



ENGLISH SCHOOL BOARDS
ELECTION SYSTEMS STUDY PANEL
REPORT 2015




Elections Systems Study Panel

2015

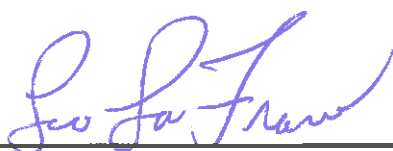
ELECTION SYSTEMS STUDY PANEL

Chair:

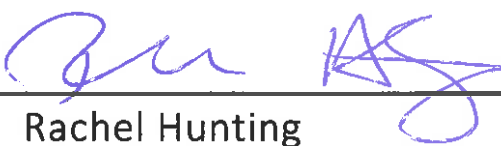


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Panel members also wish to acknowledge the contribution of Joshua Arless who provided important technical and logistical support in the creation of the ESSP website and who facilitated correspondence between the ESSP and the wider community through its dedicated email address and telephone number. A special thank you to Rachel Hunting, member of the Panel, for her remarkable background research as well as synthesizing the report during the writing process.

Finally, the members of the ESSP wish to thank the many individuals, organizations, institutions, and legal experts who made submissions and/or who appeared before the Panel during their consultation process.

INTRODUCTION

The Election Systems Study Panel (ESSP), launched in June of 2015 and sponsored by the Quebec English School Boards Association (QESBA), the English Parents' Committee Association (EPCA), the Québec Community Groups Network (QCGN) and the Québec Federation of Home and School Associations (QFHSA), is an independent volunteer Panel consisting of five members of the English Minority Community (EMC). Chaired by the Honourable Marlene Jennings, former Member of Parliament, other Panel members include former Assistant Deputy Minister from the Ministry of Education Leo La France, Executive Director of Townshippers' Association Rachel Hunting¹, President of QFHSA Brian Rock, and Vice-President of EPCA Rhonda Boucher.

The Panel's mandate included the review of numerous election systems as well as the current system of universal suffrage for the selection of Commissioner and Chairs; consultations with English Minority organizations and individuals with expertise on the various options; a review of past elections; and making recommendations for the four sponsor organizations to present to the Québec government. The Panel investigated all system options through the prism of Official Language Minority Community (OLMC) Constitutional Rights.

METHODOLOGY

English-speaking organizations and the community-at-large were invited by the ESSP to participate in a consultation process that included the submission of written briefs to the Panel and individual interviews/hearings during the months of June, July and August 2015.

A letter of invitation to participate in the consultation process was sent directly to the Presidents of more than 150 English-speaking organizations, educational institutions, and groups across the province and was also made available to the general public via the online

¹ While Ms. Hunting was asked to participate on the ESSP (Election Systems Study Panel) in the context of her role as Executive Director of Townshippers' Association, she did so as a private citizen and member of Québec's English-speaking communities dedicated to the preservation and betterment of English education in Québec and the vitality of its English-speaking communities.

platform www.electionsPanel.ca; submission details and guiding questions for the consulted to consider were included with the letter of invitation and available via the online platform (see Appendices B-D); the ESSP's four sponsor organizations also conducted their own respective awareness campaigns encouraging community participation in the consultation process. The consulted were asked to submit their correspondence/submissions to the ESSP by email or directly through the contact form on the online platform before the extended deadline of July 31, 2015. A total of 36 written submissions were received by the ESSP. During the consultation process, the ESSP conducted a total of 29 interviews with English Minority Community organizations, stakeholders, and Constitutional Rights experts. These interviews took place in person, via teleconference, and video-conference.

The Panel conducted a literature review using the secondary analysis of primary Sociological, Anthropological, and Sociolinguistic research as it pertains to the English Minority Communities in Québec (ESCQ). Academic research on School Board governance was used to provide background information on Québec's current election system for English Minority School Board Commissioners and Chairs as well as to situate, for the ministère de l'Éducation, the role of English public School Boards in the maintenance and proliferation of ESCQ vitality in Québec. Panel members also included an analysis of Supreme Court of Canada judgments and jurisprudence within the context of OLMC rights under Section 23 of the Canadian *Charter of Rights and Freedoms*, and an analysis of research documenting OLMC School Board models in other provinces.

REVIEW OF THE LITERATURE

COMMUNITY VITALITY FOR LINGUISTIC MINORITIES

The concept of group vitality provides the lens through which to analyze the different variables that impact the resiliency of individual language communities negotiating multilingual environments (Bourhis and Landry 2012). Strengthening the vitality of Minority Language Communities increases their ability to maintain themselves and flourish as a collective body in

an intergroup context. Likewise, language communities that lack vitality face the end of their existence as distinct within the intergroup context (Bourhis and Landry 2012; Jedwab 2012).

Vitality for OLMCs is expressed through (Canadian Heritage 2013):

- Individuals who have a sense of belonging to the language community, who have linguistic aspirations and relevant practices;
- A community that has a collective leadership and an ability to mobilize its people and community organizations;
- An environment that: offers the possibility of receiving an education in your own language; provides recreational and cultural activities in your own language; includes the presence of institutions and an active offer of services; offers the possibility of participating in the economic and social expansion of the community; and encourages the visibility of language;
- Relationships with the majority that lead to support and cooperation between the two language groups, recognition and respect of language rights, and influence and authority within the majority institutions;
- Demographic and demo linguistic renewal through natural population growth, immigration, and language practices that ensure the retention and transmission of the language;
- A community's ability to subscribe to a wider linguistic environment.

SCHOOL BOARD IMPACT ON ENGLISH MINORITY COMMUNITY VITALITY

Linguistic and cultural institutions act as vehicles for the transmission of a minority group's identity and make important additions to its historical continuity, contributing to its overall institutional completeness² (Landry, Allard, Deveau 2013). English schools are an important pillar of institutional completeness because of their large contribution to the development of social actors who will shape the future social organization of the minority group. English

² R. Breton's 1964 concept of "institutional completeness" in this context refers to the number, variety, and nature of institutions specific to a minority community such as schools, places of worship, and community centers which serve as important communal reference points and provide opportunities for minority group members to meet and interact.

schools also make significant contributions to language socialization and ethnolinguistic identity-building (Landry, Allard, Deveau 2013). Historically, School Boards have been recognized as providing an important mechanism ensuring that the governance of English public education reflects community and regional values and priorities (Sheppard, Galway, Brown and Wiens 2013). In this regard, the ability of a parent or a member of the community to directly express concerns to a School Board member provides a degree of democratic legitimacy that is absent for English-speakers dealing with other public services, save through the office of an ombudsman if at all (Sheppard et al 2013). The ability to reach out to a local community School Board representative who is elected from within and aware of community needs and realities as being of utmost importance was echoed by participants in the ESSP's consultation process:

“Our school board commissioners have an important role to play. It’s vital that they are not far removed from our communities so they can be made aware of the issues that affect our children. In our case, our daughter requires support services. Knowing I have the option to contact a local commissioner to bring their attention to a gap in services is comforting and empowering. If my requests for support were filtered through a distant and disconnected office somewhere, they may never be addressed.” – Corrinna Pole, July 2015.

English public schools are a portrait of diversity ranging from one-room school houses on Entry Island in the Magdalen Islands to large high schools in both urban centers such as Montreal and smaller, more rural environments such as the Eastern Townships (QESBA 2006). English schools and School Boards are adept at adapting to an ever-changing variety of challenges all the while fostering an educational environment where students leave the system equipped with all of the tools necessary to excel within Québec and the wider society (QESBA 2006). English School Boards have experience tailoring their curriculum to the specific needs and realities of the children attending their schools and effective, elected and representative School Boards are imperative to aiding the Ministère de l'Éducation with the development of realistic policies,

programs, and budgets that take into account the needs and realities of English schooling within Québec (QESBA 2006; Burke 2012).

Consider the successes of the Community Learning Centers Initiative in support of English language schools as hubs for education and community development (QESBA 2006). Through an offer of diverse services and activities available outside of regular school day hours this initiative is able to support the needs of students, their families, and the wider community (QESBA 2006). There are currently 24 English elementary schools with Community Learning Centers and 22 English secondary schools (Gonsalves, Kueber, Langevin, and Pocock 2014). The CLC Initiative is a prime example of how the role of English schools in a minority context is much larger than simply ensuring academic success or instruction in English – their role as the English Minority Communities’ last remaining institutions is inherently linked to the transmission of its collective history and culture over generations and provides its youth with the tools, as well as the skills, to actively contribute to the majority society (Gonsalves, Kueber, Langevin, and Pocock 2014). The significant role played by English schools as essential community hubs was a recurrent theme among briefs submitted to the ESSP during its consultation process.

Within the context of institutional completeness, the link between English schools governed by English Minority Communities and vital Minority Communities is evident (Burke, 2012). Being a member of a linguistic minority often leads to increased barriers to education, employment, and communication; contributes to a sense of exclusion and isolation; results in low levels of representation in leadership roles (QCGN 2009). Having an institution within which one can affirm one’s identity and access resources becomes a crucial necessity for those who negotiate Québec society in an OLMC context, especially when it is taken into account that English Minority Communities are diverse and dispersed across the province (Lamarre 2008; QCGN 2009).

The importance of minority-language schools in regions where English Minority Communities enjoy little institutional completeness becomes magnified as the school is often the **“only institution providing a dominant atmosphere in the minority language”** (Landry, Allard, Deveau 2013, 29) and responding to the realities inherent to English Minority Communities

(Lamarre 2008). The 2008 Québec government *Forum on School Board Democracy and Governance [Forum]* recognizes the reality that in some regions of Québec, English School Boards serving more than one geographic territory are the only institutions providing academic and cultural services to the English Minority Communities, making it possible for those Communities to maintain themselves. A support document³ for the forum’s plenary sessions prepared by Québec’s Ministère de l’Éducation, du Loisir et du Sport (2008, 5 [Québec 2008]) notes that

“English Minority communities have strong ties to their School Boards, the only public institutions whose directors are elected exclusively by members of these communities. Schools are also where much of community life takes place. Community school projects reveal the importance of this aspect, which transcends a strictly educational mission.”

In 2012, Québec Liberal Party Members of the National Assembly noted the important role English schools play in relation to maintaining vital English Minority Communities (Kelley et al. 2012), declaring that

“[d]emocratically elected, School Boards manage school personnel, provide pedagogical support for teachers, design programs for special needs students, and passionately promote our public school system...Elected School Board representatives have a special link to their community. Their role includes the protection of minority educational rights. The Québec Liberal Party remains convinced that efficient and representative School Boards remain key elements in our efforts to provide our young people with the education they need to advance Québec society in the future”

The Supreme Court of Canada has also acknowledged the impact of minority-language education on community vitality, stating:

³ See *Ministère de l’Éducation, du Loisir et du Sport. Forum on School Board Democracy and Governance: Support Document for the Plenary Sessions. February 2008* for additional information

“The purpose of [minority language education legislation] is the protection and promotion of the minority language community in each province... [it] is of prime importance given ‘the vital role of education in preserving and encouraging linguistic and cultural vitality’ (Mahe, at p. 350)... [Minority language education legislation] achieves its purpose by ensuring that the English community in Québec and the French communities of the other provinces can flourish. As this Court said in Mahe, at p. 362, ‘[t]he Section aims at achieving this goal by granting minority language educational rights to minority language parents throughout Canada’” (Gosselin v. Québec 2005, 18).

Careful examination of Québec’s provincial language legislation from the 1960s onward provides both a timeline for the erosion of the status and institutional completeness of Québec’s English Minority Communities, and evidence that although the English language itself is not under threat in the province of Québec, the vitality of its English Minority Communities certainly is (Bourhis, Foucher 2012).

Prior to the 1960s, Québécois and immigrants to Québec had the freedom to choose to attend either English or French public schools, the one stipulation being that only Catholics could attend French Catholic schools; the majority of non-Catholic English-speakers attended English Protestant schools. This changed radically with the Union nationale’s adoption of Bill 63 (1969) and the Liberal adoption of Bill 22 (1974) which somewhat limited access to education in English (Bourhis, Foucher 2012). Continuing the trend in 1977, the Parti Québécois government further limited access to English education with the introduction of Bill 101 that removed the rights of the Francophone majority and international immigrants to attend English primary and secondary schools and restricted their access to those students with one parent who had been educated at the primary level in English within Québec or another Canadian province (Bourhis, Foucher 2012). 2002 saw the Parti Québécois government use Bill 104 to close a loophole in previous legislation that gave non-qualifying students who attended private schools often referred to as *English bridging schools* access to English public education after one year;

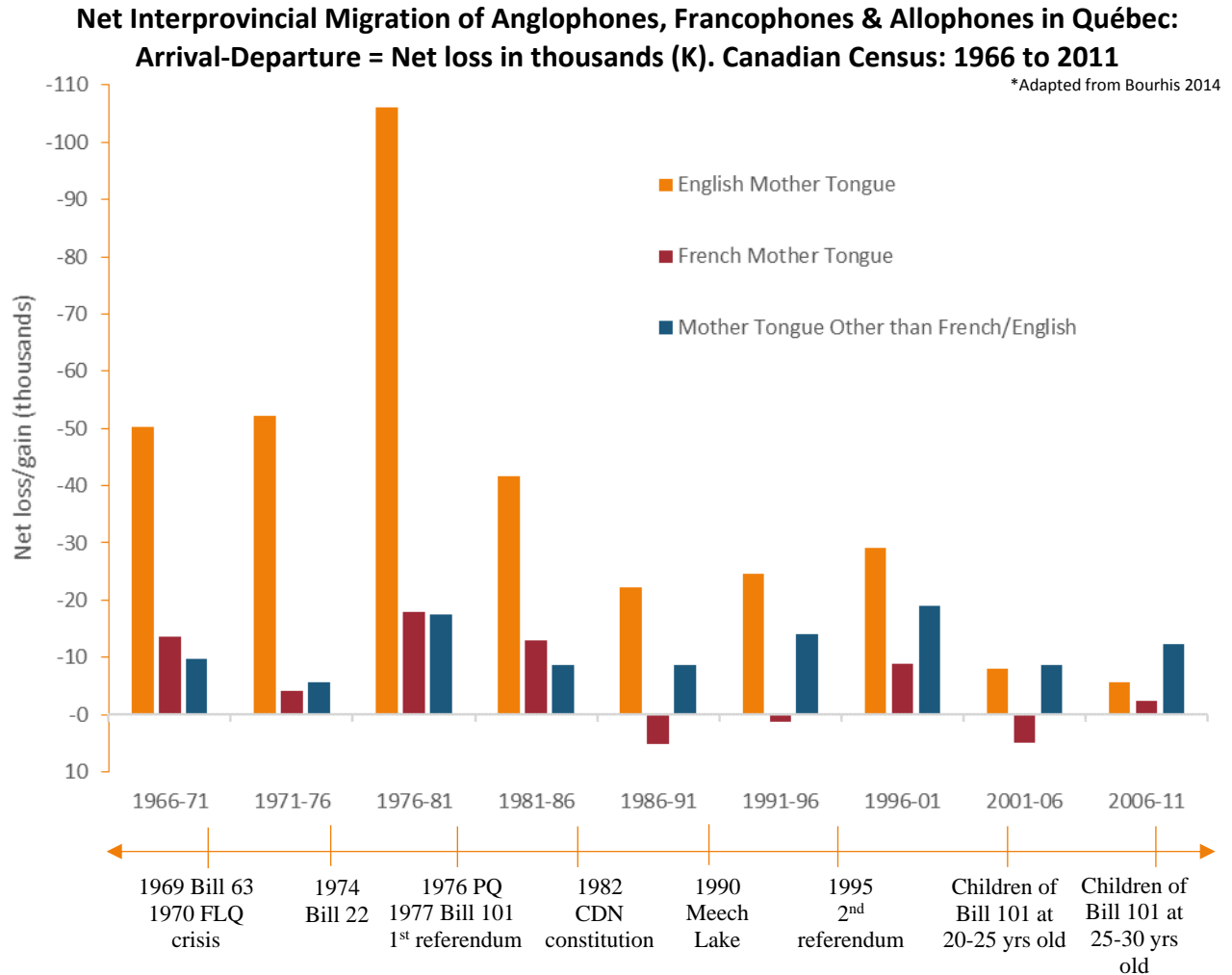
estimates indicate that approximately 2 500 students made use of this loophole between 1997 and 2002 (Bourhis, Foucher 2012).

Despite a 2008 Québec Court of Appeal ruling that Bill 104 did not meet Section 23 obligations under the Canadian *Charter of Rights and Freedoms*, the Québec Liberal government led a successful challenge of the Québec ruling and the Supreme Court of Canada subsequently granted the provincial government a one year grace period to draft new legislation limiting access to English public education without compromising Section 23 – Bill 103 was proposed in 2009 and provided a basis for Bill 115 which was adopted into law in 2010; Liberal Ministre de l'Éducation at the time, Michèle Courchesne, candidly admitted the aim of this new legislation was to limit, as much as was legally possible, access for non-rights-holders to English public education (Bourhis and Foucher 2012). In 2013 the Parti Québécois government proposed Bill 14 with the aim to modify Bill 101 and further restrict access to English public education within the province, including the removal of rights to English public education for certain English Minority rights-holders (those who obtained the majority of their own schooling in French would lose the right to enroll their children in the English public system) (Bourhis and Foucher 2012).

Legislation aimed at limiting access to public education in English is **“based on the erroneous notion that the French language and its speakers are threatened in the Province of Québec”** (Bourhis and Foucher 2012, 14). Canada's Commissioner of Official Languages, Graham Fraser, referred to this reality in a 2012 address in which he stated that:

“...changes in the English community are generally not recognized by the French-speaking majority in Québec. The old stereotypes persist... In some ways, there has been a revival of linguistic insecurity in Québec. This has been due, in part, to a confusion between the increasingly dominant role that English is playing on the international stage, and English as the language spoken by a shrinking English minority community... [the] English language is not threatened in Québec – but English communities are.”

Analysis of data detailing the exodus of English-speakers following the adoption of the aforementioned Bills 63 through 101 further demonstrates the dire consequences for the EMCs in Québec of successive Québec governments passing laws to ensure the primacy of the French language in Québec and discourage any presence of English within the public sphere.



Given the importance of English schools as institutions for the transmission of English Minority Communities' culture and the formation of identity for young English-speakers, legislation tailored to block access to these institutions has inherent and tremendously negative effects on the vitality of English Minority Communities and by design erodes the English public education

system⁴; fewer students in the system leads to a reduction of financing and a lesser need for English teachers/principals/support staff/School Board administrators (Bourhis and Foucher 2012). This decline in student numbers, and by proxy funding for services, **“are among the most critical issues facing English schooling in Québec today”** notes Lamarre (2008, 67), adding that **“school closures [are] a traumatic experience for Anglophone families and the local community”** (Lamarre 2008, 67).

“Francophones in Québec are not just a majority, they are a dominant majority in Québec and they need to understand this so that they undergo a psychological shift whereby they understand that as a dominant majority they must take active measures to protect and develop their English Minority Communities” – Richard Bourhis, August 2015

GRADUATION AND QUALIFICATION RATES FOR ENGLISH SCHOOL BOARDS 2009-2013

Close examination of the graduation and qualification rates per cohort of students enrolled in Québec’s English School Boards between 2009 and 2013 reveals the consistent above-average performance of these institutions in terms of the retention and academic success of their students when compared with not only the provincial average, but with French School Boards across the province as well. Taking into account that Québec’s English School Boards cover vast territories (with the exception of the Island of Montreal), work with smaller/widely dispersed/declining student populations, have important size differences between boards and their respective access to financial resources, have smaller schools with fewer professional resources and teachers to address the diverse needs of students, and are under an obligation to graduate bilingual and bi-literate students despite its impact on resources, further demonstrates the significance of their above-average performance in regards to graduation and qualification rates of students (Advisory Board on English Education [ABEE] 2013).

⁴ For a complete analysis of how language based legislation contributes to the outmigration and decline of the English Minority Communities see *Bourhis, R.Y. and Foucher P. The Decline of the English School System in Québec. Moncton, New Brunswick : Institut canadien de recherche sur les minorités linguistiques (ICRML), 2012.*

The ministère de l'Éducation, du Loisir et du Sport (MELS) considers the rate of graduation and qualification of a cohort as the proportion of students under 20 years old who obtained a first diploma seven years after entering high school, adult education or vocational training (MELS 2009, 2010, 2011, 2012, 2013). MELS relies on two measures for calculating the rate of graduation and qualification: the rate of first high school degree or first qualification attainment by *population* and the graduation rate and qualification by *cohort* (MELS 2009, 2010, 2011, 2012, 2013). These two ways of measuring provide very similar numbers, for example there was a difference of +/- 0.9 between the two measurements in 2011, but they are not meant to answer the same questions nor be used interchangeably (MELS 2009, 2010, 2011, 2012, 2013).

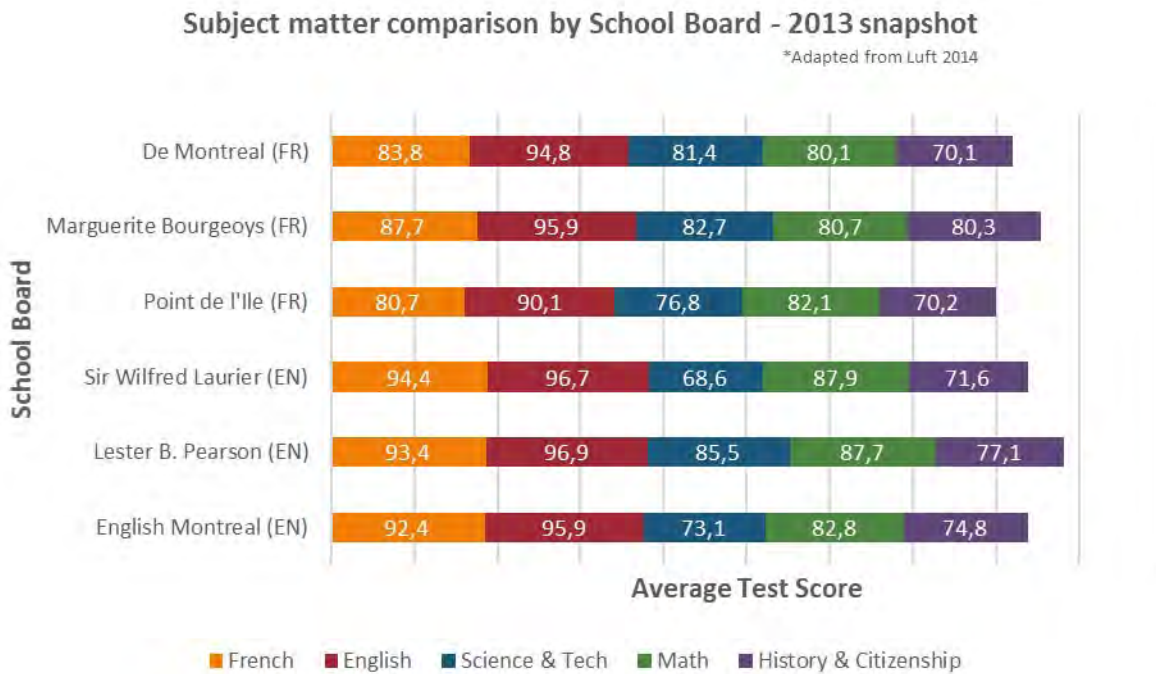
Calculating the graduation and qualification rate per cohort of students before they reach the age of 20 permits School Boards to identify the retention and academic success of their students and thus measure a School Board's achievement of the goals and targets as outlined in their respective strategic plans and any partnership agreements they may be engaged in with the aim to promote school perseverance (MELS 2009, 2010, 2011, 2012, 2013).

Graduation and Qualification Rates for English School Boards 2009-2013 ⁵					
School Board	2009	2010	2011	2012	2013
Province of Québec	71.9	72.3	73.4	75.0	75.8
Québec Public Schools	67.6	67.9	69.3	71.0	71.9
Québec Private Schools	90.2	91.1	91.3	91.8	92.2
English School Boards	79.8	79.2	81.9	82.3	84.5
French School Boards	71.3	71.8	72.7	74.4	75.0
English Montreal (EMSB)	82.4	81.1	84.0	82.3	87.8
Lester B. Pearson (LBPSB)	80.7	80.7	83.7	82.8	86.2
Central Québec (CQSB)	81.0	79.8	79.8	85.9	85.4
Riverside (RSB)	79.6	79.5	81.2	86.3	86.1

⁵Data compiled using the *Diplomation et Qualification au Secondaire* report series available from Éducation, Enseignement supérieur et Recherche Québec at <http://www.education.gouv.qc.ca/references/publications>

Sir Wilfred Laurier (SWLSB)	78.8	76.9	82.0	83.9	85.2
New Frontiers (NFSB)	74.7	75.4	78.0	73.0	76.5
Western Québec (WQSB)	72.9	69.3	72.9	72.7	69.7
Eastern Townships (ETSB)	60.5	63.5	69.3	74.4	74.3
Eastern Shores (ESSB)	69.8	50.0	62.7	76.5	74.8

In addition to graduation and qualification rates, a number of English School Boards outperform their French counterparts in terms of subject matter success as well, scoring 2% higher on Québec Education Ministry standardized tests in 2013 (Luft 2014). It should be noted that these same English School Boards also scored an average of 9.4% higher on French-language tests (Luft 2014).



MINORITY LANGUAGE EDUCATION RIGHTS AND ENGLISH SCHOOL BOARDS

Section 23 of the *Canadian Charter of Rights and Freedoms*, a non-exception clause, establishes the Constitutional provisions for minority language education rights in Canada. Multiple cases pertaining to Section 23 Constitutional Rights have been heard before the Supreme Court of

Canada since the *Charter's* inception and it is typical that the legislative history of this Section be considered when these cases appear before the courts⁶ (Bergman, Daniels 2014).

The Supreme Court has noted that the broad scope of Section 23 facilitates the creation of disparities between Canada's linguistic minority groups and as a result recommended in 2003 that Section 23 cases could generally be settled by referring to the jurisprudence of three leading cases: *Mahe v Alberta*, *Reference Re Public Schools Act*, and *Arsenault-Cameron v Prince Edward Island* (Bergman, Daniels 2014).

Mahe makes reference to independent School Boards as a mechanism through which the Minority Language Communities can exercise their rights to the management and control of their education but the case is also careful to note that this is not always an appropriate way to fulfill this right (Bergman, Daniels 2014). *Mahe* does, however, define a minimum of decision-making areas that fall to right-holders that include but are not limited to: expenditures of funds provided for such instruction and facilities; appointment and direction of those responsible for the administration of such instruction and facilities; establishment of programs of instruction; recruitment and assignment of teachers and other personnel; and, the making of agreements for education and services for minority language pupils (Bergman, Daniels 2014, 25).

It can be argued from *Mahe* that English School Boards are protected from government intervention (Bergman, Daniels 2014). By applying the sliding scale approach embraced in that case and all Section 23 cases that follow it, **“the largest minority populations are subject to the maximum level of rights determined under Section 23 of the *Charter*. Given that the English language minority in Québec is Canada's largest official language minority, it should be awarded maximum rights to control and management over its educational facilities”** (Bergman, Daniels 2014, 25). *Arsenault-Cameron* also demonstrates support for the application of the sliding scale approach to determine a minority language population's right to the **“maximum level of rights determined under Section 23 of the *Charter*”** (Bergman, Daniels 2014, 25). Discourse around minority language populations and the geographic territories

⁶ For a detailed analysis of the legislative and judicial histories of Section 23 see Bergman, M., Daniels, K. *The Constitution and the English-Language in Québec: Education; The Primacy of the French Language; Collective Rights*, 5-20. QCGN: 2014

covered by independent School Boards in *Reference Re Public Schools Act* implies the presence of facilities not only for instruction but for management and control as well; **“thus specific geographic areas may require multiple School Boards, depending on the nature of the area and whether the numbers warrant”** (Bergman, Daniels 2014, 29).

MINORITY LANGUAGE EDUCATION RIGHTS AND ELECTED ENGLISH SCHOOL BOARD REPRESENTATIVES

The shift from denominational to linguistic based School Boards that occurred under the 1997 *Act to Amend the Education Act, the Act Respecting School Elections and Other Legislative Provisions [Linguistic School Boards Act]* afforded the English Minority Communities of Québec a universally-elected and democratic level of direct accountability to their members (Smith, Foster, and Donahue 1999; QESBA 2006).

While not specifically designated under Section 23, protection for the right of minority language Community members to elect School Board Commissioners and Chairs from within their communities through universal suffrage as the natural means by which to exercise their right to management and control identified by *Mahe* appears logical and is common across Canada (Bergman, Daniels 2014). It can be argued that, because the Board of Directors is the decision-making arm of the School Board and Section 23 grants management and control rights to minority language community members so they can make important decisions impacting their language and culture, minority language community members also have the right to choose those Directors from among their numbers (Bergman, Daniels 2014).

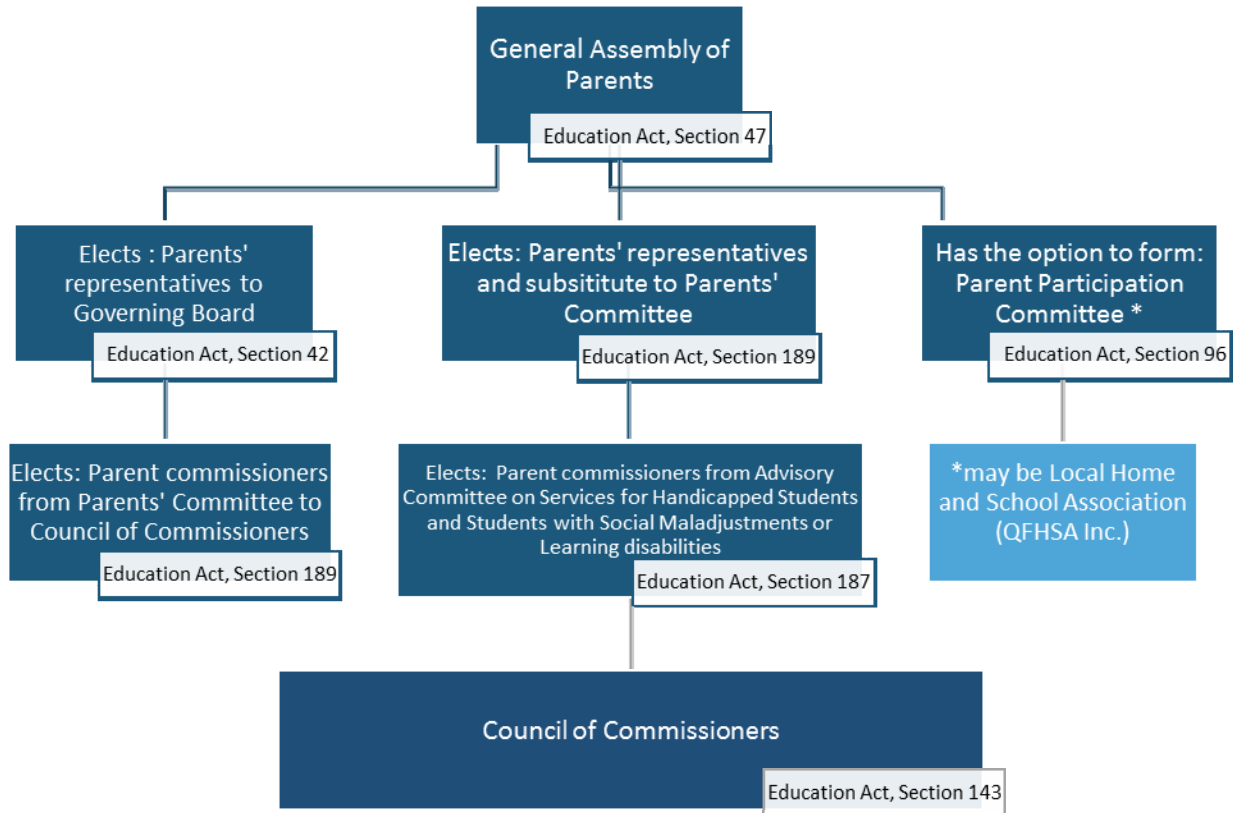
Bergman and Daniels (2014, 32-33) describe a list of rights afforded to minority language populations whose numbers do not warrant an independent School Board and posit that **“the sliding scale approach suggests that these rights will necessarily be included where a School Board *is* [emphasis in original] warranted: management rights increase as required by the number of potential users and the School Board represents the ‘maximum level of management’ (Mahe 1990)”**.

Citing voter turnout rates as an indication that Québec's English Minority Communities are uninterested in exercising their Constitutional Rights and are unsupportive of School Boards elections is misleading (QFHSA 2015). Voter participation in English School Board elections increased from 14.60% in 2003 to 16.88% in 2014; a negative trend however, can be observed in voter participation rates for French School Board elections over the same period with rates declining from 8.40% in 2003 to 5.54% in 2014 (QFHSA 2015).

MODELS FOR THE SELECTION OF ENGLISH SCHOOL BOARD COMMISSIONERS AND CHAIRS

The current model for the selection of School Board Commissioners and Chairs in the province of Québec consists of a system where members of the Council of Commissioners are elected from within the community by universal suffrage and parent and teacher representatives are appointed to governing boards within the English School Board structure⁷ (Québec 2008). Each School Board is responsible for running its School Board elections (DGÉQ 2010).

⁷ The complete Education Act can be consulted at http://www2.publicationsduQuebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/l_13_3/l13_3_A.html



Ontario and New Brunswick both hold School Board and municipal elections simultaneously but use very different administrative and political models (Directeur général des élections du Québec [DGÉQ] 2010).

In Ontario voters go to the polls every four years to elect both School Board and municipal officials; voting is organized so that citizens can arrive at one polling station and use one ballot to cast their respective votes (for the office of the mayor, municipal councillor, and School Board representative) (DGÉQ 2010). Under this system, a School Board territory and its population size vary substantially with the number of councillors per board varying according to its electoral population and that population's dispersion over the territory (DGÉQ 2010). The Ontario model for the organization of its School Board and municipal elections is facilitated by the harmonization of the electoral divisions of municipalities with those of school districts; this allows municipal clerks to act as chairmen of both municipal and school elections (DGÉQ 2010).

The province of New Brunswick has adopted a model of centralized management for the election of School Board and municipal officials held simultaneously every four years (DGÉQ 2010). As is the case in Québec, the division of New Brunswick's School Board and municipal electoral territories are not harmonized, nor do the territories of the various English and French School Boards coincide (DGÉQ 2010). Despite the fact that the municipal and School Board territories are not harmonized, it is still possible for Elections New Brunswick to hold school and municipal elections simultaneously so that the electoral process of both categories of officials are perfectly integrated (DGÉQ 2010).

Suggestions of models for the selection of School Board representatives emerged during the 2008 Québec government *Forum* and included the maintenance of the current model of universal suffrage with more clearly defined roles for Commissioners and an expansion of their functions to give them greater latitude in policy implementation; the formation of mixed boards comprised of both elected Commissioners (elected by universal suffrage) and an increased and substantial number of Parent Commissioners appointed to the boards by the School Board's own parents' committee – the ratio of community representatives to parent representatives was not defined; electoral colleges formed by parents members of governing boards who would be responsible for receiving the nominations for each position and for the selection of Commissioners; government appointed Commissioners selected from lists of nominated representatives submitted by one or more electoral colleges (Québec 2008). Each potential model carries with it different advantages. However, when compared to the democratic system of universal suffrage for community elected representatives currently employed by English School Boards in Québec, these other models present a number of clear disadvantages (Québec 2008):

- How voting powers would be shared between community and Parent Commissioners remains to be defined on a mixed board where the ratio of commissioner categories in relation to one another has yet to be established;
- Possibilities for double representation on boards where Community Commissioners and Parent Commissioners live in the same area;

- Electoral colleges remove a layer of involvement in the selection of Commissioners from the local community and individuals well versed in local needs and issues, particularly those pertaining to education and employability;
- Minister appointed Commissioners have the potential of lacking critical knowledge of minority language community realities, local needs, issues and culture;
- Minister appointed Commissioners also raises the issue of accountability in terms of the collection of school taxes;
- Minister appointed Commissioners raise the additional issue of to whom are they ultimately accountable, the community their respective English School Board represents and serves or, the Minister (and government) who appointed them.

Most participants in the 2008 *Forum* remained in favour of the democratic process and recommended any modifications made to this process strive to foster community involvement in democratic life (Québec 2008).

RESULTS OF ESSP COMMUNITY CONSULTATIONS

The overwhelming majority of the organizations, stakeholders, experts and individuals who made submissions to the ESSP were in agreement that the current system of universal suffrage of Québec's English School Boards is the model which best respects the English Minority Communities' Constitutional Rights under Section 23 of the *Charter of Rights and Freedoms* of Canada as interpreted by the Supreme Court of Canada. Thus the ESSP can state with a great degree of certainty that a real consensus exists within the English Minority Communities that, notwithstanding low School Board elections voter participation, English School Boards must continue to exist along with a system of universal suffrage.

Unanimity was expressed on the need to bring the English School Board electoral process into the 21st Century and allow for online and telephone voting in English School Board elections and that these elections be twinned with municipal elections in order to reduce costs, facilitate

voting, and increase voter participation. A common recommendation by those who made submissions was that the Directeur général des élections du Québec (DGÉQ) be mandated by law to conduct English School Board elections, just as New Brunswick's Chief Electoral Officer currently runs both municipal and School Board elections despite the reality that their respective territories are not harmonized.

Virtually all of those consulted recommended that Parent Commissioners enjoy all the rights and responsibilities, including voting, as the commissioners currently elected via universal suffrage. Furthermore, the majority agreed on increasing the number of Parent Commissioners per English School Board from four to six with the condition that there be parent representatives from each educational level – elementary, high school, and special needs.

The issue of whether English School Boards should also have student representation garnered interest from those consulted. There was no consensus as to the shape/form for the inclusion of Student Commissioners or whether or not they should have the right to vote (be vested with the full rights of universally elected Commissioners). Those who expressed some hesitation explained that they did so as a result of not having reflected on this issue in depth. A meaningful reflection on the potential role and voting status of a student category of English School Board Commissioners is required prior to making an informed decision in regard to this question of representation.

ESSP consultations necessarily addressed the crucial challenge faced by Québec's English Minority Communities in ensuring their continued vitality in terms of both demographics and cultural identity. It is clear from the ESSP's secondary research, interviews, and the submissions it received that declining population numbers for Québec's English Minority Communities are particularly devastating when observed through the lens of their impact on minority language education. A declining student population results in declining financial resources, which in turn leads to the closure of institutions, a loss of services, diminished voices within those majority community institutions that have replaced the minority communities' own institutions, and fewer opportunities for members of English Minority Communities. There was consensus among the majority of those consulted that the successive Québec governments have an

abysmal record in terms of adopted legislation, regulations and policies that encourage and/or ensure the ongoing vitality of its English Minority Communities, declaring that Québec's successive governments have consistently turned a blind eye to their responsibilities and duties towards the English Minority Communities in the province, especially when examined through the prism of Section 23 of the *Charter*.

Examples were provided with regards to the Education Act of Québec which, while rightly and properly in the view of those consulted requires the children of immigrants to Québec be sent to French public schools, directly contributes to the decline of student enrolment in English public schools. A recurrent point raised during the consultation process identified the obligation of the Québec government to fulfill its responsibility to ensure the ongoing vitality of its English Minority Communities, and to interpret its laws, regulations and policies in a manner that actually allows it to fulfill its constitutional duties. Children of parents who come to Québec with a temporary work visa and are legally permitted to attend English public schools, should be permitted to continue their education in English once they and their parents become Permanent Residents. Some also recommended the Québec government amend its legislation so as to recognize Section 59 of the Constitution Act, 1982 which states that

“(1) Paragraph 23(1)(a) shall come into force in respect of Québec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Québec.”

and permit those immigrants who can prove their first language learned and still understood is English (Americans, Australians, Irish, Scottish, British, etc.) to enrol their children in English public schools. In light of the evidence that Québec Francophones are a secure dominant majority, such changes in the Québec government's policies would go a long way towards both augmenting vitality within its English Minority communities and providing greater opportunities for its majority community to compete economically on an international stage (Bourhis and Foucher 2012, Fraser 2012). As Québec Premier Philippe Couillard stated prior to his election in

2014, “[t]here’s not a single parent in Québec that doesn’t hope for their kids to be bilingual” (Globe and Mail, April 1 2014).

The issue of voter registration for English School Boards emerged as a very serious preoccupation for all those who made submissions and/or were interviewed. There was an overwhelming consensus among those who raised this issue that the manner in which the current legislation determines which voters are registered on the English School Boards’ voter lists has contributed directly to English voter apathy and has suppressed the English minority communities’ members’ ability to exercise their Constitutional Right to choose the representatives from within their communities to control and manage their public education.

“The Constitutional rights of the English minority of this province are rights that we are not prepared to negotiate, especially since our schools are the last institutions our community still has control over. Year after year the provincial government has chipped away at the rights of the English minority.” – Jennifer Maccarone, Chairperson, Sir Wilfrid Laurier School Board August, 2015

The law currently stipulates that all students who graduate from English public schools are, at 18 years old, automatically registered on the French School Board voter list of the territory within which the English student lives; in other words, the law, rather than decreeing the logical policy that if one was educated in and graduated from an English public school, one is automatically registered to the English School Board’s voter list, does the exact opposite and requires the DGÉQ to register that student on the French School Board’s voter list. This legislation acts in the same manner with regards to the parents of a student who has graduated from an English public high school; once their child has graduated and these parents no longer have a child enrolled in any English public school, their names are automatically removed from the English School Board’s voter list and placed on that of the French School Board. The law further decrees that those parents who have been moved to the French School Board voter list, pay their school taxes to that board rather than to the English School Board. A litany of the problems that these legislative rules have incurred was described by many if not all of those who made submissions to the ESSP, from voters who had exercised their right to vote in English

School Board elections prior to the 2014 election and had not been informed that they were no longer on the English Schools' voter list and who tried, unsuccessfully to be returned to the correct list, to those who turned up on election day to vote in their respective English School Board election only to be turned away because unbeknownst to those voters, under the current law, their names had been moved to the French School Board's voter list. All who spoke to these issues maintained that the current law must be modified so as to stipulate that anyone who was educated and graduated from an English public High School must, at age 18, be registered on the English School Board's voter list and, parents of students enrolled in English public schools must remain on the English School Board's voter list despite no longer having a child enrolled in an English public school. Provisions in the amended law could then stipulate how a voter registered on the English School Board's voter list may, should that voter so choose, have his/her name removed from that voter list and added to the French School Board's voter list.

It is the opinion of the ESSP that the issues surrounding voter registration lists in the 2014 School Board elections raised during its consultation process demonstrate a calculated decision on the part of the Québec government to restrict voters from participating in English School Board elections and skew the voter-turnout rates for both linguistic boards – the large number of English-speakers registered automatically on French School Board lists and the lack of cooperation from the DGÉQ to ensure that voters were registered correctly/process electoral list changes directly contributed to low voter turnout in both communities. The inability for voters in rural and geographically remote communities to exercise voting rights via telephone, online platforms, or mail-in ballots also greatly contributed to low voter participation rates.

RECOMMENDATIONS AND CONCLUDING REMARKS

The Election Systems Study Panel has, through its consultative process, determined that not only must the English School Boards continue as the primary institutions ensuring the vitality of Québec's English Minority Communities, but also that this school governance system will not benefit from any addition of new governance structures imposed under the guise of improving

service delivery to English Minority students. As well, although a majority of those consulted suggested that the Director Général des élections du Québec be legally mandated to run English School Board elections the ESSP is of the firm view that this major change will not be required if its recommendations are implemented by the Québec government. Also, the twinning of English School Board elections with municipal elections, becomes a moot point if the ESSP's recommendations are implemented. A serious preoccupation of many of those consulted is that given the geographical size of most English School Boards' territories, the number of municipalities within said territories' can be very large. Twinning of English School Board elections with municipal elections would be cumbersome for all of Québec's English School Boards with the sole exception of English Montreal School Board.

School Board taxation, although not within the mandate of the ESSP, was identified as an important issue. A review of the tax system across the province should involve a proper evaluation of revenue from school taxes and the method of collecting taxes, as well as an analysis and proposal of a fair and equitable system that recognizes that "one size does not fit all".

RECOMMENDATIONS

1. That the Constitutional Rights of Québec's English Minority Communities under Section 23 of the *Charter of Rights and Freedoms* be respected and protected by the Québec government;
2. That the English Minority Communities' current system of English School Boards with universal suffrage to elect its Chair and Commissioners-at-large be maintained;
3. That the English Minority Communities' current system of English School Boards with Parent Commissioners elected through their electoral colleges be maintained;

4. That the English School Boards' Parent Commissioners be legally vested with all of the rights, responsibilities and duties of Commissioners elected through universal suffrage including the right to vote;
5. That the number of English School Boards' Parent Commissioners be increased from four (4) to six (6) on each English School Board;
6. That English School Board elections be conducted through online, telephone and mail-in ballots only;
7. That English School Boards be given the legal authority to collaborate with their French School Board counterparts to revise voter lists for School Boards on their territories;
8. That the voter registration process be modified so that:
 - a. English Minority tax payers who pay into the English School Board system are automatically registered to the English School Board voting list;
 - b. Graduates of English public high schools are automatically registered to the English School Board voting list;
 - c. English Minority youth who turn 18 are automatically registered to the English School Board voting list;
 - d. Parents of children who have graduated from an English public High School are automatically registered to the English School Board voting list;
 - e. In the event that the Québec government does not implement ESSP recommendations 6 and 7, that voters in English School Board elections have the ability to identify their respective School Boards and be registered to vote for the appropriate candidates by showing proper identification on the day of the elections at their polling station;

9. That municipal representatives, principals, teachers, support staff, or any other professionals employed by English School Boards not to be included on the Council of Commissioners; the existing mechanisms for consultation between the governance structures already in place within current collective agreements and mandates must be strengthened.
10. That meaningful reflection is required on the part of English School Boards when considering increasing the participation of Cycle II Secondary students on the Council of Commissioners. The creation of a central student council by each English School Board is encouraged, as is the eventual participation of secondary Student Commissioners on the Council of Commissioners, and the possible extension of voting rights to this category of Commissioners.
11. That mandatory training and ongoing professional development be put in place for both Commissioners and members of Governing Boards at the school level so as to ensure each have a clear understanding of their respective roles, responsibilities and duties.
12. That ethical and conflict of interest guidelines be included in the Education Act with the mechanisms to ensure adherence to these guidelines.
13. That the current opportunity in the Education Act to co-opt Commissioners, based on expertise on community needs, be maintained.

Finally, the Election Systems Study Panel urges the Québec government to give act to the reality that Québec's Francophones are no longer just a majority; Québec's Francophone society has evolved, is flourishing, and is a secure dominant majority. Therefore the Québec government must give serious consideration to the demands of its English Minority Communities that its legislation, policies and regulations be reviewed through the lens of a secure dominant majority with special responsibilities and duties to ensure that the vitality of its English Minority Communities is no longer imperiled and that these communities cease to decline and instead

flourish. To do so may require, as many of those consulted suggested, an authorization by the National Assembly of Québec or the government of Québec that Section 23(1)(a) of the *Charter of Rights and Freedoms* be allowed to come into force.

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APPENDIX A: INDEX OF CONSULTATION PARTICIPANTS

Advisory Board on English Education

Ann Cumin, former vice-chairman of the Lester B. Pearson School Board

Me Benoit Pelletier

Central Québec School Board

Chantal Pitt, former returning officer, Eastern Shores School Board

Claire Beaubien, Eastern Townships School Board School Commissioner

Colin Standish, B.A.H., LL.B., U.E.

Corrinna Pole, parent, Eastern Townships School Board

Eastern Shores School Board

English Montreal School Board

English Parents' Committee Association

Fédération des comités de parents du Québec

Fédération nationale des conseils scolaires francophones

Gordon Barnett, Eastern Townships School Board Commissioner

Howard Goodman, former Trustee, Toronto District School Board

James Wilson, citizen

Jean-Pierre Kingsley, former Director General, Elections Canada

Jeffrey Hale, Community Partners

Jennifer Klinck, B.C.L., LL.B

Jon Bradley, citizen

Joseph Lalla, Commissioner, English Montreal School Board

J. Kenneth Robertson, B.A, M.A., Ed.D.

Kathleen Balfour, returning officer, Riverside School Board

Lester B. Pearson School Board

Manitoba School Boards Association

Mark Power, LL.B, M.A., BEc

Me Michael N. Bergman

Michael Canuel, CEO, LEARN

Michael Nalecz, QFSA Rights, Education and Regulations Committee

Moira Bell, former Chairperson, Riverside School Board

Neighbours Regional Association of Rouyn-Noranda

New Frontiers School Board

Ontario Public School Boards' Association

Quebec English School Boards Association

Québec Federation of Home and School Associations Inc

Québec Community Groups Network

Richard Bourhis, Ph.D.

Riverside School Board

Sam Allison, citizen

Simply Voting Inc.

Sir Wilfrid Laurier School Board

Steve Blais, former Chairperson, Sir Wilfrid Laurier School Board

Sophie Giguère, University of Toronto JD Candidate

Townshippers' Association

Dr. Victor Goldbloom, CC, OQ, former Commissioner of Official Languages

Western Québec School Board

APPENDIX B: ESSP LETTER OF INVITATION



Association des commissions scolaires anglophones du Québec
Quebec English School Boards Association



English Parents'
Committee Association

QC
GN
Quebec
Community
Groups
Network
www.qcgn.ca

Election Systems Study Panel (ESSP) Comité d'étude des systèmes électoraux

Contact: electionspanel@gmail.com
(514) 738-8999

Panel Members
Membres du comité

Hon. Marlene Jennings
Chair/Présidente

Leo La France

Rachel Hunting

Brian Rock

Rhonda Boucher

Dear Members of the Community,

I am writing to you on behalf of the Elections Study Panel launched jointly by the Quebec English School Boards Association (QESBA), the English Parents' Committee Association (EPCA), the Quebec Community Groups Network (QCGN), and the Quebec Federation of Home and School (QFHSA) to examine all matters surrounding school board elections and to consult the English-speaking community in Quebec on the best mechanism for our community to retain the management and control of our education system.

As you know, the Minister of Education François Blais has announced a tight timeline that gives our Committee the months of July and August to consult parents and the community-at-large across Quebec. We are sending this letter to all interested groups as a call for submissions for our Panel to consider. The following is the timeline that we have put forth to give us proper time to analyze, discuss and reflect before putting our recommendations forward that will be made to our four sponsor organizations and, eventually, be deposited with the Minister of Education.

We look forward to your submissions and to hopefully meet with you to discuss further in detail. Please note that it will be impossible for our Panel to meet with everyone but we fully expect to put together a comprehensive consultation schedule. Please send all briefs and or materials electronically only to electionspanel@gmail.com. It is important for our community to consult on this issue for the future of our education system.

Thank you and we look forward to your submissions,

Hon. Marlene Jennings, P.C., LLB
Chair of ESSP

APPENDIX C: ESSP SUBMISSION GUIDELINES



Association des écoles anglaises du Québec
Quebec English School Boards Association



English Parents'
Committee Association

QC
GN
Quebec
Community
Groups
Network
WWW.QCGN.QB

Election Systems Study Panel (ESSP) Comité d'étude des systèmes électoraux

Contact: elctionspanel@gmail.com
(514)348-8999

Panel Members Membres du comité

Hon. Mariene Jennings
Chair/Présidente

Leo La France

Rachel Hunting

Brian Rock

Rhonda Boucher

Rules of Submission

Submission is July 24, 2015 at 5:00 pm EST

- 1- Font: 'Times' or 'Ariel' in 12-point font
- 2- Submissions must be double-spaced
- 3- All references must be documented in an appendix
- 4- Maximum length 50 pages
- 5- Due to the tight timelines, individuals and groups may request a hearing, however not all can be heard. It is the decision of the panel as to how many hearings will be accommodated.
- 6- All those invited to appear before the panel shall identify the individuals who will represent the group/association prior to the date of appearance.
- 7- Each hearing will be a maximum of one (1) hour in duration of which 15-20 minutes for the verbal presentation by invitee followed by 40-45 minutes of Questions & Answers as well as discussion.

Hearings may be conducted in person, by telephone conference or by video-conference (when available).

APPENDIX D: GUIDING QUESTIONS FOR THE CONSULTED



Association des comités scolaires anglophones du Québec
Quebec English School Boards Association



English Parents'
Committee Association

QC
GN
Quebec
Community
Groups
Network
www.qcgn.ca

Election Systems Study Panel (ESSP) Comité d'étude des systèmes électoraux

Contact: elctionspanel@gmail.com
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Panel Members

Membres du comité

Hon. Marlene Jennings
Chair/Présidente

Leo La France

Rachel Hunting

Brian Rock

Rhonda Boucher

Questions for the Consulted

1. Given the current model of school boards with universal suffrage for election of commissioners meets the constitutional right of English-speaking minority communities of Quebec to manage and control education of its communities, what other models, if any, would also meet that test?
2. If improved governance of English-speaking communities education in Quebec is a fundamental goal of any proposed structural changes to the current model of school boards, should the creation of categories of commissioners be considered? For instance, one category might be parent commissioners; another, principals of elementary and high schools; community-at-large commissioners and finally, student commissioners.
3. Should all categories of commissioners enjoy powers of decision (full voting rights)?
4. Should all categories be composed of an equal number of commissioners, for instance, three (3) commissioners for each category (for a total of twelve (12) commissioners) or, should one or more categories be composed of a higher number of commissioners than other categories? For instance, five (5) in parent commissioners category, four (4) community-at-large category, two (2) school principal category and, one (1) student category, again for a total of twelve (12) commissioners.
5. If one does propose the above- described model, how should the community-at-large commissioners be chosen? Universal suffrage? Cooptation? Appointment?
6. Should this category of commissioners be based upon specific profiles, expertise?
7. If to be chosen by universal suffrage, should the current system of the school boards running the elections be maintained or, if modified, how should such elections take place? Run by the Directeur des Elections du Quebec. Electronic voting?
8. If universal suffrage is to be maintained for any category of commissioners, what changes should be suggested so as to ensure that all eligible voters are properly registered?
9. What should be done to increase voter participation?