



October 21, 2011

VIA EMAIL  
(Hard copy to follow)

The Honourable Thomas Lukaszuk  
Minister of Education  
Room 423 Legislative Building  
10800 – 97 Avenue  
EDMONTON AB T5K 2B6

Dear Minister:

**Re: Bill 18: Education Act 2011**

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Thank you for your letter of October 20, 2011 inviting additional input into the proposed *Education Act*. We are delighted that the lens being used to critically examine this important piece of legislation is focused on what is best for students, as informed by discussions with Albertans on the important matter of education.

The Alberta School Boards Association's vision and mission statements speak precisely to this focus – by supporting publicly elected school boards in their efforts to ensure that students in Alberta have the opportunity to reach their highest potential, and promoting excellence in public education. And we took considerable care in our previous commentaries to ensure every proposal was reviewed with this aim in mind.

School boards across the province continually endeavour to maintain this focus as they provide education programs to Alberta's students.

The Alberta School Boards Association (ASBA) hopes that *Bill 18* will be considered in the 2011 Fall Session, as the proposed *Education Act* is the culmination of two years of consultation, and is most certainly timely.

One of the stated purposes of the revision was to make the *Act* more enabling and less prescriptive. This was to be achieved by creating a legislative framework in the *Act*, complemented by the development of Regulations and Ministerial Orders to more comprehensively address certain matters with greater specificity. Stakeholders were provided a commitment from the previous Minister, and current Deputy Minister, that they would be involved in the drafting of the necessary Regulations and Ministerial Orders. ASBA looks forward to working with you and the Ministry in this very important next step.

One limitation in the revision of the *Act* was the Government's commitment in 2007 that no changes would be made to legislation, regulation or policy which would affect, among other matters, the working conditions of teachers for the five-year term of the current teacher collective agreements. The *Education Act Framework 2011* states that "[t]he provisions that relate to professionals and paraprofessionals in the education sector will be moved into a separate act, the *Education Professions and Occupations Act* (working title) for introduction in 2012 or 2013." ASBA reiterates its submissions regarding provisions relating to school board employees and looks forward to being an integral part of the discussion and development of legislation with respect to the review of the roles, responsibilities and working conditions of the employers', that is school boards', instructional staff.

Responding to a similar previous invitation to provide input into the revision of the *Act*, ASBA provided a submission to Alberta Education dated November 2, 2009, referred to as the *ASBA School Act Submission 2009*, which is attached for ease of reference. Additionally, following the release of the *Education Act 2011 Proposed Framework* that was distributed to stakeholders on October 7, 2010, ASBA provided two letters of response in January 2011. These have also been attached. The following comments are in addition to, and not in place of, these previous submissions.

The following comments do not attempt to provide commentary on each of *Bill 18*'s proposed provisions. Instead, ASBA wishes to highlight certain proposed provisions that the ASBA believes require clarification or where the ASBA seeks to provide additional context.

#### Age of Access (s.3)

The age of access has changed from "younger than 19 years of age" to "younger than 21 years of age". No change was made to the earlier end of the spectrum – still six years of age.

Based on research (referred to in the ASBA's previous submission) which shows an abundance of benefits of investment in early childhood services, ASBA supports earlier access to funded public education as a strategy to increase the chances of success in life for Alberta's children. Consistent with earlier access, is an obligation to enable a universal developmental needs assessment of all children, by age 30 months, to identify children who are at risk. Without such universal assessment, the gains made by providing earlier access to education would not be fully realized.<sup>1</sup> Furthermore, with respect to earlier access to education, the ASBA supports, where provided, kindergarten and pre-kindergarten programs being provided sufficient resources to support their operation.

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<sup>1</sup> Page 7, *ASBA School Act Submission 2009*

In addition, consistent with ASBA Policy on Education Finance, ASBA recommends that the new *Act* provide that children who are 30 months of age or older at September 1 of the school year who are identified as “at risk” have funded programs available to them as well.

Given the research (referred to in the ASBA’s previous submission) regarding the abundant benefits of an investment in early childhood services, the ASBA inquires as to whether the investment of resources at the later end of the K-12 spectrum would yield comparable benefits. While the ASBA is supportive of this investment, it recognizes that there may be logistical challenges with providing funded access to older students.

#### Resident Student (s.4)

The determination of resident student status has changed from being determined by the residence of the parent to the residence of the student.

Section 4(7) appears to address ASBA’s previous request for clarification in determining student residency where a student lives part-time in different households such as in split-families. The new provision provides that if there is a change in residence after commencement of school, the parent must designate the residence for the balance of the school year.

As previously submitted, the ASBA believes that every Albertan deserves the same level of educational funding from the provincial government. Consequently, the ASBA believes that it is of the utmost importance that clarification be provided in the *Education Act* regarding the educational funding of First Nations students living “on reserve” who access nearby provincial public education services and how the new definition of a “resident student” may impact this issue. Furthermore, the ASBA seeks clarity with respect to the education of First Nation learners and the Memorandum of Understanding between the Government of Canada, the Government of Alberta and the Assembly of Treaty Chiefs in Alberta.

#### Compulsory Education (s.7)

The compulsory age to attend school has increased from “younger than 16 years of age” at September 1st to “younger than 17 years of age” at September 1st.

ASBA generally supports measures to increase high school completion rates, though there is some concern that increasing mandatory school attendance age will compound the challenges school boards already face in enforcing mandatory attendance.

New sections related to changes in the Attendance Board may assist boards in this enforcement, (i.e. mediation through case conferences, one-member panels may be established to allow for faster process), though the effectiveness of these new provisions remains to be seen.

### Alternative Programs (s.19(3))

With respect to alternative programs, a new provision that a board may offer an alternative program under subsection (2) that operates within the geographic boundaries of another board only if the other board has been requested to offer the alternative program and has refused is included in the proposed *Education Act*.

ASBA previously sought clarification as to the legislature's intention regarding the operation of schools, including virtual schools and non-resident home education programs, outside a district's electoral boundaries. The proposed *Education Act* only clarifies the operation of an alternative program outside electoral boundaries.

### Student Responsibilities (s.31)

Students must now ensure that the student's conduct contributes to a caring, respectful and safe environment; and refrain from, report and not tolerate bullying or bullying behaviour directed toward others in the school, whether or not it occurs within the school building, during the school day or by electronic means.

ASBA previously submitted that recognizing the role of the student "would assist school boards in sharing an understanding with their students on expectations, roles and responsibilities."

### Parent Responsibilities (s.32)

The responsibilities of parents with respect to a student's education are now clearly articulated in the proposed *Act*, where previously, only a statement in the preamble was made.

ASBA believes in and honours the important role that parents play in the education of their children and in providing advice and assistance to teachers, schools and school boards.

Section 32(f) requires that a "parent of a child who is a student or enrolled in an early childhood services program has the responsibility to respect the professional judgment of teachers, principals, other school staff and professionals providing supports and services in the school". If the concept of s.32(f) is to promote a collaborative and positive relationship between a parent and their child's teacher, or professional educators, then s.32(f) could be amended to state:

- (f) encourage, foster and advance collaborative, positive and respectful relationships with education professionals that ultimately benefit their child's success as a student.

ASBA notes that there is no complementary provision in the proposed *Act* for the exercising of the parent's responsibilities to be respected by teachers, principals, other school staff and professionals.

ASBA recommends including a section on teacher responsibilities in supporting students and their learning which includes a section complementary to the parent responsibility clause s.32(f); that it is the responsibility of a teacher to: “build collaborative, positive and respectful relationships with parents to support student learning”.

#### Board Responsibilities (s.33)

The proposed *Act* outlines a number of responsibilities of a school board, some of which are new.

With respect to the duty imposed by s.33(1)(e) regarding the provision of a continuum of specialized supports and services, ASBA previously sought clarification on the question of where responsibilities of social service agencies end and the responsibilities of the education system begin – and end? It would seem the proposed *Act* does not provide clarification on this question.

With respect to s.33(1)(j) and s.84(1)(c) [code of conduct and breach], the ASBA is pleased to see that the *Education Act* will strengthen individual trustee accountability by enabling steps for removal of a trustee from office, where the actions of the trustee are no longer consistent with the fulfillment of their statutory roles and responsibilities.

With respect to the anti-bullying policy requirements outlined in s.33(2), ASBA looks forward to working with the Ministry in the development of supporting Regulations and Ministerial Orders outlining these requirements.

#### Suspensions and Expulsions (ss.35-36)

Included in the revised *Act* is confirmation that a student may be suspended or expelled for conduct that occurs outside of the school or after the school day.

The modification to s.35 confirms current authority and practice regarding suspensions and expulsions for off-campus conduct.

The addition of s.36(7) confirms that a board may establish rules and conditions for which a student may be re-enrolled in the same or different program. The addition of s.36(8) confirms that an expulsion or condition for re-enrolment may extend beyond the current school year.

The ASBA previously submitted that the *Education Act* should enable administrators to require students, who are deemed to be a threat to the health, welfare or safety of other students or individuals in the school to undertake appropriate assessments and/or appropriate professional treatments. Further specificity authorizing a board to direct such assessments or treatments does not appear in the revised *Act*.

## Concluding Comments

The ASBA is pleased to see that a number of the issues raised in prior submissions have been considered and addressed in the new Education Act - particularly, the provisions that address universal access, the role of the parent and the student, increased autonomy of locally elected school boards to respond to local needs, increased accountability of trustees, and the apparent simplification of the school closure process.

Finally, given the significant impact that the regulations supporting the new *Education Act* will have on school boards, the ASBA submits that the new *Act* should include a provision that requires the government to consult with the ASBA during the development of such regulations.

ASBA looks forward to being able to assist the Minister with refinement of the proposed provisions and is ready and able to provide further comment and discussion on any matters discussed in this proposal or any matters that may arise regarding the new *Education Act*.

Yours truly,



Jacquie Hansen  
ASBA President

Enclosures

c.c.: Mr. David Anderson, Executive Director  
Alberta School Boards Association

Mr. Keray Henke, Deputy Minister  
Alberta Education

Mr. Michael Walter, Assistant Deputy Minister  
Strategic Services, Alberta Education

Ms. Maureen Towns, Director, School Act Review  
Legislation Services Branch, Alberta Education

All School Board Chairs

JH/C/A/L