of April 20, 2023, Bill 98 is only on its second reading before the Legislative Assembly of Ontario. It may will be subject to revision before it is passed in its final form and school boards should:

- **Carefully monitor the progress** of Bill 98.
- **Review the oversight, investigation and discipline** of school board trustees as they may impact existing board policies, by-laws and procedures.
- When entering into any new employment agreements, keep in mind that **new requirements** for directors of education, supervisory officers, or superintendents, including mandatory training, may be forthcoming.
- **Stay apprised of changes to ministerial authority** over school property and to comply with any new reporting obligations.
- **Review changes to reporting obligations** to the Ontario College of Teachers and consider whether information about these changes should be included in professional development days at the start of the 2023-2024 school year.

If you have any questions about Bill 98 and changes for regulated individuals in the education sector, including school board trustees, teachers and early childhood educators, please reach out to any of the key contacts listed below.

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