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RESTRUCTURING EDUCATION IN ONTARIO

I. INTRODUCTION

On January 13, 1997, the then Minister of Education and Training, John Snobelen, announced sweeping reforms, which will have a profound effect on the manner in which elementary and secondary schooling services are provided and paid for in Ontario. A key, but by no means the only, element in the reforms is the *Fewer School Boards Act, 1997* ("Bill 104"), which received Royal Assent on April 24, 1997.

Because Bill 104 is an integral part of the reform package, this article will examine the Bill in some detail. However, because Bill 104 is only a part of the total educational reform package, this article will also consider the *Education Quality Improvement Act, 1997* ("Bill 160") which was introduced in the Legislature on September 22, 1997 and received second reading on October 7, 1997. Whereas Bill 104 describes the framework for educational reform, Bill 160 attempts to introduce some of the detail into that process.

II. THE FEWER SCHOOL BOARDS ACT, 1997

The Reduction in the Number of School Boards

By far, the most pervasive of the amendments occasioned by Bill 104, and the one which is the catalyst for many of the other reforms, is the dramatic reduction in the number of school boards in Ontario. Currently, 129 major school boards exist. Bill 104 will cut this number to 72 by January 1, 1998. Of these, 60 will be English-language District Boards (31 public and 29 separate). Additionally, the government will merge the current French-language public school boards (two) and French-language separate school boards (two), the French language sections of other school boards and advisory committees into 12 French-language District Boards (four public and eight separate). Francophones will thus govern their

schools and the education afforded to their children through their own school boards. School boards will now become known as district boards.

Bill 104 amends the *Education Act* by providing for the establishment of these district school boards. Certain individuals are not eligible to be elected or act as a member of a district board. For example, an employee or the spouse of an employee of any new district school board, new school authority, or existing school board in Ontario may not be elected or act as a member of a district school board. Once elected, the members of the new district school boards will begin their term of office on January 1, 1998.

The Lieutenant Governor in Council has enacted Regulations which define each district school board and provide for the number of members on each district school board.

Reduction in the Number of Trustees

There are currently, approximately 1900 school trustees in Ontario. Bill 104 reduces this number to approximately 700 by requiring that, except for the Toronto District School Board, the new megaboard which encompasses Metropolitan Toronto, trustee representation will range from between five and 12 for each new district school board created by Bill 104. Twenty-two trustees will govern the Toronto District School Board.

The government maintains that their reforms are intended to, "restore trustees to their traditional and effective role as guardians of local education." District school boards will be allowed to provide trustees with an *honorarium* of up to a maximum of \$5,000.00. Furthermore, the role of the trustee under the reform package is "... to provide policy direction and support ... " to the district boards, "... not to be hands-on day-to-day managers in the schools." The Minister, under Bill 160, is given the authority to establish "policies and guidelines respecting the roles and responsibilities of board members, directors of education, supervisory officers, principals, superintendents and other officials". The government's stated intention in divesting trustees of much

of their authority is to allow teachers and principals to assume greater responsibility for the operation of their schools.

The Establishment of the Education Improvement Commission

Bill 104 creates the Education Improvement Commission (the "EIC") to monitor and oversee the transition to the new system of education governance in Ontario and, in the words of former Minister Snobelen, "guide the process of change." The EIC is a crucial element in ensuring reforms are implemented and administered in an organized fashion.

The EIC has, and will, deal with the distribution of assets and liabilities of existing school boards and the transfer of their employees. It has established so-called "Education Improvement Committees" to address these issues. The EIC has broad powers under Bill 104, including the ability to order an existing board to provide reports and information to it, and can file such orders with the Ontario Court (General Division) and have them enforced as if they were orders of that Court. The EIC can appoint an auditor to audit all or part of the affairs of an existing board, and it will be an offence to obstruct such auditor or conceal or destroy any books, records or documents or things relevant to the audit. Interestingly, any person convicted of such an offence will not be qualified to be a member of a district school board for a period of two years. Certain orders and directives of the EIC, made by it pursuant to powers assigned by regulation, are to be final and not subject to review or question in any court.

From April 24, 1997 (the date of Royal Assent) to December 31, 1997 all existing school boards will *not* be conducting business as usual. Their 1997 budgets are subject to approval by the EIC and, once approved, they cannot pass a by-law or resolution relating to a payment not provided for in the approved budget. Moreover, existing school boards cannot, without the EIC's approval:

- convey an interest in property nor purchase an interest in property worth more than \$50,000.00;

- transfer money between or among reserves or reserve funds, or change the purpose or designation of a reserve or reserve fund;
- enter into a contract or incur a financial liability or obligation that extends beyond December 31, 1997;
- appoint a person to a position, hire a new employee, or promote an existing employee; or
- make or agree to make a payment in connection with the ending of an employment relationship except in accordance with a contract or collective agreement entered into before April 24, 1997.

There are exceptions to the above requirements for anything done:

- in accordance with guidelines established by the Commission;
- under the *Labour Relations Act* or the *School Boards and Teachers Collective Negotiations Act*;
- where the school board is required by law to do so;
- in an emergency; and
- in the performance of a contract entered into before April 24, 1997.

It can be seen that the EIC will affect the decision-making process in existing boards by requiring that any major decision be disclosed to and approved by the EIC. The period following April 24, 1997 has been somewhat frustrating for many trustees and school administrators. The EIC has, however, issued Guidelines to assist the parties in dealing with the new process.

Education Quality and Accountability Office

On June 27, 1996, Royal Assent was given to the *Education Quality and Accountability Office Act, 1996*. That Act created the Education Quality and Accountability Office (the "Office"). Section 3 of the Act provides that the Office has the following objects:

1. To evaluate the quality and effectiveness of elementary and secondary school education.
2. To develop tests and require or undertake the administering and marking of tests of pupils in elementary and secondary schools.
3. To develop systems for evaluating the quality and effectiveness of elementary and secondary school education.
4. To research and collect information on assessing academic achievement.
5. To evaluate the public accountability of boards and to collect information on strategies for improving that accountability.
6. To report to the public and to the Minister of Education and Training on the results of tests and generally on the quality and effectiveness of elementary and secondary school education and on the public accountability of boards.
7. To make recommendations, in its reports to the public and to the Minister of Education and Training, on any matter related to the quality or effectiveness of elementary and secondary school education or to the public accountability of boards.

At the time of the announcement of the reforms on January 13, 1997, the Minister stated that in 1997 the Office would conduct regular province-wide testing of students:

“... so parents will know whether their child has learned what is expected ...”

III. THE EDUCATION QUALITY IMPROVEMENT ACT, 1997

Little, if any, of the details of how the transition to the new system of education governance is to be implemented is contained in Bill 104 itself. Some of the many regulations that will be necessary have already been enacted by the Lieutenant Governor in Council. In addition, the government has introduced Bill 160 to empower the district boards and to address many of the uncertainties and gaps created by Bill 104. In

essence, Bill 160 is divided into three areas, namely funding, governance and teacher employment and collective bargaining.

A. Funding of Education

The Method of Paying for Education in Ontario

Education is currently paid for through a combination of property taxes and provincial government grants. The school boards set the property tax rates for education purposes, and in many jurisdictions ratepayers bear the brunt of the educational funding burden. In the reforms announced on January 13, 1997, it was stated that the government would replace this method of paying for education and the revenue generated by residential taxpayers with provincial government grants under a so-called, “fair funding” model. The model, according to then Minister Snobelen, was to:

“...provide funds to recognize the cost of educating students, including special circumstances, such as students learning English for the first time in the classroom; students with special needs; and students in remote communities.

This model will address the added expense of providing education in the North and in the urban centres of Ontario, which each face unique challenges.”

As part of the “Who Does What” process, the municipalities and the Provincial government agreed that school taxes would be reduced to approximately half their current rate and that the Provincial government would set the residential and non-residential mill rates. Non-residential taxes would be pooled and distributed having regard to enrollment while residential taxes would be distributed based on the taxpayers designation. The government will equalize discrepancies in board revenues through a grant system aimed at ensuring that funding is both fair and equitable.

i. The Funding Model

The pivotal component of the funding model is

found at section 234 of Bill 160. Specifically, the Lieutenant Governor in Council is authorized to make regulations "governing the making of grants for educational purposes from money appropriated by the Legislature". Bill 160 describes the funding "test" as follows:

(2) Regulations made under subsection (1) shall ensure that the legislation and regulations governing education funding operate in a *fair and non-discriminatory manner*.

(a) as between English-language public boards and English-language Roman Catholic boards; and

(b) as between French-language public district school boards and French-language separate district school boards.

The regulations will provide for a review of the funding model following the end of the 2002-2003 school year. In addition, Bill 160 recognizes that school boards may experience an initial period of adjustment and, accordingly, the Lieutenant Governor in Council may make regulations specifically for the 1997 and 1998 which are aimed at assisting "the board in adapting to the education governance and education funding reforms of 1997 and 1998". Such regulations shall not, however, be made to assist a board after August 31, 2001.

ii. Education Taxes

Bill 160 also prescribes the rules governing the designation of taxes. There are four types of ratepayers namely:

- individuals
- partnerships
- non-publicly traded corporations
- designated ratepayers

There are five types of board or school authorities to which a ratepayer may designate namely:

- English-language public board
- English-language separate board
- French-language public board
- French-language separate board

- A school authority which is a board of a Protestant separate school

The default, English-public designation, is still recognized and is acknowledged by the *Assessment Act*.

There are two types of property namely "business" and "residential". Bill 160 authorizes the Minister of Finance to make regulations which prescribe classes of business of residential real property and prescribing the tax rates for school purposes that will be levied. There shall be a single tax rate for the residential/farm property class and the multi-residential property class, and the tax rate for the farmlands class and the managed forests class shall be 25 per cent of the tax rate prescribed for the residential/farm property class.

Bill 160 prescribes that designation rights are determined by the nature of the ratepayer involved and the type of property being assessed. Any taxes collected on "business" property would not be designated but, rather, would be distributed having regard to the following:

1. Where the property is located in the area of jurisdiction of only one board, the amount levied on the property shall be distributed to that board.
2. Where the property is located in the area of jurisdiction of more than one board, the amount shall be distributed among the boards in proportion to enrolment as determined and calculated by the Minister in the common jurisdictional area of the board.

Except in the case of residential property owned or tenanted by a publicly-traded corporation, all taxes collected on such property (*ie*: residential) may be designated.

Bill 160 requires that municipalities levy and collect taxes for school purposes on the property designated for that purpose. The exception is that the English-language public district school board shall levy and collect tax rates on the residential and business property for school purposes in a territory without municipal organization that is not deemed by

Bill 160 to be attached to a municipality. Once collected, the municipality or district board, as the case may be, must distribute the taxes in accordance with the ratepayer designations discussed above. In each calendar year, the amounts collected shall be paid to the boards in the following installments:

1. Twenty-five per cent of the amount levied the previous calendar year, on or before March 31.
2. Fifty per cent of the amount levied for the current calendar year less the amount of the instalment under paragraph 1, on or before June 30.
3. Twenty-five per cent of the amount levied for the current calendar year, on or before September 30.
4. The balance of the amount levied for the current calendar year, on or before December 15.

Levies on residential property are to be distributed by the municipality or board, as the case may be, as designated by the ratepayer.

B. Advisory School Councils

Bill 160 has amended section 170 of the *Education Act* by requiring that school boards establish "an advisory school council for each school operated by the board in accordance with the regulations". The Lieutenant Governor in Council is authorized to make regulations relating to the "establishment, composition and functions" of advisory school councils.

School councils are given a more defined role under Bill 160. Regulations will likely be promulgated which provide school councils with the authority to advise principals on matters such as school discipline, school safety and local initiatives. However, it is the breadth and extent of the power of the school councils in education which remains uncertain. In a "Backgrounder" distributed on January 13, 1997, the Ministry stated the following about advisory school councils:

"More say for parents

- in April 1995 the province asked school boards to establish advisory school councils (emphasis supplied)
- this spring, the government will strengthen the councils by establishing them in legislation
- parents will have more input on major decisions affecting their children's education such as: programs the schools offer, ways of reporting students' academic progress and student discipline."

Whether school councils will exercise truly "advisory" rather than "supervisory" powers in certain specified areas remains to be seen. It is likely that parents will be given a greater role in the operation of schools and the details of the provision of education to their children than they have previously enjoyed.

C. Collective Bargaining

Collective bargaining with teachers in Ontario is currently done within the frame-work of the *School Boards and Teachers Collective Negotiations Act*. That Act was recently the subject of review by a one man Commission (Leon Paroian) appointed by the Ontario government. Mr. Paroian delivered his report in which he recommends significant changes to the way in which collective bargaining takes place with teachers in Ontario. Under Bill 160, the *School Boards and Teachers Collective Negotiations Act* ("Bill 100") would be repealed as of January 1, 1998. The *Labour Relations Act, 1995* would apply to teachers' collective bargaining subject to the new Part X.1 of the *Education Act*.

Bargaining units are defined under Bill 160. Specifically, there are two bargaining units for each school board namely:

1. A bargaining unit composed of every teacher who is assigned to one or more elementary schools or to perform duties in respect of such schools all or most of the time ("elementary unit"); and
2. A bargaining unit composed of every teacher who is assigned to one or more

Specifically, the ERC will now have only two functions, namely to:

- (a) advise the Lieutenant Governor in Council when, in the opinion of the ERC, the continuation of a strike, lock-out or closing of a school or schools will place in jeopardy the successful completion of courses of study by the affected pupils; and
- (b) compile statistical information on the supply, distribution, professional activities and salaries of teachers.

IV. MAKING THE MEGABOARD WORK

Bill 104, and the regulations thereunder, created the so-called "megaboard" consisting of the "urban area of the City of Toronto incorporated by the *City of Toronto Act, 1997*." The school board will be comprised of North York, Scarborough, Etobicoke, Toronto, York and East York and would be the largest school board in Canada. Naturally, there is an organizational and operational concern whenever dealing with a structure of this magnitude. There has been significant effort devoted to putting in place an infrastructure designed to make the new Toronto District School Board manageable both prior to and after January 1, 1998.

Bill 104 requires that school boards establish a Local Education Improvement Commission ("LEIC") to work with the EIC. A LEIC has been in place at the megaboard since about May, 1997. The role of the LEIC is to coordinate the amalgamation of the public boards and its mandate is expressly described in a set of "guidelines" issued by the EIC. The EIC states that one of the important responsibilities of the LEIC is:

"... to keep students, staff, parents and ratepayers informed about the amalgamation of the Metro public boards."

The LEIC mandate and function has been summarized as follows:

"The mandate of the LEIC is prescribed in the guidelines of the Education Improvement Commission (EIC). The LEIC is an advisory body whose major responsibility is to lay the groundwork for the establishment of the new amalgamated Toronto District School Board. In general, the LEIC is expected to develop transitional plans for the amalgamation, make recommendations to the EIC, and offer suggestions for the consideration of the new school board."

The LEIC is composed of two trustee representatives from each of the six boards plus one alternate from each of the boards. The Directors of Education for each of the boards act in an advisory capacity to the members of the LEIC. The Director of the Metropolitan Toronto School Board is the Coordinator for the LEIC. At this point, the LEIC is largely engaged in a process of data collection and distribution to the various sub-committees which have been established to deal with specific issues of importance. There are nine sub-committees including (1) capital/assets-liabilities & plant operation, (2) communications, (3) equity, (4) finance, (5) governance/administrative framework, (6) human resources, (7) operations, (8) parental/student/community involvement and (9) program. These sub-committees are also in a data collection phase and are considering issues presented to them. It is hoped that all recommendations from the sub-committees will be forwarded to the LEIC by the end of November, 1997. These recommendations will either be approved, denied or sent back to the sub-committees for further consideration. Once the recommendations have been approved by the LEIC, they will be forwarded to the EIC who will provide direction and in-servicing to the 22 trustees of the new Toronto District School Board. In short, the LEIC and the sub-committees are attempting to put a short-term and long-term structure in place which will allow the board to function efficiently and effectively.

It is anticipated that the "merger" of the six boards will be phased in over a period of time and that a single structure will be in place by the end of August, 1998.

secondary schools or to perform duties in respect of such schools all or most of the time ("secondary unit").

The elementary and secondary bargaining units may "combine" to form a single teachers' bargaining unit in the following circumstances:

- (a) if the designated bargaining agents for the predecessor bargaining units are branch affiliates of the same organization; and
- (b) if the employer and the designated bargaining agents agree.

While the government had initially intended to open teachers up to almost all of the procedures of the *Labour Relations Act, 1997*, including certification and decertification by any union, whether a traditional teaching association or otherwise, the government reversed itself on this proposed reform. Accordingly, the current branch affiliates would continue to have the sole and exclusive right to represent teachers as their bargaining agent without concern of being displaced by a non-teaching union.

The definition of "occasional teacher" would be revised under Bill 160, and they would be included in the same bargaining unit as other teachers when the second teachers' collective agreement is entered into. In addition, the statutory forms of contract would be eliminated.

Bill 160 contains a series of "transition provisions" which will apply in the short-term and which are intended to maintain labour stability as the new educational framework takes shape. The new school boards would be bound by the terms of the collective agreements existing on December 31, 1997 or, if no such agreement exists, the most recent collective agreement which applied with respect to the teacher. In other words, the new school board "shall be deemed to be the employer under each collective agreement". The terms and conditions of employment found in each of the collective agreements will apply to the individual teachers who were previously employed under them until a new collective agreement is concluded. This will, necessarily, create some difficult and challenging issues for school boards and bargaining agents alike.

The bargaining agents are deemed to give notice to bargain on January 1, 1998 and, accordingly, every collective agreement in force expires on:

- (a) the day on which the first collective agreement is entered into after January 1, 1998;
- (b) seven days after the day the Minister of Labour has released or is deemed by the *Labour Relations Act, 1995* to have released to the parties the report of the conciliation board or mediator; or
- (c) fourteen days after the day the Minister of Labour has released or is deemed by the *Labour Relations Act, 1995* to have released to the parties notice of his decision not to appoint a conciliation board ("no board report").

The right to strike or lock-out is preserved as is a school board's ability to alter terms and conditions of employment provided, of course, that the strike or alteration in terms of employment is timely.

All interest arbitrations, strikes or lock-outs commenced on or before January 1, 1998 are terminated by operation of Bill 160. Outstanding grievances as of January 1, 1998 shall be processed by the designated bargaining agent under Bill 160.

Once negotiated, the first collective agreement between the parties shall have a minimum term of two (2) years and every collective agreement *must* take effect no later than September 1, 1998.

As part of their important role, it is expected that the EIC will deal with transfers of employees from existing school boards to the new district school boards to ensure a minimum of disruption to the operations of schools. This will be especially important for those boards which lack an existing infrastructure to allow them to carry out their functions (*ie*: the French-Language boards).

In view of the repeal of the *School Boards and Teachers Collective Negotiations Act*, the role of the Education Relations Commission ("ERC") will be significantly reduced.

V. CONCLUSION

When the Progressive Conservatives campaigned in Ontario at the time of the last provincial election, they described their proposed agenda as the "common sense revolution". Common sense, like beauty, is in the eye of the beholder. One can make a case that many of the changes being proposed are common sense. Others will argue, to the contrary, that not much of what is going on in educational restructuring is common sense.

While there may be room for disagreement on the issue of whether the changes, or to what extent the changes, are, "common sense", there can surely be no disagreement that the breadth of the restructuring taking place does constitute a "revolution" in the way in which elementary and secondary education is delivered in Ontario. The reform process marches on, and January 1, 1998 is fast approaching. There is a tremendous amount of work that still needs to be done by the government, the EIC and the stakeholders prior to the change in educational structure.

Barry W. Earle, Q.C.
Eric M. Roher
Michael P. Fitzgibbon

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The education law issues of today are more diverse and complicated than ever before. Until recently, most of the legal issues which faced school boards did not require specialized knowledge of education law. Increasingly, however, those involved in education whether as teachers, administrators or lawyers, are facing new issues that are unique to the field. The Labour/Employment lawyers of Borden & Elliot who specialize in education law act for a number of school boards throughout the Province of Ontario.

Labour/Employment Law Group - Education

Barry W. Earle, Q.C.

John W. Woon

Eric M. Roher

Melany V. Franklin

Carole E. Hoglund

Michael P. Fitzgibbon

Matthew L.O. Certosimo

Christine M. Thomlinson

Borden & Elliot

Scotia Plaza

40 King Street West

Toronto, Ontario M5H 3Y4

Tel: (416) 367-6000

Fax: (416) 367-6749

E-Mail: info@borden.com

Website: www.borden.com

York Region Office:

330 Highway #7 East, P.H. 2

Richmond Hill, Ontario L4B 3P8

Tel: (905) 881-7387

Fax: (905) 881-0106

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**MEMORANDUM TO CLIENTS
AND OTHER INTERESTED PARTIES**

**RE: Bill 160: *The Education Quality Improvement Act, 1997*
As Passed By the Ontario Legislature on December 1, 1997**

On December 1, 1997, Bill 160, the *Education Quality Improvement Act, 1997* ("Bill 160") received third and final reading in the Ontario Legislature. Once the bill is given Royal Assent, the controversial amendments to the *Education Act*, and certain other statutes, will be in force either immediately or after proclamation, depending on the section of the bill. There has been considerable misinformation circulating about some aspects of this bill, especially respecting proposed Government amendments before third reading. A more detailed review of the new legislation will follow in our next Education Law Newsletter and at a client seminar in January. The following highlights address the significant amendments.

Principals and Vice-Principals

- ◆ Principals and Vice-Principals are excluded from the teachers' collective bargaining units along with Supervisory Officers and instructors in teacher-training institutions by the definition of "Part X.1 teacher".
- ◆ Principals and Vice-Principals are excluded from the *Labour Relations Act, 1995* by clause 3(f) of that Act, so they would not be able to be organized by a trade union under that legislation. They are put in the same position as Supervisory Officers under that Act.
- ◆ The definition of "teacher" in the *Teaching Profession Act* is amended to exclude Principals and Vice-Principals, as already is the case for Supervisory Officers, so that they would no longer be statutory members of the Ontario Teachers' Federation, nor its affiliates or branch affiliates.
- ◆ Principals and Vice-Principals are able to exercise the right to resign their positions and continue their employment with the school board as teachers until March 31, 1998. The resignation of position would take effect on August 31, 1998, or on such earlier date as

the school board and the Principal or Vice-Principal may agree upon. The collective agreements that apply respecting teachers in the bargaining units in which such Principals and Vice-Principals become members would be inoperative to the extent necessary to permit them to assume a position within the bargaining unit. Their seniority in the bargaining unit would be determined as if they were employed as a teacher while a Principal or Vice-Principal. This election is made in writing before April 1, 1998.

- ◆ The terms and conditions of employment for Principals and Vice-Principals are frozen as of December 31, 1997 from January 1, 1998 until August 31, 1998 (or until such earlier date as may be agreed upon in writing between the Principal or Vice-Principal and the new district school board) except for the following matters, which would no longer apply to them:
 - Membership in the OTF, an affiliate or a branch affiliate
 - Seniority
 - Grievances under a collective agreement or an expired collective agreement (since only grievances relating to a Part X.1 teacher are continued)
 - Recall and redundancy rights
- ◆ Regulations may be made governing terms and conditions of employment for Principals and Vice-Principals and they may establish different requirements for different classes of Principal or Vice-Principal.
- ◆ Principals and Vice-Principals are able to perform the duties of a teacher despite any provision of a collective agreement.
- ◆ Principals and Vice-Principals *still* have to be qualified teachers. There has been rampant misinformation on this issue because of the amendment in the bill to another statute concerning provincial schools. The amendment does not affect public or separate school board Principals. The definition of “principal” under the *Education Act* remains:

“principal” means a teacher appointed by a board to perform in respect of a school the duties of a principal under this Act and the regulations [emphasis added]

Class Size

- ◆ As of October 31st each year, school boards will have to determine the average size of its classes in the aggregate. The methodology for this calculation most likely will be set out in a regulation and, apparently, may exclude special education classes because an express provision has been made for such exclusion.

- ◆ Maximum average class sizes, for all school boards in the aggregate, are set at 25 for elementary schools and 22 for secondary schools, subject to Ministerial permission to exceed them.
- ◆ The Minister of Education and Training will review these maximums every three years.

Teaching Time

- ◆ Classroom teachers, despite any applicable conditions or restrictions in a collective agreement, will be assigned "minimum teaching time" during the instructional program for each period of five instructional days during the school year.
- ◆ "Classroom teacher" is defined as a teacher who is assigned in a regular timetable to provide instruction to pupils but does not include a Principal or Vice-Principal. It would include department heads.
- ◆ The calculations are to be based on all of the school board's classroom teachers and their assignments (on a regular timetable) on every instructional day during the school year in the aggregate.
- ◆ "Minimum teaching time" is on average at least 1300 minutes for elementary school teachers and 1250 minutes for secondary school teachers.
- ◆ School boards will allocate to each school a share of the school board's aggregate minimum time for the school year.
- ◆ Principals will make teaching time allocations "in his or her sole discretion" to enable them to adjust teaching assignments, so there may be less teaching time for department heads, for example.
- ◆ Part-time teachers will have their minimum teaching time correspondingly reduced.

Teachers' Assistants

- ◆ Regulations may be promulgated governing duties and minimum qualifications of persons who are assigned to assist teachers or to complement instruction by teachers in elementary and secondary schools. Teacher assistants continue to assist or complement - not replace - qualified teachers.

Individual Teacher's Contracts

- ◆ All individual teacher contracts (permanent, probationary, and continuing education teacher's contracts) will cease to be in force.

- ◆ Terms and conditions of employment will be determined by collective agreements under the *Labour Relations Act, 1995*, and in accordance with the *Education Act* and regulations thereto.

School Councils

- ◆ School boards shall establish a school council for each school operated by the board in accordance with the regulations.
- ◆ Regulations may be made respecting school councils, including regulations relating to their establishment, composition and functions.
- ◆ They are no longer referred to as “advisory”.

Collective Bargaining

- ◆ Each district school board will have *four* bargaining units: one elementary unit for other than occasional teachers; one elementary unit for occasional teachers; one secondary unit for other than occasional teachers; and one secondary unit for occasional teachers. Occasional teachers will continue to have their own bargaining units under the *Labour Relations Act, 1995*. There will be separate bargaining units for district school boards’ elementary and secondary occasional teachers effective January 1, 1998, if that is not already the case.
- ◆ Both elementary teacher bargaining units at each English-language public district school board will be represented *jointly* by FWTAO and OPSTF. Eventually, the merged organization known as “The Elementary Teachers’ Federation of Ontario” will be the bargaining agent.
- ◆ Both secondary teacher bargaining units at each English-language public district school board will be represented by OSSTF.
- ◆ All four teacher bargaining units at each English-language separate district school board will be represented by OECTA.
- ◆ All four teacher bargaining units at each French-language district school board (both public and separate) will be represented by AEFO.
- ◆ By mutual agreement, one or more teachers’ bargaining units may be combined to establish one teachers’ bargaining unit as long the bargaining agent is the same for all units. The combined bargaining unit may be discontinued later on by mutual agreement and revert back to separate units.

- ◆ Certification and termination of bargaining rights procedures under the *Labour Relations Act, 1995* are inoperative for teacher bargaining units.
- ◆ Joint bargaining is permissible by mutual consent.
- ◆ The occasional teacher bargaining units are composed of teachers who are occasional teachers and who are on the school board's roster of occasional teachers (on a list of occasional teachers maintained by a school operated by the school board).
- ◆ An occasional teacher may be a member of more than one teachers' bargaining unit.
- ◆ Occasional teachers already in a bargaining unit represented by a bargaining agent cease to be members of that unit on January 1, 1998. Any outstanding grievances are continued with the new bargaining agent designated under the Part X.1 of the *Education Act*.

Transitional Matters

- ◆ If no collective agreement applies respecting a teacher on December 31, 1997 because it expired, the most recent collective agreement (which may be altered *only before September 22, 1997*) will apply on January 1, 1998.
- ◆ If two or more collective agreements apply respecting teachers in a bargaining unit, the procedure for determining the seniority of teachers is as follows:
 - the school board shall give the bargaining agent a proposed definition of seniority on or before *March 31, 1998* to be used to determine the seniority of all teachers in the bargaining unit
 - the bargaining agent shall respond within 5 days after receiving it
 - the parties may negotiate with a view to agreeing upon a definition of seniority
 - if the parties do not negotiate or do not agree upon a definition of seniority, either party may apply to the OLRB for an order specifying the definition of seniority to be used
 - if before *May 1, 1998* there is no agreement or no order by the OLRB, the definition of seniority first proposed by the school board is the definition to be used before the first collective agreement commences.
- ◆ Only outstanding grievances (under a collective agreement or expired collective agreement) relating to a Part X.1 teacher are continued with the new bargaining agent.

December 4, 1997