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**SCHOOL BOARD REFORM:
A Better Cure for the Democratic Deficit**

Presentation to

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Law Amendments Committee

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Elected school boards in Nova Scotia are in serious peril and Education Minister Ramona Jennex's proposed legislation may well seal their ultimate fate. This innocuous looking little bill, the "School Board Members Duties Clarification Act," introduced last week, directs elected members to "respect" the superintendent and will only deepen the democratic deficit in public education.

School board members were once known as "school trustees" and expected to represent us, meaning local parents and taxpayers. Today, the Education Department and province's eight school boards are gradually implementing a new corporate governance model turning elected boards into "rubber stamp" operations, rendering individual school trustees little more than 'cheerleaders' for the status quo, and promoting "the achievement of all students."

Firing three elected boards in six years, placing them under one-person receivership, treating elected representatives like unruly class members, introducing sanctions for periodic misbehaviour, and now legislating a further reduction in duties, is not the way to restore public confidence in elected school boards. It also reflects a complete misreading of the dire threat to local education democracy.

Elected school boards are suffering from an advanced stage of "acclamation disease." In the October 2012 municipal election, only three of the province's eight school boards remained democratically healthy, and two of them were cleansed through previous firings. In the Annapolis Valley Board, school board candidates were acclaimed in 12 of the 14 districts and one seat remains unfilled. Across the province, two-thirds of the seats were uncontested and only 155 candidates surfaced to contest 94 school board positions.

With local education democracy dying on the vine, legislating "School Board Members" to report to the regional superintendents will only compound the problem. Limiting their duties exclusively to focusing on "achievement for all" further erodes the public representational role vital to effective public accountability.

Introducing such a measure while enthusiastic newly-elected school trustees are just settling into their roles is a real body blow, all but certain to blunt any latent desire to voice independent ideas or public concerns.

The Canadian School Board Association and its president, Sandi Urban-Hall, are both aware of the imminent dangers, having commissioned a Memorial University research team to conduct a study of the impact of recent school board firings on school board governance and the effectiveness of such elected bodies.

The Nova Scotia School Boards Association (NSSBA) has, so far, remained silent. Publishing a brochure entitled "School Boards in a Democratic Society" has little value when you stand idly-by watching your members' democratic role being chipped away piece-by-piece.

Strict policy governance rules, introduced in stages since 2010, stand in sharp contrast to the Nova Scotia Municipal Act giving “broad authority” to Councils and granting Councillors much broader powers defined “not narrowly and with undue strictness.”

The new legislation is also completely out-of-step with current thinking on effective board governance. “Shared decision-making” and “generative policy-making” advocated by Harvard University’s Richard Chait are now best governance practice. They not only produce better decisions, but help to attract higher-calibre board members with something significant to contribute to the organization.

Seven years ago, Ontario Education Minister Gerard Kennedy faced a similar set of school board governance issues. Instead of clamping down on elected school board members, he issued a remarkable March 2006 policy paper entitled “Respect for Ontario School Trustees.”

Alarmed by record numbers of school board acclamations (54% in the 2003 election) and responding to legitimate Ontario Public School Boards Association concerns, the Education Partnership Roundtable recommended a completely different approach than the one chosen by Minister Jennex and her Deputy Minister Carole Olsen.

“The trustee role is widely under-appreciated and misunderstood,” the Ontario policy paper stated, before it “affirmed the standing” of school board trustees as “key decision-makers” exercising “five elements of educational oversight: effectiveness, efficiency, community engagement, ethics, and representation.” The resulting 2009 Ontario reforms spelled out the roles of individual trustees, board chairs and directors of education and boards were mandated to produce multi-year plans for improving student outcomes.

Individual school trustees were fully recognized, in Ontario law, as distinct from administration. Instead of limiting the role, the Ministry of Education reaffirmed the mission-critical role of elected trustees in securing and sustaining “an essential trust agreement with parents and communities around the education and care of children.”

Today Ontario’s elected school board members are recognized for playing a key role in community engagement. Rather than being discouraged or obstructed in trying to work with School Advisory Councils, elected board members are supported in their efforts to work with, and through, school-based parent groups.

Instead of being channeled through the superintendents, the 2006 Ontario Roundtable expressed confidence in elected trustees, urging that they be guaranteed “openness and transparency,” wide access to all “readily accessible information,” and far more more autonomy to “ask questions” and actively engage in local policy-making.

Today, I come before you to recommend a few amendments to Bill ~~113~~¹³¹ to address its deficiencies, to reaffirm support for democratically-elected board members, and to strengthen local accountability in public education. You would be well advised to look carefully at Ontario’s **Bill 177**, passed into law as the **Student Achievement and School Board**

Governance Act 2009, and particularly the sections clarifying the roles of individual board members (218.1) , board chair (218.4), and directors or superintendents of education (283.1).

The Ontario school governance reform legislation, developed over three years, with extensive consultation, establishes, in law, a shared leadership model, based upon mutual trust and interdependent relationships. Instead of mandating every school board member to: a) maintain a focus on the achievement of all students...., b) respect that the superintendent is responsible for the day to day management of the school board, and c) act in the best interest of the school board... as a corporate entity, the Ontario Education Act now clarifies the individual board member's role in relation to the board chairs and the superintendents, and in relation to parents and school communities.

The Ontario Education Act amendments provide much more clarity and read as follows:

Duties of board members

218.1 A member of a board shall,

(a) carry out his or her responsibilities in a manner that assists the board in fulfilling its duties under this Act, the regulations and the guidelines issued under this Act, including but not limited to the board's duties under section 169.1;

(b) attend and participate in meetings of the board, including meetings of board committees of which he or she is a member;

(c) consult with parents, students and supporters of the board on the board's multi-year plan under clause 169.1 (1) (f);

(d) bring concerns of parents, students and supporters of the board to the attention of the board;

(e) uphold the implementation of any board resolution after it is passed by the board;

(f) entrust the day to day management of the board to its staff through the board's director of education;

(g) maintain focus on student achievement and well-being; and

(h) comply with the board's code of conduct.

Code of conduct

218.2 (1) A board may adopt a code of conduct that applies to the members of the board.

The critical role of the Board Chair in providing leadership on the elected school board is also recognized in law, as follows:

Duties of Board Chair

Additional duties of chair

218.4 In addition to any other duties under the Act, the chair of a board shall,

- (a) preside over meetings of the board;**
- (b) conduct the meetings in accordance with the board's procedures and practices for the conduct of board meetings;**
- (c) establish agendas for board meetings, in consultation with the board's director of education or the supervisory officer acting as the board's director of education;**
- (d) ensure that members of the board have the information needed for informed discussion of the agenda items;**
- (e) act as spokesperson to the public on behalf of the board, unless otherwise determined by the board;**
- (f) convey the decisions of the board to the board's director of education or the supervisory officer acting as the board's director of education;**
- (g) provide leadership to the board in maintaining the board's focus on the multi-year plan established under section 169.1;**
- (h) provide leadership to the board in maintaining the board's focus on the board's mission and vision; and**
- (i) assume such other responsibilities as may be specified by the board.**

Superintendents in Ontario are known as Directors of Education and they are also provided with clarified duties:

Additional duties of director of education

283.1 (1) In addition to his or her other duties under this Act, the director of education shall,

- (a) annually review with the board the multi-year plan developed under clause 169.1 (1) (f);**
- (b) ensure that the multi-year plan developed under clause 169.1 (1) (f) establishes the board's priorities and identifies specific measures and resources that will be applied in achieving those priorities and in carrying out its duties under this Act, in particular, its responsibility for student achievement as set out in section 169.1;**

(c) implement and monitor the implementation of the multi-year plan developed under clause 169.1 (1) (f);

(d) report periodically to the board on the implementation of the multi-year plan developed under clause 169.1 (1) (f);

(e) act as secretary to the board;

(f) immediately upon discovery bring to the attention of the board any act or omission by the board that in the opinion of the director of education may result in or has resulted in a contravention of this Act or any policy, guideline or regulation made under this Act; and

(g) if a board does not respond in a satisfactory manner to an act or omission brought to its attention under clause (f), advise the Deputy Minister of the Ministry of the act or omission.

Exception, secretary of small boards

(2) Despite clause (1) (e), a board of not more than five elected members may appoint a member of the board to act as secretary to the board.

References to secretary

(3) A reference in this Act or any other Act, or in the regulations made under this or any other Act, to the secretary of a board is deemed to be a reference to the director of education of the board.....

Public confidence is already badly shaken, but it is not too late to change direction. It's time to remove the muzzle and to learn from best governance practice. With a shared leadership model in place and mutual respect re-established, then it is good governance practice to mandate board members *"to entrust the day-to-day management of the board to its staff through the superintendent of education."*

You have an opportunity to demonstrate public confidence in democratically-elected boards and to put school board governance back on track in Nova Scotia. Putting the "trust" back into the "school trustee" role and giving them back the right to speak up for parents and school communities is a far better way to restore vitality to the whole system.