



**Government Issues Currently Being Addressed By OFIS:
Spring 2015 – May 2015**

1. Relationship With Ministry of Education

- Private Schools Coordinator Tony DiLena was seconded to a new position within MOE as of November 10 2014
- A new Program Coordinator was named January 5 2015 – Michael Rethazi
- The office has been renamed as the *Field Services Branch For Private Schools & International Education* and Mr. Rethazi is the new program coordinator (also a new title/position)
- A meeting for OFIS and the new private schools staff at MOE was arranged as of April 13 2015
- There has been a shuffle in the Early Learning Division of MOE which affects all of the top bureaucratic positions (Policy & Program Unit, Childcare Quality Assurance & Licensing) with the exception of the Deputy Minister of Education
- A meeting between OFIS & Private Schools Coordinator was held on May 12 2015 – discussed: upcoming Spring memo, future consultation possibilities, 2014 auditor-general’s report, private schools act, credit completion/recovery, OnSIS,

2. DNL Compliance – Revocation of Grandfathering Privileges For Established Private Schools With Early Learning Programs

- Deputy Minister of Education issues Memo – March 6 2014 – ending “grandfathering” privileges to private schools with early learning programs
- Deputy Minister of Education revised deadlines around DNL compliance – all schools must have successfully applied by January 1 2015 (including zoning letter & endorsed floor plans) and be licensed by January 1 2016
- Early learning inspectors were entering private schools asking for proof of “grandfathering” status (proof they existed prior to 1992 and proof that there were early learners on premises at that time)
- MOE doesn’t have records – only a “hand-sorted” list only which doesn’t take into account school name changes or ownership changes (which MOE says would have resulted in changed BSID#)
- Grandfathered schools that did not meet the application deadline of January 1 2015 have received letters asking them to indicate their intentions by April 10 2015
- Grandfathered schools in some municipalities are experiencing challenges with zoning by-laws that are individual to those municipalities and are raised by the new licensing demands provincially for these schools
- April 29 2015 – government announces budget funding for 4000 new early learning spaces in public schools inviting public school boards to apply for the funding for programs. Potential legal/human rights issue as previously grandfathered schools are forced to close established, successful programs (due to undue financial hardship around facilities expectations) while the

government provides a competitive edge to public schools. This in effect removes parents' ability to choose a school when their schools of choice are prohibited out of business (paragraph 35 of subsection 11(1) of the *Education Act*)

-May 2015 – MOE issues questionnaire to schools with early learning programs to 'gather information' for planning purposes

-OFIS maintains that schools should not be expected to have records that the government itself doesn't have and that no expectations for record-keeping should reach beyond other government agencies (maximum 7 years)

-OFIS further maintains (Ontario Private Schools Coordinator agrees) that inspectors should abandon these visits and stick with the current expectation parameters applying to all schools ("grandfathering" would be moot given deadlines in place as per policy memo)

-OFIS also maintains that licensing deadline reflect a 3-year time-period which would allow Bill 10 to be passed & regulated - premature to ask schools to comply with legislation, on a very short timeline, that could be imminently changed or replaced or even changed at a later date (moving target)

-OFIS has been offered an opportunity to meet with program management staff to discuss how the implementation of licensing of grandfathered schools might be better navigated (meeting was scheduled for November 18 and was postponed by MOE – this meeting has still not been re-scheduled despite several repeated requests to do so. A complaint may be filed by the OFIS board with the provincial ombudsman (lack of proper communication around meeting expectations and deadlines set by the government – feels like a set up to refuse licensing)

-OFIS will be writing both a press release and letters to relevant government agencies and politicians about the potential threat to Declaration of Human Rights (Article 26, 2 & 3) & Canadian Charter of Rights & Freedoms (Section 15) where the government provides a competitive edge to public schools in early learning

-OFIS will determine the potential benefit or harm of completing the early learning questionnaire

3. Bill 143/Bill 10 – Childcare Modernization Act –

-Prior to June election, Bill 10 – Childcare Modernization Act – was Bill 143

-MOE insists Bill 10 contains only minor amendments from Bill 143, was tabled in July 2014 and was debated until November 5 2014, when a successful Time Allocation Motion (which included legislated parameters around public hearings) was passed.

-OFIS maintains that Bill 10 goes further than Bill 143 and cites 4 additional concerns/questions, to the 9 concerns/questions, we posed with Bill 143

-Opposition parties insisted the bill go to committee and be subject to regional public hearings. Time Allocation Motion passed (with help by NDP) for 2 afternoons and 2 evenings of hearings in Toronto (November 17 & 18)

-Very few private school stakeholders were granted access to the public hearings which were supposedly delegated "first-come first-serve" (OFIS provided written submission as alternative)

-Bill 10 received a clause-by-clause review – November 24 & 25 – OFIS provided considerable comprehensive materials for amendments and suggestions to be tabled by opposition during these two days

-Suggestions for amendment had to meet two criteria – a) protect parental choice in education by protecting private schools’ right to reasonably self-identify and b) assist the government in drafting legislation that would keep children safe

-Bill 10 was passed on December 5 2014 – without any major amendments - it is currently in regulations with the expectation for implementation in the fall of 2015 – stakeholders have been given the opportunity to comment on regulations/implementation before May 10 2015

-OFIS will provide a template to member schools and to MOE about easing regulations around some of the physical site challenges (particularly for established schools) as well as any regulations around an appeals process for complaints, governance, fee structure and program content

-OFIS submitted a response to MOE around regulations in implementing the new legislation – key issues: governance, fee structure, program content, administrative penalties/appeals

4. Public Money Going To Private Education –

-January 2014 – Minister of Colleges, Universities & Training announces that the Ontario Tuition Grant (OTG) will be extended to eligible students attending private career colleges – acknowledges the contributions of private career colleges to the economy, acknowledges the savings to government these private schools provide and reminds the public that the funding is not extended to schools, but to students, thereby not violating the government’s commitment to public education.

-creates a double standard citing previous similar arguments being used by the government to distance from private elementary and secondary schools

-OFIS letters spent much time prior to the election being “ping-ponged” between MOE and Colleges & Universities – current letter is before both ministers for reflection and OFIS continues to pursue

-OFIS recently received a written response to our most recent letter informing that the government had no intention of altering its current funding policies

5. MOE Website – Suggestion Of Questions For Parents Considering Private Schools –

-MOE recently revised its disclaimers around private schools on its website significantly distancing itself from any responsibility around private schools

-It further suggests that parents considering private schools check for criteria for which the schools have no responsibility under the Education Act and for which the government has distanced itself from (discrepancy between the legislative requirements and the criteria suggested by the government)

-Props up the government funded schools as only viable choices and casts unnecessary doubt on private schools through misrepresentative question suggestions

-Topics for review include: qualifications of teachers & principals, standardized testing, curriculum content vs. standards

-OFIS has written letters and has prepared a submission, upon request, for the Private Schools Coordinator about what, why and how these questions be revised and has been offered the opportunity to meet with communications and legal about moving forward

-MOE website was hacked during the first week of March and was down completely for just

over a week. While most of the website has been restored, all pages containing directories and resources for private schools have still not been restored as of April 13 2015

- MOE has provided a temporary link for accessing private school directory
- OnSIS has come up with some security issues which are flagged by browsers when schools are making submissions – maintenance has been scheduled

6. NEW NOI Requirements –

- NOI has new questions and new declaration in 2014/2015 which provide concern for OFIS that wonders what the new information is being collected for
- There is a clear strategy, confirmed by the Private Schools Coordinator, in working towards a greater expectation for private school teachers to be OTC/OCT and principals to have PQP I & II
- OFIS has written letters and is now preparing a submission suggesting revisions to the form and fixing problems with declarations*
- OFIS is also working on having PSP I & II be endorsed by OCT and MOE (application process with OCT is already underway – OFIS was recently invited to participate in the review of PQP I & II)*

7. School Addresses & Premises –

- MOE is insisting that two private schools (separate entities with separate entrances and administrations) cannot share the same physical address. That has since been modified to state two private schools, which are credit granting, cannot share the same address.
- When pressed, MOE has indicated that this is neither policy or legislated, but that it has always been the practice of MOE. They insist they cannot validate credits when locations are shared (pretty sure this is part of why inspections happen).
- OFIS has asked them to follow legislation and policy which has solved the issue for now. Of course, there is an on-going concern that there are other things that are “interpreted” by ministry staff and are not indeed legislated which means OFIs must remain vigilant for its members.*
- As a side note, OFIS had suggested that one school get a PO box which would resolve the address question for MOE in the absence of legislation and policy.

8. Use Of The Words “School Board”

- MOE insisting that a group of schools in association (existing for more than 50 years) refrain from referring to themselves as a “school board”
- Education Act specifies the definition of a “school board” and can only be used by publicly funded schools organized under the Act
- initial legal opinion obtained by the group of schools finds in favour for them

9. Pending Job Action In Public Education –

- OSSTF already reporting that it is at an impasse in negotiations on provincial matters with respect to expired teacher’s contracts (August 31 2014). This was even before the matters that were relegated to local negotiation in Bill 120, were considered.
- Last week featured some important news releases which influence this situation: a) fiscal update (November 17) was not positive, b) auditor-general’s report revealed government spent

half a billion dollars to end the last teacher stand-off (fall of 2012) despite previous public reports that no money was spent only assurances of legislation to improve the collective bargaining process, c) MOE announced it would cut 500 million dollars from education budget and that schools would close.

-Strike votes are happening all week – (November 24-29) – contacts inside the unions indicate job action could begin as soon as January 6 2015 (first day back from holiday)

-All education unions have 90+% votes to strike as of December 31 2014

-The province's fiscal year ends on March 31 2015 – the government must submit a budget at that time which will likely see fiscal constraints across the public sector

-Education unions have negotiations at both local and provincial levels – there is already indication that those negotiations have broken down at the local level in some jurisdictions and that strike activity could begin in some boards as early as April 20 2015

-public education strike began in April 2015 on a board by board basis in secondary schools.

Elementary schools are expected to experience work-to-rule beginning May 10 with a full walk-out anticipated for fall 2015

-OPSB filed complaint with OLRB that OSSTF is striking illegally – focused on central issues when strikes are local and complaints should be around local issues – hearing completed by May 22 with decision expected by May 27. ERC rules that school year is in jeopardy for currently striking boards (Durham, Rainbow, Peel)

Mediated talks with OSSTF fail to end impasse at provincial level as of May 27 2015 – very likely waiting for OLRB ruling to force arbitration (when the govt can then claim that they were 'forced' to give teachers what they are demanding)

-OFIS schools should be prepared for increased parental inquiries as this gets more publicity.

-OFIS is prepared to respond publicly to the importance of really keeping students first.

10. CUPE Has Organized and Unionized Teachers In An OFIS School

A disgruntled ex-employee worked with CUPE to unionize the teachers at this school (with satellite locations)

-certification vote was significant and largely in favour of unionizing

-OFIS is assisting the school with its collective bargaining process and is providing information to schools around the process of unionizing of employees in general

-OFIS is prepared to assist other schools that may have employees approached by unions (particularly OSSTF & ETFO)

11. Creating A Private Schools Act For Ontario -

-OFIS is a leader, working with other private school associations, on a piece of legislation that would clearly define and provide appropriate oversight to private schools in the province as a subsequent to Section 16 of the Education Act, which would supercede all other legislation and remove questions around the interpretation of incidental legislation or policy memos.

-OFIS recently participated in a session with CARDUS (thinktank) which produced "Towards A Warmer Climate For Ontario's Private Schools" to establish some next steps in implementing recommendations from the 1985 Shapiro Report – this has good potential to bring all the private school associations

together in an unprecedented way

-OFIS met with Cardus in early May and is assisting with upcoming conference (November)

-New Private Schools Coordinator has expressed interest in such legislation in order to provide better understanding on both sides (April 2015 – PSP II)

12. Inspection Fees – Private Secondary Schools Issuing Credits Towards OSSD

These fees have increased 157% since 2010 and are at \$4050 for the current year. They are supposed to be set on a cost-recovery basis only which OFIS has yet been able to verify (must be satisfied by a Freedom of Information Request). Additionally, rigours of inspection have intensified with many schools experiencing difficulty and more schools being required to have annual visits (sometimes more often than that).

-OFIS continues to pursue a Freedom of Information Request around inspection costs

-OFIS continues to advocate for a reasonable per-student fee rather than a per-school fee

13. Credit Completion/Summer School Credits – Private Secondary Schools Issuing Credits Towards OSSD

April 2015 MOE issues memo to private secondary schools reminding them they are not permitted to advertise or offer courses leading to credit unless the courses have a minimum of 110 instructional hours. And that credit recovery (Section 7.5.1 – OS) is part of the overall student success initiative limited to public schools only. And finally that MOE will check for compliance through regular inspection or upon complaint. Failure to comply could result in loss of credit-granting status. Forcing students to re-take an entire 110 hour credit at a private school when they could take a make-up 55 hour course at a public school seems discriminatory to both students and private schools. The fundamental question is whether public and private schools should be able to offer the same programs and is more complicated by the fact that there is so little guidance in the Education Act.

-there are a number of concerns: a) that the policy is consistently applied between public & private schools (all credits should result from 110 instructional hours), b) private schools have been successfully offering make-up courses for many years & passed inspection doing so, c) private schools sometimes offer credits that public schools do not (cancelled due to low enrollment), d) by trying to limit the ability of private schools to offer the same programs and opportunities available to students in public schools, the government discriminates against the right of parents to choose the type of education their child will receive. It forces students to attend public school programs despite whether or not those programs are the best fit for their child's learning and/or medical needs (Universal Declaration of Human Rights – Section 26, 2 & 3), (Canadian Charter of Rights & Freedoms – Section 15), (

-unless and until MOE establishes policy/legislation that demands instructional hours distributed in a minimum timeframe, outliers will always ruin it for all genuine schools

-Outstanding questions: a) has this not already been the ministry policy for a number of years (110 instructional hours regardless), b) if the policy has been ignored by some, why has the ministry not taken action to ensure compliance (why have they continued to pass inspection)?, c) is there concern that the 'recovery credit' of the policy might be discriminatory against private schools (and actionable)?, d) have publicly funded summer school credits been verified as containing 110 instructional hours?

-OFIS will issue a press release as well as a letter to all relevant government agencies/politicians – support increased opportunities for students to access education through different venues resulting in lower drop-out rates, better jobs, less poverty, racism and discrimination. Education is recognized globally as a human rights issues for the fundamental good of society. Move should be towards more programming, not less.

-OFIS will also test this issue legally with our own legal counsel

-OFIS will consider filing an ombudsman complaint around this issue as well as the early learning issue referenced here earlier

-OFIS has a meeting scheduled with the Private Schools Coordinator – May 12 2015

*OS - Credit Recovery – Note that provision of such is limited to ‘Boards and schools’, which are defined in the Education Act in a way to exclude private schools. That’s why the Private Schools Branch has never approved of private schools offering credit recovery. Private schools have always been able to obtain approval for ‘credit completion’, by simply ensuring completion of 110 instructional hours (including previous ‘public school hours’), together with documenting a demonstration by the student of all curricular overall expectations (during normal inspection process).

**7.5.1 Credit Recovery – Boards and schools should make credit recovery programs available to their students. These programs are designed to help regular day school students meet the expectations of a course they have completed but for which they have received a failing grade. A credit (or credits) for a course must be recovered within 2 years from the time the student fails the course. Students may work on recovering more than one credit at a time through the credit recovery process, and there is no limit on the number of credits a student may recover. Credit recovery may be delivered as part of the regular day school program and/or a summer school. Instruction must be delivered by a qualified teacher. Credit recovery programs may accommodate continuous intake and may be delivered through e-learning. Procedures and requirements governing the operation of credit recovery programs are outlined in Growing Success: Assessment, Evaluation & Reporting in Ontario Schools – 1st Edition, covering grades 1 to 12

14. Ministry of Labour (MOL) – Proactive Targeted Inspections

In 2012, OFIS had 2 schools subject to random inspections due to complaints from employees within private schools

-inspected schools were required to re-structure employment agreements and arrangements in compliance with the Employment Standards Act, without the exemptions outlined in the Teacher Profession Act

-rationale: private school teachers do not meet the definition of teacher as outlined in the Teacher Profession Act or the Education Act - many private school teachers have not been able to collect EI during summer breaks because they are teachers (creates double standard)

-there have been no noted inspection visits since late 2012 – the issue has been abandoned by MOL but the questions within have not been resolved.

-Private schools are not on the current list for proactive targeted inspections (which is generated based on complaints by employees within certain sectors)

-OFIS recommends compliance to ESA to its member schools in the interim

15. New Health Curriculum – both elementary & secondary panels

Government introduced new curriculum for fall 2015 implementation which is essentially the same curriculum introduced by the previous premier (same govt) in 2010. At that time the govt backed down due to huge parental pushback about the content as well as the invasion of parental duties. The same criticism has erupted this time with the govt claiming it did wide consultation with stakeholders (which it

didn't – the process was very limited & controlled).

-private schools are not legislated to follow the Ontario curriculum currently which means private schools may have the right to implement their own programs

-private secondary schools which issue credits on behalf of the government may experience more difficulty at inspection time with alternative curriculum being proposed

-this is a huge concern for faith-based/culture-based private schools (in addition to parent issues)

-OFIS continues to monitor the government's expectations for private schools with respect to this new curriculum, already studying the implementation rigours to gauge affect for member schools

16. HST & Private Schools

-While private schools across Canada pay HST on supplies, materials, maintenance and rent/lease costs which adds 13% to all school costs aside from labour and yet private schools cannot claim the input tax credit.

-Publicly funded schools receive an 87% HST rebate on those same costs.

-OFIS will write a letter to Federal Minister of Finance on this issue to begin discussion.