

# Alberta's School Act

Creating Our Future



Promoting Excellence in Public Education

## Starting Points

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The Alberta School Boards Association (ASBA) represents Alberta's public, separate and francophone school boards, all responsible, pursuant to the provisions of Alberta's *School Act*, for the delivery of education in the public education system.

**Wherever the public education system is referenced in this document, it is understood to be inclusive of the public schools, the separate schools and the francophone schools.**

ASBA appreciates the opportunity to engage in a dialogue about possible changes to Alberta's *School Act*. The current Act, while ageing and somewhat prescriptive, has helped create an education system in Alberta envied by many of the world's democracies. As such, the central task of this dialogue, in ASBA's opinion, is to recognize and build on the current and historical strengths of Alberta's *School Act* with a view to providing a vision and governance structure that will continue to serve Alberta's students well for the next 20 years. The ASBA commends the Minister for initiating the current Inspiring Education conversation and believes that this public engagement initiative will provide positive direction for a renewed *School Act*. Consistent with the intent of this dialogue, ASBA asks the Alberta Government to consider the following enhancements/changes to Alberta's existing *School Act*. Recommendations are clustered around four (4) broad themes with supporting detail and rationale:

- ◆ Strengthen the central role that public education plays in the delivery of education to all of Alberta's children;
- ◆ Support student success;
- ◆ Strengthen the role of publicly elected school boards and their ability to respond to local needs; and
- ◆ Ensure mandate clarity.

This submission, while largely based on ASBA policy positions, was vetted in a series of six (6) discussion sessions held with all of Alberta's school boards during October, 2009. Notwithstanding, these submission points require a great deal of additional dialogue. These submissions are presented as conceptual proposals with the understanding that further discussion on each element would be essential. Having said that, the most widely supported sentiment provided to ASBA throughout these discussion sessions is the need for ongoing engagement of stakeholders in this process.

The ASBA recognizes the government's desire to consider an *Education Act*. School boards support this notion, however, were not able to solely frame their input into the process with that end in mind. The submission which follows largely contemplates amendments to the current legislation and concepts which would serve to strengthen the current structure; should the legislation be significantly altered, certainly if to provide a framework Act with supporting regulations and policy, full consultation of stakeholders must occur. School boards would support a process which would see a proposed framework Act brought to the spring session of the legislature for approval and then held over for consideration at the fall session. In keeping with the processes already employed by the Minister's Inspiring Education initiative, this suggested timing of events would permit the government to engage the public and stakeholders in conversations pertaining to the proposed framework. Informed and considered feedback would ensure that the very important exercise of reviewing the *School Act* is reflective of Albertans' interests and their vision for education.

### 1. **Strengthen the central role that public education plays in the delivery of education to all of Alberta's children**

Quite simply, the ASBA and its members see public education as the cornerstone of a free and open democracy. Public education develops the potential and gifts of each child and provides a foundation for lifelong learning. It develops creative thinkers and active, engaged citizens who contribute to their communities, participate in the economy and work to build an inclusive and peaceful society.

Public education opens its arms to all children regardless of nationality, belief or ability and, through this openness, models respect for diversity and the important role that each person holds in building a caring community and society.

ASBA believes that it is inappropriate to allocate public funds to private schools. This practice results in ambiguity and confusion pertaining to the mandate of the public education system.

#### **Framing Public Education**

The existing preamble to the *School Act* references the Government of Alberta's "commitment to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools..."

The ASBA appreciates this commitment and asks that the concept of "one publicly funded system" be expanded to include francophone schools to more completely capture the three faces of public education in Alberta.

The revised preamble would read:

***WHEREAS the Government of Alberta affirms its commitment to the preservation and continuation of its one publicly funded system of education through its three dimensions: the public schools, the separate schools, and the francophone schools.***

## **Funding Public Education**

At present, public funding, contrary to the *School Act* preamble statement, supports not only the public education system but also private schools and charter schools. The ASBA questions the allocation of public funds for private school purposes and asks that the *School Act* commitment to “one publicly funded system of education” be implemented through the provincial funding framework.

ASBA acknowledges that charter schools exist as a separate category unto themselves where they are in receipt of public funds, but operate independent of the three dimensions of the public education system. ASBA would reiterate its concern of utilizing public funds beyond the public education system.

While in support of many of the principles underpinning the current provincial funding framework, the ASBA believes that two additional principles, for both operational and infrastructure funding, need to be implemented through this funding framework, these being the principles of **adequacy (sufficiency)** and **long term predictability**. Many school boards in Alberta, for example, are concerned about a growing reliance on fund raising for basic education needs and are concerned about the lack of adequacy and predictability in annual operating and infrastructure funding. While the current *School Act* is silent on the issue of funding, ASBA would support the discussion of including funding principles in a new *School Act*.

## **The Primacy of Public Education**

The ASBA recommends that the *School Act* preamble statements be expanded to include specific reference to the primacy of public education in the delivery of education programs and the important role they play in a democratic society. For example, the ASBA would support a statement like the following:

***WHEREAS a strong public education system is a fundamental element of a democratic society.***

## **Mission Statement for Public Education**

The ASBA further believes that a revised *School Act* should contain a clear vision/mission statement for public education in Alberta. In support of this, the ASBA would propose the statement that was presented to Alberta’s *Commission on Learning (2003)* cooperatively

developed by the Alberta School Boards Association, the Alberta Teachers' Association, the Alberta School Councils' Association, the Alberta Catholic School Trustees' Association, the College of Alberta School Superintendents, and the Association of School Business Officials of Alberta:

Public education in Alberta has a three-fold mission:

1. To develop the potential and gifts of each child
2. To develop a foundation of learning that enables individuals to function effectively in further learning, work and life
3. To foster the development of active and contributing citizens of a democratic society

### **Choice within Public Education**

The ASBA maintains that the three faces of public education—public, separate and francophone—offer students and parents a rich selection of choices. Within this educational macrocosm, students and parents can also choose from a wide variety of specialties and approaches—second language or immersion schools, faith-based schools, military academies, self-study approaches, virtual schools and more.

The Alberta School Boards Association is a strong supporter of the principle of choice. But the right to choose must recognize the local context and be based on the principle of fairness.

With regard to the issue of choice within the local context, some school boards are concerned that choice, taken to an extreme, can undermine a universal public education system. This is particularly the concern of smaller communities that educate fewer students. The introduction of too many choices in these smaller communities can lead to the fragmentation of the local public education system and undermine its viability. Publicly elected school boards, connected to their communities, are in the best position to balance the need for a strong and viable public education system against the provision of choice within this system.

Public education serves the interests of society as a whole. As a result, fair funding and equitable access to programs of choice within the public system are particularly important.

Further, the ASBA supports the constitutional right of Alberta's protestant, catholic and francophone minorities to develop learning outcomes and delivery approaches that support the particular needs of their students.

In summary, the ASBA believes that a new *School Act* should champion and strengthen a universal public education system.

## **2. Support Student Success**

Student learning and student well being are the bottom line for Alberta's school boards. While the ASBA recognizes that a *School Act*, of necessity, must outline the broad structure and relationships within the education system, the ASBA recognizes that public education exists to support students and their learning regardless of where in the province they reside.

### **Universal Access**

The ASBA believes that each student, regardless of their place of residence in the province, has a right to access schooling appropriate to their needs. Implicit in this notion is the principle of equity. At present, some school boards that educate rural or geographically isolated students are of the view that program access equity is lacking for these students. A new *School Act* must enable equitable access for all students to programs appropriate to their need.

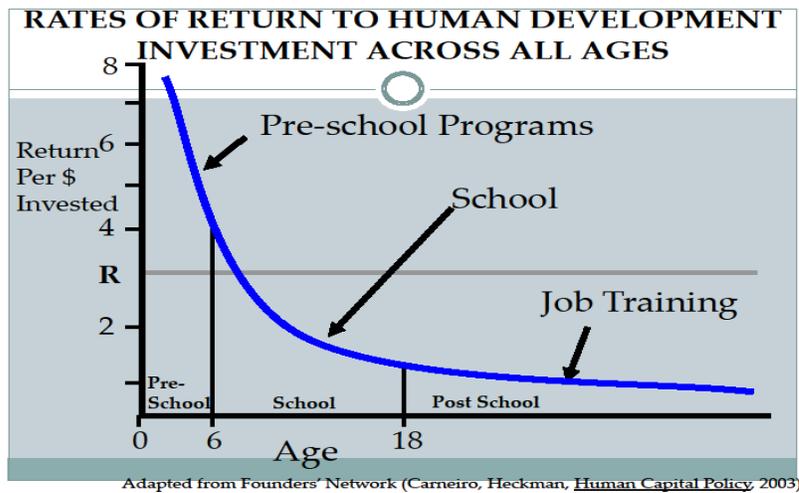
### **Early Intervention**

The ASBA, consistent with the findings of the *Alberta Commission on Learning (2003)*, believes that a healthy and positive start to formal schooling is an essential factor to student success. Early experiences, in fact, establish the architecture of the brain and the developmental trajectories for the learning, behaviour, and health of individuals and populations (McCain, Mustard and Schenker, 2007).

In the ASBA's view, success tomorrow often depends on preventive measures today.

As figure 1 illustrates, dollars invested in early childhood education and early intervention have a significantly higher impact than corrective actions taken later in a student's life.

Figure 1



Children who start school ready to learn have a better chance of success in life. The Alberta School Boards Association commends the provincial government's current initiatives for early intervention. ASBA believes, however, that adding two provisions to the *School Act* can help students be better prepared for their formal schooling.

◆ **Universal Assessment**

The ASBA believes that the provincial government should enable a universal developmental needs assessment of all children, by age 30 months, to identify children who are at risk. Though this commitment need not be the responsibility of Education, should it be determined that the public school system will be responsible for this effort, the *School Act* must address this obligation. This commitment would further enable the development of an integrated services program plan that would address the identified risk factors.

◆ **Kindergarten**

ASBA recognizes the important role pre-kindergarten and kindergarten programs play in the development of children who, by assessment, are identified at risk of not achieving to the level of their potential. ASBA maintains that such students and programs should be included fully under the provisions of the *School Act* with sufficient resources to support their operation.

In ASBA's view, these two provisions would help ensure that all children begin grade one ready to learn.

## **Enhancing Student Safety**

Further amendments to the *School Act* are needed in order to enable school boards to act swiftly and competently in assessing student safety risks. School boards, for example, are often faced with situations where one student is alleged to be the victim of a violent crime committed by another student and the two students are in the same class and/or school. School boards need to have tools at their disposal under which they can mandate that a risk assessment be completed on the relevant students and be empowered to take steps either prior to or following the expiry of a suspension or expulsion to transfer students to an appropriate program. Similarly, the *School 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 schools to undertake appropriate assessments and/or appropriate professional treatments.

Further, the ASBA believes that, either through legislation or regulation, school boards ought to be required to undertake criminal record checks and background investigations of all employees who work closely with students. Information privacy concerns may need to be addressed in advancing this option.

## **Role and Responsibilities of Teachers**

The ASBA maintains that the professional relationship between school boards and teachers is at the heart of a strong public education system and that good teaching provided by competent teachers is fundamental to student success. To support this belief, the ASBA proposes legislative changes which clarify the roles and responsibilities of teachers as professionals.

Although current Alberta legislation defines the role of teachers, this information is dispersed in multiple documents. In addition, some traditionally accepted teaching roles are not addressed in current legislation. To correct these issues, the ASBA recommends amending the role of the teacher as it is currently defined in Section 18 of the *School Act*. The proposed amendments serve a number of functions:

- ◆ They affirm that school boards value teachers and recognize the important role teachers play in achieving excellence in public education.
- ◆ They compile the requirements for teachers in one place.
- ◆ They provide a comprehensive description of the broad professional role Alberta teachers hold and have historically held.

## Proposed Amendments to Section 18 of the *School Act*

In the following, existing legislation is displayed in black text with proposed amendments displayed in **bold** text.

- 18(1) A teacher while providing instruction or supervision must
- a. provide instruction competently to students;
  - b. pursuant to the Teaching Quality Standard, possess the knowledge, skills and attributes related to interim or permanent certification, as applicable, and apply them appropriately toward student learning;**
  - c. teach the courses of study and education programs that are prescribed, approved or authorized pursuant to this Act;
  - d. promote goals and standards applicable to the provision of education adopted or approved pursuant to this Act;
  - e. encourage and foster learning in students;
  - f. continually improve teaching practice through professional development activities that reflect:**
    - (i) goals and objectives based on an assessment of learning needs by the individual teacher;**
    - (ii) a demonstrable relationship to the teaching quality standard; and**
    - (iii) alignment with the education plans of the school, the school authority and the Government;**
  - g. regularly evaluate students and periodically report the results of the evaluation to the students, the students' parents and the board;
  - h. maintain student records, including assessment and attendance, and make them available as required;**
  - i. maintain, under the direction of the principal, order and discipline among the students while they are in the school or on the school grounds and while they are attending or participating in activities sponsored or approved by the board;
  - j. build student rapport and engender respect for a safe and caring school environment;**
  - k. work cooperatively with various partners in the school community;**
  - l. attend meetings or conferences called by the principal or superintendent;**
  - m. subject to any applicable collective agreement and the teacher's contract of employment, carry out those duties that are assigned to the teacher by the principal or the board.

- 18(2) A teacher’s professional obligations include**
- a. participation in special school activities and events.**
- 18(3) A superintendent shall establish and maintain role and responsibility statements for school-based teachers who perform duties substantively different than those of a classroom teacher. Such statements must be consistent with relevant provincial policy and procedures.**
- 18(4) At any time during the period of time that a teacher is under an obligation to the board to provide instruction or supervision or to carry out duties assigned to the teacher by the principal or the board, a teacher must, at the request of the board,
- a. participate in curriculum development and field testing of new curriculum;
  - b. develop, field test and mark provincial achievement tests and diploma examinations;
  - c. supervise student teachers.

### **Strengthen K-12 and Post Secondary Linkages**

The ASBA supports the enactment of legislation to increase articulation between the basic education and post secondary education systems. The present linkages, in subjects like Math, Social Studies, English and Science are often problematic for students. Students need to be assured that transitions in Alberta’s education system are well developed and seamless.

### **The Important Role of Parents**

The ASBA believes in and honours the important role that parents play in the education of their children and in providing advice and assistance to schools and school boards. School boards see students and their parents as their clients, involved in an interdependent and mutually supportive relationship focused on helping students learn and grow into responsible community citizens. The ASBA believes that a new *School Act* needs to recognize this role and continue to provide enabling provisions for school councils to provide advice and assistance to schools and school boards.

### **The Important Role of Students**

Students remain the central focus of all school boards’ efforts. The ASBA believes a new *School Act* ought to recognize the role of the student, supporting and enabling them in

achieving their educational goals. Such amendments to the *Act* would assist school boards in sharing an understanding with their students on expectations, roles and responsibilities. ASBA would be pleased to participate in any efforts to further this proposal.

### **3. Strengthen the role of publicly elected school boards and their ability to respond to local needs**

The ASBA believes that publicly elected school boards are a vital and essential component of a public education system. From its earliest beginnings, the development of education in Alberta has been a democratic community issue.

The 1884 North-West Territories School Ordinance, for example, established a system of public education governed by locally elected school trustees. This system was adopted by the Alberta Legislature when Alberta became a province of Canada in 1905.

The concept of democracy has its roots in the Greek words *demos* (the people) and *kratein*, (to rule). Democracy then is found wherever the people somehow rule. Such is the case with elected school boards, the first grass roots publicly elected bodies in Alberta. Albertans are fortunate in having inherited a tradition of publicly elected school boards that are closely connected to their communities. A new *School Act* needs to honour and build on this important heritage.

The ASBA believes, however, that the role and flexibility of school boards has been eroded over the past two decades. Alberta's school boards currently operate under a complex, detailed and comprehensive provincially established regulatory framework. At the same time, school boards, by virtue of their mandate and their publicly elected roles, have an obligation to be sensitive and responsive to the needs of the communities and citizens that elect them. This need for flexibility is captured by a key ASBA guiding principle that emphasizes the need for school boards to have sufficient autonomy, flexibility and funding to ensure that school boards can address the particular character and needs of their jurisdictions. In the ASBA view, the provincially established regulatory framework must be balanced against the need for local flexibility to meet unique circumstances in communities as diverse as Fort McMurray in northern Alberta and Lethbridge in southern Alberta. The ASBA view is that this balance is currently tilted towards central control and as such the regulatory framework needs to be rebalanced.

The following suggestions are offered by boards as potential means of strengthening their roles and accountabilities to their communities:

### **Balancing the Relationship – The Principle of Subsidiarity**

Recognizing that government has the constitutional authority and responsibility to develop laws to govern education, ASBA suggests a balance is needed between that role and the mandate of school boards to be responsive and responsible to their communities. To balance this relationship, the ASBA encourages the Alberta Government to consider the principle of **subsidiarity** when crafting the relationship between Alberta Education and school boards in the new *School Act*. The subsidiarity principle supports reasonable decentralization and argues that matters ought to be handled by the smallest, lowest or least centralized competent, and in this context, publicly elected authority. To be clear, ASBA supports the recognition of elected school boards as being the lowest or least centralized competent authority. The principle of subsidiarity, and as offered in our submission, can be defined as the idea that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level. The concept is presently best known as a fundamental principle of European Union law and is incorporated in the 10<sup>th</sup> amendment to the United States constitution. The ASBA believes that this principle can help frame the interdependent relationship between Alberta Education and the province's school boards. It is this relationship, the shared governance partnership, which is unique to Alberta Education and school boards in our public education system.

### **Accountability**

Increased authority needs to be supported by increased accountability. In addition to the current accountability provisions provided the Minister in the *School Act*, the ASBA would support a *School Act* provision that would strengthen board and individual trustee accountability by enabling steps for the removal of a board or trustee from office, where the actions of the board or trustee are no longer consistent with the fulfillment of their roles and responsibilities under the *School Act*. ASBA has a number of suggestions which we would be pleased to offer in supporting further consideration of this position. Notwithstanding, ASBA suggests that the *Act* should direct the Minister to set the date for election where a board has been removed from office.

## Connecting School Boards and Communities

The ASBA believes that school boards provide **accessibility**. They provide a vital connection between parents, students, community stakeholders, provincial and municipal governments and local schools. School boards provide **a voice**. They are representative of and responsive to their communities. They hear the voices of everyone in the community - parents, students, community stakeholders, provincial and municipal governments alike - and ensure a community perspective in decision making. As stated previously, school boards have the unique distinction of partnering with Alberta Education in governing Alberta's public education system.

To capture the historic school board role in Alberta and to reinforce its connection to the community, ASBA proposes that the *School Act* preamble include the following statement:

***WHEREAS democratically elected school boards play an important role in providing public education that is responsive to local needs and conditions.***

The important and intrinsic school board link to its community also speaks to the issue of school board geographic size. Many school boards believe that increasing the geographic size of school boards any further moves them away from their communities and weakens community connections.

Further, ASBA believes that a new *School Act* needs to address the following issues that currently present barriers to the ability of school boards to properly represent their communities and effectively manage the public education system.

### **Ends Rather than Means**

As a general guideline, the ASBA believes that the legislative framework which governs the work of school boards should focus on ends or outcome statements leaving school boards the flexibility to implement this framework with appropriate accountability to the electorate and the provincial government.

At present, the provincial regulatory framework for school boards contains both ends and means, or stated alternatively, contains both outcomes and required processes. Provincial policy statements, for example, in addition to the policy statement or policy "end", contain over 350 specific procedures expected of school boards. As well,

Ministerial Orders, Ministerial Regulations and the other documents of compliance for school boards contain numerous “means” requirements.

An example is the provincial school closure regulation with its approximately 30 process elements. The complexity of these process elements has led to a number of court challenges on the grounds of procedural irregularity or lack of procedural fairness. The school closure regulation, for example, asks boards to detail plans for the alternate accommodation of children of a school under consideration for closure. This has led to complaints and perceptions regarding the board having “made up its mind” well before formal school closure hearings.

### **Natural Person Powers**

One area in which change is required relates to the concept of natural person powers. Under current legislation, school boards can only take action on issues that are implicitly or expressly sanctioned by the *School Act*. This limits the powers of school boards and curtails their ability to respond to local needs and priorities. The ASBA recommends amending the *School Act* to grant school boards natural person power. This would give boards the authority to undertake any initiative unless it was expressly prohibited by the *School Act*. It would provide school boards with the autonomy to act and would give them the same decision-making authority as municipalities enjoy.

Natural person powers provide municipalities with authority similar to those used by individuals and corporations and give them the flexibility to conduct their administrative and organizational affairs without the need for many specific legislative provisions. Providing school boards natural person powers may well help change the *School Act* from a prescriptive, literal statute to one that is more flexible and enabling.

### **Curriculum**

The ASBA recognizes that a current strength of Alberta’s public education system is a strong provincially established curriculum. ASBA believes that this strong common provincial curriculum must be maintained while supporting and enabling school boards in the development of approved curriculum unique to their local needs. As such, school boards must continue to have a voice when curriculum is being developed and retain the right to set locally developed curriculum and be able to choose instructional resources and methods of delivery for provincial curriculum that best meet students’ needs.

## **Taxation**

The ASBA believes that school boards should have their traditional authority reinstated to access some portion of the province's tax base. Alberta's school boards have had the right to tax their local residents since the passing of the Northwest Territories Ordinance. This right was removed in 1994 with the provincial education cutback and restructuring initiatives.

The right of school boards to have some access to the local tax base is a view that is supported by Alberta's *Commission on Learning* (2003). The Commission believes that "school boards should have a limited ability to raise funds from their residents to support local priorities", and argues that "school boards should have close ties with their electors and be accountable for the decisions they make. With little or no ability to raise additional funds, the connection of school boards to their communities is weakened and their ability to address local needs is minimal" (p. 150).

ASBA has a number of suggestions which we would be pleased to offer in supporting further consideration of this position.

## **Superintendent of Schools**

School boards in Alberta generally operate under a governance model that defines the superintendent as their "one" employee with all other staff reporting to the board through the superintendent. Since the mid 90's, the superintendent of schools regulation has required school boards to seek Ministerial approval for the appointment of their superintendent and Ministerial approval of the proposed superintendent's contract. The legislated provisions surrounding superintendents' contracts have created recruitment challenges for school boards.

In essence, they are not allowed to appoint their chief advisor or negotiate a mutually agreeable contract without the approval of Alberta Education. This is a provision unique to the basic education sector as it is not applicable to municipal councils or college and university boards.

School boards see an opportunity for further strengthening their role and accountabilities by enabling this decision making authority. The current system, in requiring Ministerial engagement, results in no additional benefit to the system.

This requirement was also seen as problematic by Alberta's *Commission on Learning (2003)* (recommendation 80). In the ASBA and *Commission on Learning (2003)* view, the superintendent of school's regulation must be eliminated and the unfettered authority of a school board to hire its chief executive officer returned.

## **Employee Performance and Supervision**

Part 4 (Employment) of Alberta's current *School Act* and related regulations (e.g. Teacher Growth, Supervision and Evaluation) contain numerous "rules" about the engagement, supervision, discipline and termination of teachers. These rules, which govern in part the circumstances under which services can be provided by teachers to school boards, are complicated by the complex way in which a teacher's services are retained. Under the current *School Act* provisions, the terms and conditions of a contract of employment between a board and a teacher consists of the terms and conditions set out in the collective agreement between the board and the Alberta Teachers' Association, specified sections of the *School Act*, and the individual terms and conditions of the written employment contract between the board and the teacher, which must be in existence for each teacher.

The matter is further complicated by the restrictive forms of contracts available for the retention of teaching services which do not enable boards to, for example, hire teachers on a term basis where funding may be available only to the completion of a particular project.

The current employment provisions of the *School Act* also present a barrier to school boards that want to implement a more flexible school year like year-round schooling.

Again, provincial policies that prescribe particular methodologies or "ways of organizing" severely limit the ability of school boards to address and deal with local situations.

School boards need to have the right to hire, manage and discipline staff. The *School Act* needs to give boards a broad range of disciplinary measures, including the ability to suspend a teacher without pay. Under the current legislation, the suspension of a teacher for gross misconduct, neglect of duty, or where the teacher has refused or neglected to obey a lawful order of the board is rarely undertaken, as a paid suspension is seldom viewed as an appropriate disciplinary action.

Consistent with ASBA policy which maintains that “school boards should have all the same corrective disciplinary measures available to them to use with teachers as they have available to use with other employees that are covered by the *Alberta Labour Relations Code*,” the ASBA recommends that alternatives be explored with respect to how school boards may best be supported in managing their employees; the current processes are time consuming, costly and frustrating for school boards. ASBA has a number of suggestions which we would be pleased to offer in supporting further consideration of this position.

### **Electronic Board Meetings**

The ASBA supports an amendment to the *School Act* that would enable school boards to conduct electronic meetings. The *Municipal Government Act* expressly authorizes municipalities to hold “virtual” board meetings. No similar provision exists in the *School Act* or related regulations. The ASBA believes that the absence of this explicit provision puts school boards at risk of being challenged should they use an electronic meeting format. The need for school boards to be able to use such a format is evident as most school boards cover significant geographical distances. There are times when a “virtual” board meeting would save significant taxpayer dollars.

### **A Balanced Provincial Bargaining Mechanism**

The involvement of the Government of Alberta in the recently negotiated five year agreements between school boards and the Alberta Teachers’ Association resulted in a tectonic shift in the way negotiations with Alberta’s teachers have historically been conducted. The current agreement begs the question of what will happen at its conclusion. How will future negotiations with teachers be conducted and who will be involved?

Alberta’s *Commission on Learning (2003)* recognized the imbalance that existed in historical negotiations between the ATA and school boards. It observed that “school boards do not have an effective mechanism for providing a unified bargaining approach” and, as such, “the result is an imbalance in bargaining power between a strong and effective ATA on the one hand and a loose collection of school boards on the other”(p. 130).

The *Commission on Learning (2003)* recommended that the province establish a legislated employer bargaining association and that the scope of bargaining be limited to salary and

working conditions and exclude issues of class size, pupil teacher ratio, and hours of instruction.

Current ASBA policy supports this position and advocates the creation of a legislated, provincial school board controlled teacher bargaining model premised on the notion of single table provincial bargaining. Membership in this employer bargaining association would be mandatory for all publicly elected school boards.

Not all of Alberta's school boards support this position, however, with a number advocating local bargaining or joint collective bargaining. The ability to bargain collectively as a "coalition of the willing" would require a change to or deletion of Section 119(2) of the current *School Act*. Section 119(2) is permissive in nature and enables a board to be a member of an employer's association. The section does not, however, pursuant to a recent court decision, authorize an employer's association to undertake single table bargaining.

Having said the above, Alberta's school boards have endorsed the following bargaining principles that could anchor a new bargaining model. Within the context of collective bargaining with the ATA, the collective bargaining model that best achieves the interests of school boards and those they represent should:

- ◆ Be the voice of school boards in the collective bargaining process.
- ◆ Allow for school boards to be equitably represented.
- ◆ Maintain a positive learning environment for students during the collective bargaining process.
- ◆ Have the Employer Bargaining Association hold the bargaining certificate for all *[participating]* school boards.
- ◆ Minimize the potential for school boards to adversely impact each other in collective bargaining.
- ◆ Enable school boards collectively to negotiate contract settlements within their fiscal and economic realities.
- ◆ Reduce the duplication in bargaining efforts across the province.
- ◆ Enable trustees, administration, teachers and other stakeholders to focus on education rather than collective bargaining.
- ◆ Ensure that school boards have flexibility to address local needs.

#### 4. Ensure Mandate Clarity

Alberta's school boards would appreciate a *School Act* which provides a clear and unambiguous mandate regarding the work and responsibilities of school boards and others involved in “wrap around” services to students.

##### **The Need for a Clear Integrated Service Delivery Model**

The ASBA believes that a new *School Act* needs to provide a new governance model to support integrated service delivery. The ASBA submission to Alberta's *Commission on Learning (2003)* makes a strong case for an integrated (wrap around) service delivery model that puts the needs of students at its core. While steps have been taken to support the medical needs of students while in schools, more needs to be done. Schools are no longer just houses of learning. More and more schools are taking on new roles to meet their students' and parents' needs. Schools provide medical services, counselling, occupational and physical therapy, hot lunch programs, pre-school and after school-care, and a host of additional services beyond their mandate to provide education. Schools and school boards rely on voluntary services and create community partnerships to support the non-educational needs of students. In some cases, dollars which would have been directed to the classroom are necessarily diverted to special programs and crisis intervention.

The ASBA believes the current situation is unsustainable and that a better integrated service delivery model must be found. A new model must be premised on clear mandates and funding responsibilities. The question is, “Where do the responsibilities of social service agencies end and the responsibilities of the education system begin—and end?” If the provision of non-educational services is the responsibility of schools, appropriate funding must be made available to support this new role. If schools don't provide social, medical and counselling services, someone must be ready to “take the baton” and provide the full range of services students need. The ASBA believes that a new *School Act* needs to address this issue and must ensure clear lines of authority and accountability, funding, and effective response to children's needs.

##### **The Operation of Out of Boundary Schools**

Another mandate issue that requires clarification in the *School Act* is the legislature's intention to either permit or prohibit the operation of schools, including virtual schools and non-resident home education school programs, outside of a district's electoral

boundaries. The lack of clarity regarding this issue has resulted in expensive and time consuming litigation. The matter could be resolved simply by providing clarity regarding school board mandate.

### **First Nations Student Funding**

While the federal government is explicitly charged with the responsibility to fund First Nations education, the reality faced by most school boards is that a number of “on reserve” students access nearby provincial public education services. In such cases, school boards must negotiate individual agreements with local reserve bands to access funds to educate these students. This is a time consuming and at times frustrating and politically charged process. At times, funds provided for First Nations students do not match funds provided for provincial students. ASBA maintains that a federal/provincial agreement should be concluded to better accommodate the education of First Nations students, living "on reserve", who choose to attend provincial schools and to ensure the timely transfer of payment for the provision of such educational services to provincially funded school boards.

In essence, ASBA believes that every Albertan deserves the same level of educational funding from the provincial government. Though it is recognized that the federal government is responsible for providing funding to educate First Nations students living “on reserve,” the provincial government is obliged to provide the same funding for that student, where they chose to attend provincial schools, as would be provided for any other student in the public education system. ASBA further believes that the provincial government ought to be reimbursed by the federal government.

### **Infrastructure**

The primary legislation governing school board property (infrastructure) is Alberta’s *School Act*, specifically Part 7 (Property) and related sections 195 to 206. Section 195 of the current Act creates a positive duty for school boards regarding real and personal property, namely:

195 A board shall provide and maintain adequate real and personal property for its administrative and educational purposes.

While section 195 creates a duty for school boards, it raises some questions with regard to what “adequate” looks like and who defines and funds this “adequacy”. The ASBA

position regarding these questions is that in a free and open democracy, as is the case in Alberta, it is the electorate who ultimately determine “adequacy” of school facilities. Publicly elected school boards represent the community “voice” about school facilities, and through their three year capital plans, give shape and substance to this voice.

Alberta’s school boards have expressed numerous concerns about existing planning, funding and regulatory mechanisms that currently shape a school board’s ability (or lack thereof) to provide needed school spaces for students. Both the ASBA and Alberta Education have identified the priority need to provide safe and functional schools for Alberta’s approximately 600,000 children where and when needed. Despite the common priority and goal shared by Alberta Education and ASBA, many of Alberta’s school boards report frustration in their attempts to provide functional and safe school buildings to their growing communities or to maintain existing schools.

Alberta’s school boards support the priorities outlined in Alberta Education’s Five Year Capital Plan and are committed to working with the Alberta Government to achieve these priorities. The need for a collaborative effort exists between the provincial government, maintaining responsibility for each of Alberta’s children, and the representatives chosen by the local community that represents the child, their parents and their community. The ASBA believes that a new *School Act* needs to better support school boards in their efforts to “provide real and personal property for its administrative and educational purposes.”

## Conclusion

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Alberta has a strong public education system. Taken together, the recommendations contained in this submission will help build on this strength and provide the structures needed for students to succeed. Many of the recommendations are anchored in the important connection between elected school boards and their communities. The ASBA believes that education, at its most basic level, is and must continue to be a community issue.

The ASBA appreciates the opportunity to participate in this important conversation and restates its belief that further discussions on the individual aspects of this submission are essential. With a clearer understanding of where government wishes to change the *School Act*, school boards would be better able to provide details and rationale to support aspects of this submission. ASBA wishes to ensure the Minister is aware that school boards are committed to offer their full support in the drafting of new legislation or revisions to the existing Act.

As stated in the beginning of this submission, school boards support the notion of introducing new, or revised, legislation during the spring session of the legislative assembly. We would then respectfully suggest that this legislation be “held over” for public discussion and dialogue, with second and third reading occurring at the fall session.

A new *Education Act* or a substantially revised *School Act* will be the most important piece of education legislation in a generation. Let’s ensure that the process to develop and pass this legislation is one that is consistent with its importance.