



Setting the Standard for Great Teaching
Fixer la norme pour un enseignement de qualité

Memo

Date: February 14, 2020
To: Members of Council
From: Paul Picard, OCT
Interim Deputy Registrar
Subject: **Private Schools and College Membership Requirement**

At the December 5-6, 2019 meeting, Council referred the following motion to the Registrar for further study and report back to the next Council meeting:

That Council recommend to the Minister of Education that the Education Act be amended to require membership with the Ontario College of Teachers for all teachers of private schools as a condition of the annual notice of intention to operate.

At the request of Council members, the attached paper offers background on the history, structure and operation of private and independent schools in Ontario, as well as statistics for College members working at these schools.

Paul Picard, OCT

Background Paper

History and Structure of the Private School System in Ontario

Background

The College routinely monitors trends in private school governance and operations. Information has been prepared for, and presented to, Councils and committees for discussion since 2011.

In October 2011, Council received a background paper discussing the history and structure of private and independent schools as part of the Registrar's Report.

The Public Interest Committee (PIC) explored the issue of private schools in 2016-2017. Committee members raised questions specific to the disciplinary process, which were addressed through the provision of statistics and survey feedback from Ontario private schools.

The Quality Assurance Committee received the PIC's survey results in May 2017, along with the 2011 briefing note about private and independent schools' structure. Taking into consideration all documentation, the Committee included observations in their final report to the 7th Council in June 2018. These observations are attached as Appendix A.

The purpose of this background paper is to provide updated information and figures as requested by the 8th Council.

Legislation

The *Education Act*, along with its regulations, provide the statutory basis for how education is delivered to pupils enrolled in Ontario's publicly-funded school system.

The Act governs public schools, whereas private schools are established through business contracts and operate as individual businesses, with policy oversight by the Ministry of Education.

Section 16 of the *Education Act* applies to private schools. This section requires a private school to submit information annually to the Ministry of Education such as enrolment, staff, courses of study, etc, in order to operate. This section also provides for regular inspection of the private school, including inspection of the standard of instruction in subjects leading to the Ontario secondary school diploma.

As private businesses or non-profit organizations, private schools are able to set their own additional policies and procedures. For example, although private schools are only legally required to follow section 16, the majority endorse the Code of Conduct under the *Safe Schools Act* and the implementation of Individual Education Plans (IEPs).

First Nations, Métis and Inuit (FNMI) students in Ontario who attend on-reserve schools fall under federal jurisdiction. This legislative authority is based on the responsibility of the federal government to oversee the education of “Indians” according to section 91(24) of the *Constitution Act, 1867*. This jurisdictional arrangement remains in force today.

The *Ontario College of Teachers Act* is the governing legislation for Ontario Certified Teachers. The Act applies to any person who is a certified member of the College, regardless of the setting.

Terminology

Ontario’s *Education Act* defines “school” as an educational institution run by either the Government of Ontario, or a district school board or school authority.

The Act defines “private school” as an institution that falls outside the “school” definition. Therefore, non-government funded schools, in addition to those not affiliated with a board, are identified as “private schools” according to provincial legislation. The definition reads as follows:

“**private school**” means an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section.

In sum, all non-government, non-board schools in Ontario are identified as “private schools” in the *Education Act*, regardless of their legal ownership status.

A glossary of the *Education Act* definitions that are important for understanding the status of private schools in Ontario are reproduced in Appendix B.

Private Schools

History

Private schools have existed in Ontario since the late eighteenth century. At that time, schooling was not yet an established mandate of the province, so families turned to the private sector. Parents, churches, philanthropists and business owners were the primary sponsors of private schools.¹

The *Common School Act, 1846* taxed all citizens of Upper Canada in order to support a public school system, which grew steadily throughout the nineteenth century.² Private schools also flourished during this era despite the higher tuition fees and growing social acceptance of a common basis of education for all.

A majority of the private schools established during this time were denominational and run by religious groups, for example, to offer a Protestant alternative to Roman Catholic schools or to counter the emerging secularism of the public system. Many of these schools were residential with a single-sex focus. For example, the *Common School Act, 1846* established the Toronto Normal School, which admitted female pupils, but did not permit communication between male and female attendees.³

At the start of the twentieth century, new private schools began to emerge that were non-sectarian in nature and operated by a single individual. These schools were often urban day schools, and incorporated innovative teaching practices developed by teacher-founders who questioned the pedagogy and philosophy of mainstream public education in Ontario.⁴ These schools presented an alternative to long-established private schools by reflecting changes in societal beliefs.

The cumulative effects of the Great Depression, the Second World War, higher tuition costs, and new programs introduced in public secondary schools had the effect of decreasing overall enrolment in private schools in the early to mid-1900s.

From the 1960s onwards however, the number of private schools operating in the province rebounded. Some attribute this increase to growing support for religious and philosophic diversity, for example, Jewish and Montessori schools respectively. Others suggest the resurgence reflects a protest against the perceived bureaucratization, strained resources and hurried curriculum due to class sizes in the public school system.⁵

¹ Commission on Private Schools in Ontario, *Report of the Commission on Private Schools in Ontario* (1985) at 4 and online: <<http://www.archive.org/details/reportofprivschools00comm>>, [Commission on Private Schools in Ontario].

² *An Act for the better establishment and maintenance of Common Schools in Upper Canada, 1846*, online: <<http://www.archives.gov.on.ca/en/explore/online/education/common-school-act-01.aspx#sthash.UfdVaoen.dpuf>>.

³ Commission on Private Schools in Ontario, *supra* note 5.

⁴ *Ibid* at 199.

⁵ *Ibid* at 5.

Structure

Relationship between the Ministry of Education and Private Schools

The Ministry of Education does not oversee the daily operation of private schools. Private schools do not receive financial support from the government. However, the Ministry inspects private secondary schools seeking authority to grant credits toward an Ontario high school diploma.

Ownership: Difference between a “Private School” and an “Independent School”

In Ontario, the difference between a “private school” and an “independent school” is the ownership structure.

An **independent school** in Ontario is often owned and operated by an incorporated non-profit organization. As a non-profit organization, it is governed by a board that is at arm’s length from the administration of the school. The governing body provides strategic direction for the school and ensures the achievement of established goals. Independent schools report publicly on the governing body membership and strategic directions.

A **private school** is typically owned and operated by a private owner or corporation with a for-profit legal status. The same individual or group of individuals usually makes governance and administration decisions. The reporting out of these decisions is at the discretion of the school owners.

The operating costs of both independent and private schools are financed primarily through tuition. Independent schools roll surplus funding back into the school whereas private schools may choose to distribute these funds to the owner(s). Independent schools can also issue charitable receipts for non-tuition donations made to the school. Such gifts are often received through a foundation established for this purpose.

For the purposes of the *Education Act*, all independent schools fall within the legislative definition of “private schools”. Put another way, all independent schools are considered “private schools” under the *Education Act*, even though their business models differ.

Throughout this paper, the use of “private schools” terminology should be read as including both private and independent schools.

Operation

Regardless of the ownership structure, independent and private schools are both required to confirm their intention to operate annually with the Minister of Education through a Notice of Intention to Operate a Private School (NOI) form. Without completing an NOI, the private school will be unable to operate in the upcoming school year. It does not matter whether the school is granting credits toward the Ontario Secondary School Diploma (OSSD).

Ontario's NOI forms request the following information:

- school address
- names of the elementary and/or secondary principal(s)
- name of the school owner
- Ontario business/corporate name and identification number
- hours of instruction
- whether the school will offer credits towards to OSSD and, if yes, a request for a mandatory Ministry inspection
- projected enrolment for the school year
- affiliation
- school type
- association membership

Teachers

Principals, vice-principals and teachers in private schools are not required to be Ontario Certified Teachers. The requirement that any person employed as a teacher be a member of the Ontario College of Teachers only applies to elementary and secondary schools. As noted above, private schools are not covered by the definition of school in the Education Act.

However, many of the larger private schools in Ontario require their teachers to be members of the Ontario College of Teachers as a condition of employment.

In 2019, 73 private schools submitted annual membership fees to the College for 3,208 teachers and administrators.

Inspections

1. Legislative Authority

In accordance with section 16(7) of the *Education Act*, the Ministry of Education only inspects private secondary schools offering courses that count toward an OSSD. Unlike private elementary schools, private secondary schools that offer credits towards the OSSD are required to use the Ontario curriculum. The school's credit-granting authority may be revoked following an unsuccessful inspection.

If a private school is offering a combined elementary-secondary curriculum, only the secondary school will be inspected. Ministry staff will also inspect private secondary schools offering online credits.

2. Purpose

The purpose of the Ministry inspections is to confirm that Ontario curriculum is being delivered in compliance with provincial standards. The inspection involves classroom observations, appraisal of unit and lesson plans, and review of student work. Ministry

reports do not include an inspection of the premises, health and safety practices or staffing. Inspectors may arrive at a school unannounced, or schedule a site visit.

3. Frequency

Inspections occur on a cyclical basis. The frequency of inspections could depend on the outcome of the inspection report. Ministry inspectors will determine whether the private school meets curriculum requirements and assessment policies. If, for instance, Ministry field officers note areas of improvement or alarm, they could recommend that the school be inspected bi-annually, the following school year, or within the same school year, as necessary.

4. Cost

The *Education Act* allows the Ministry to charge a fee for the inspection on a cost-recovery basis. As of December 19, 2019, this fee was \$1,375.

5. Exceptions

Private elementary schools, as well as private secondary schools not offering OSSD credit courses, are not inspected.

Additional Requirements

Use of the Ontario Student Record (OSR), and compliance with the OSR Guideline, are compulsory for private secondary schools offering OSSD credits. Non-OSSD schools may choose to use the OSR but it is not required.

In addition to the requirements under the *Education Act*, Ministry of Education policies requires that all private school have the following minimum characteristics:

- control of content of the program or courses of study
- control of quality of instruction and evaluation of student achievement
- a principal in charge of the school
- a common school-wide assessment and evaluation policy for school staff
- a common procedure for reporting to parents
- a common school-wide attendance policy
- a central office for the maintenance of student records

Complaints and Discipline within Private Schools

In 2017, at the request of the Public Interest Committee, College staff investigated private schools' complaints and disciplinary processes.

Each private school oversees its own process for handling complaints from its stakeholders. Individuals are encouraged to deal directly with the school administration to resolve a situation.

The Ministry of Education receives complaints about private schools from parents, pupils and other stakeholders, including other private schools. The Ministry first addresses complaints related to the standard of instruction and curriculum delivery through a telephone call with school administrators. The Ministry will then conduct an inspection. Depending on the severity of the complaint, this may be through a scheduled inspection or an additional inspection outside the typical rotation.

Individuals with concerns about the school's operations, teaching or handling of education-related matters should initially seek resolution through the school's specific complaint resolution channels.

A private school that employs a member of the College is subject to the reporting requirements under the College's Act s. 43.2, meaning a school must report to the College when a member's employment is terminated, suspended or subject to restrictions for reasons of professional misconduct.

The College conducted one disciplinary hearing for private school teachers in 2010. In 2015, there was one disciplinary hearing for private school teachers. Four hearings were held for private school teachers in 2019.

Statistics

An Overview of Ontario's Education Sector

There are four publicly-funded school systems, with 72 district school boards:

- 31 English public boards
- 29 English Catholic boards
- 4 French public boards
- 8 French Catholic boards

There are 10 school authorities, which includes four geographically isolated boards (i.e., Penetanguishene and three First Nations non-reserve communities) and six hospital-based school authorities, otherwise known as 'section 68 schools' because they derive their distinct statutory authority from section 68 of the *Education Act*.

As of 2017-2018, there were 3,954 elementary and 896 secondary publically-funded schools in Ontario, providing instruction to 2,020,301 students.⁶

⁶ Ministry of Education, "Education Facts: 2017-2018 (Preliminary)" (15 April 2019), online: <<http://www.edu.gov.on.ca/eng/educationFacts.html>>, [MEDU Education Facts]

Private Schools

As of January 2020, there are 1,382 private schools in Ontario. There are 632 elementary schools, 405 secondary schools and 345 schools offering both elementary and secondary levels. Of the 1,382 private schools in Ontario, 629 schools offer OSSD credits. The Ministry of Education revoked credit-granting authority from five private schools in 2017-2018.⁷ The 2018-2019 statistics are unavailable.

The chart below represents the number of College members identified as working in either private or independent schools during the following election periods:

Year	Number of College Members Employed in Private Schools
2019 (2018 election data)	3,283
2015 (2015 election data)	3,122
2010 (2009 election data)	2,676

Associations

Private and independent schools may choose to belong to associations. The services offered by these organizations range from ongoing professional learning, to hosting national networking opportunities.

The Canadian Accredited Independent Schools (CAIS) offers an accreditation process for member schools recognizing the alignment of practices to national standards, and a school improvement process combining both internal self-evaluation and external peer review.

As an illustrative snapshot, the following statistics about association membership are from the Ministry of Education:⁸

⁷ Ministry of Education, “Private Schools that have had Credit-Granting Authority Revoked” (19 December 2019), online: <<http://www.edu.gov.on.ca/eng/general/elemsec/privsch/revoked.html#1718>> ine: <<http://www.archive.org/details/reportofprivschools00comm>>, [Commission on Private Schools in Ontario].

⁸ Ministry of Education, “Education Facts: 2017-2018 (Preliminary)” (15 April 2019), online: <<http://www.edu.gov.on.ca/eng/educationFacts.html>>, [MEDU Education Facts]

Association	Number of Private and/or Independent Schools Involved
Canadian Accredited Independent Schools	94
Canadian Council of Montessori Administrators	45
Ontario Federation of Independent Schools	45
Association of Christian Independent Schools	42
Conference of Independent Schools of Ontario	31
League of Canadian Reformed School Societies	16
Ontario Alliance of Christian Schools	16
Ontario Accelerated Christian Education Association	6

Membership in an association is not a requirement for private or independent schools. Schools can also belong to more than one association.

Federally-funded Schools on Reserves

Secondary schools in First Nations communities that wish to offer credits towards the OSSD must register as private schools with the Ministry of Education through an NOI. These on-reserve schools are inspected annually.

The requirement for teachers to be Ontario Certified Teachers is at the discretion of the First Nation Education Authority or band council.

Elementary and secondary education of on-reserve students is the responsibility of the local First Nation education authority, the band council or the federal government – with funding always provided by the federal government.

While the federal government does not track the number of schools that require certification as a condition of employment, six First Nation education authorities submit annual fees for their employees as members of the Ontario College of Teachers.

Provincially-funded Public Schools

First Nations, Métis and Inuit (FNMI) students living both on- and off-reserve can attend provincially-funded schools in Ontario. A vast majority of FNMI students attend public schools.

Education funding for off-reserve FNMI students is included in the annual funding provided by the Ministry of Education to school boards for all students to support educational programs and services, staffing and the maintenance of school facilities.

APPENDIX A

7th Council Quality Assurance Committee Observations to 8th Council (June 2018)

Excerpt

Private Schools Survey

The committee also received a presentation on a survey conducted of private schools in Ontario.

The survey was conducted at the request of the Public Interest Committee which then asked that the results be shared with the Quality Assurance Committee to identify any connections with Council Strategic Priorities.

The survey results showed inconsistent procedures relating to the hiring of teachers certified by the College at private schools. The results also showed inconsistent disciplinary practices at these schools, with different processes and outcomes.

Committee Observations:

- The Committee suggested that the College once again raise with the Ministry, Council's recommendation to amend the College's Act to include the professional designation as a right to title (which protects the designation from unauthorized use by providing for penalties that can be imposed on individuals who use the designation but are not members). The Committee believes that this would better recognize the unique standards and training of teachers certified by the College who are working at private schools.
- *Professionally Speaking/Pour Parler Profession* could include an article on a private school teacher and explore why they kept their OCT designation.
- With respect to Strategic Priority #1, the College can only reach out to those private school teachers who are College members.

APPENDIX B

Definitions under s. 1 of the *Education Act*

“**private school**” means an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section;

“**school**” means,

(a) the body of elementary school pupils or secondary school pupils that is organized as a unit for educational purposes under the jurisdiction of the appropriate board, or

(b) the body of pupils enrolled in any of the elementary or secondary school courses of study in an educational institution operated by the Government of Ontario, and includes the pupils who are enrolled in extended day programs in the unit or institution, the teachers, designated early childhood educators and other staff members associated with the unit or institution, and the lands and premises used in connection with the unit or institution;

“**board**” means a district school board or a school authority;

“**district school board**” means,

- (a) an English-language public district school board,
- (b) an English-language separate district school board,
- (c) a French-language public district school board, or
- (d) a French-language separate district school board;

“**school authority**” means,

- (a) a board of a district school area,
- (b) a board of a rural separate school,
- (c) a board of a combined separate school zone,
- (d) a board of a secondary school district established under section 67,
- (e) a board established under section 68, or
- (f) a board of a Protestant separate school;