

***Education Statute Law Amendment Act (Learning to Age 18),
2005***

**Submission on Bill 52 by the Ontario College of
Teachers to the Standing Committee on the Legislative
Assembly**

The Ontario College of Teachers supports the general principles and objectives of this proposed legislation, and welcomes initiatives that contribute to the success of all students.

Teachers know very well that conventional educational settings and curriculum do not work for all learners.

That is why members of the College all across the province are working in alternative settings to help students of all ages overcome a wide range of learning challenges.

That is why every day teachers draw on their own and colleagues' professional training and knowledge to adapt curriculum, materials and teaching methodologies to help students learn in a broad assortment of ways that respect individual differences.

We appreciate this opportunity to share some insights with the committee from our point of view as regulator of the teaching profession in Ontario.

The College has some concerns that we feel can be addressed with some small but significant changes to Bill 52. In short, we believe that the bill as it is currently written does not deal adequately with the issues of accountability and responsibility for educational programming.

Background

The Ontario College of Teachers is the self-regulatory body mandated to license, govern and regulate the profession of teaching in Ontario. The College was established in May 1997 following the recommendation of the Royal Commission on Learning for increased public accountability and improved quality and co-ordination of pre-service and in-service teacher education programs.

The College's powers and duties are contained within its enabling legislation, the *Ontario College of Teachers Act* (the "OCTA"), the regulations under that Act, and its bylaws.

We have an obligation under this legislation to register and certify teacher applicants as members and to address concerns from the public about members' professional conduct, competence or fitness to practise the profession of teaching. In carrying out these duties, the College has an overriding duty to serve and protect the public interest.

The College is the largest regulatory body in Canada, with over 204,000 members licensed to teach in Ontario's elementary and secondary schools. All teachers who wish to teach in Ontario's publicly funded schools or hold principal or vice-principal positions must be licensed by the College. Members of the College also teach in private schools, are university professors and college instructors, and work in other private and public organizations although they do not generally need to be members to work in these settings.

Bill 52, which amends both the *Education Act* and *Highway Traffic Act*, is intended to raise the compulsory school attendance "age [from 16] to 18, or until graduation, by keeping students learning either in classrooms or in approved out-of-school programs, including apprenticeships or co-operative education." These opportunities would fall outside the instruction otherwise provided by a school board, and are described in the Bill as "equivalent learning".

The amendments would allow students to claim course credits for time spent in "programs, courses of study, or other activities" offered by organizations not governed by the *Education Act*, such as colleges of applied arts and technology, or universities.

The Bill would also allow students to claim course credits for time spent in "programs, courses of study, or other activities" offered by organizations that are not traditional educational institutions, such as community or youth groups.

While the College supports the intent of the legislation to encourage students to remain in school, it is concerned that the Bill, if passed in its current form, would have a significant impact on the College's ability to fulfill its statutory mandate to protect the public interest in providing safe learning environments.

For this primary reason, the College has prepared this submission for the consideration of members of the standing committee.

Accountability of the Ontario Teaching Profession to Ontario Students

A key component of self-regulation is public accountability. The College fully endorses a statement made over 30 years ago by Justice James McRuer, Chair of the 1968 Royal Commission of Inquiry into Civil Rights, that "the obligation to maintain high standards of competence and ethical conduct is not discharged once an applicant has been admitted to practice. There is the continuing obligation to see that practising members of the body provide proper service to the public".

This obligation is expressly recognized in s. 3(2) the College's enabling legislation, which provides that in carrying out its regulatory activities the College, as gatekeeper of the profession, is subject to an overarching duty to protect the public interest.

In passing the *OCTA*, the Ontario Legislature delegated the authority to regulate the teaching profession to the profession itself in recognition of three important factors:

- the public requested an improved education system and better accountability of the people who work in that system,
- Ontarians acknowledged teachers' specialized knowledge and trusted the profession to use that knowledge and skill in the public interest, and
- the Legislature recognized the great trust that parents must be able to place in teachers and put the responsibility on the profession to hold our members to a high standard of conduct.

However, the amendments proposed under Bill 52 offer no guarantees that equivalent learning opportunities will be supervised by teachers who are members of the College with specialized knowledge and subject to our disciplinary oversight. Further, the Bill provides no mechanism by which to assess and monitor equivalent learning providers or the learning opportunities they provide.

As a result, the College's commitment to ensure that publicly funded education in this province is delivered by qualified teachers would be compromised.

For instance, the preamble of Bill 52 refers only to "educator", without defining that term. Thus, it is not clear whether or not the term "educator" would be restricted to certified teachers who are College members. The *Education Act* defines "teacher" to mean "a member of the Ontario College of Teachers".

Of particular concern to the College is the definition of "equivalent learning" contained in Bill 52:

"equivalent learning" means a learning situation that falls outside the instruction traditionally provided by a board and for which a pupil's success can be reasonably evaluated, **including, but not limited to,**

(a) a program, course of study or other activity offered by a traditional educational institution not governed by this Act, such as a college of applied arts and technology or a university,

(b) a program, course of study or other activity offered or organized by a **group or organization that is not a traditional educational institution**, such as a school of music or arts, a community group or a provincial or national program for youth,

(c) **other activities** in which a pupil may obtain valuable knowledge or experience, such as an apprenticeship, employment with training or other skills development activity; [emphasis added.]

It is clear that Bill 52, as it is currently drafted, does not require that equivalent learning opportunities such as programs, courses of study, other activities be taught by certified teachers who are College members.

In addition, the definition of “equivalent learning” is not comprehensive, but rather is left open by the use of the words “including, but not limited to...” Thus, the proposed legislation leaves open the possibility for a wide range of activities provided by individuals who are not College members, do not hold teaching qualifications or have the skills and knowledge to assess students’ abilities, learning styles or progress, or to objectively assess the effectiveness of their own program.

Further, Bill 52 would enable the Minister of Education to establish “policies and guidelines” with respect to equivalent learning that specify:

- that boards develop and implement policies and procedures enabling students to participate in equivalent learning opportunities
- organizations that “are approved providers of equivalent learning”
- “programs, courses of study or other activities that are approved”
- criteria and standards that organizations and programs, courses of study and other activities must meet as prerequisites for approval.

The Minister of Education will have the sole authority to establish policies and guidelines used to approve equivalent learning providers.

Bill 52 would also give the Minister the exclusive authority to develop criteria or standards that “programs, courses of study or activities” must meet if they are to qualify as “equivalent learning”. The Minister would also have the sole authority to approve “programs, courses or study or...activities” for the purposes of the Bill.

There appear to be no requirements for ongoing supervision and assessment of providers and programs, although the Ministry may initiate an investigation of a school board where the board has failed to comply with its responsibilities under the Bill.

But the Bill does not explicitly set out who may qualify as equivalent learning providers, how they will be chosen, or how they will be monitored and assessed, and if so, by whom. In particular, there is no requirement that the providers or those who closely supervise them be qualified and certified teachers who are College members, or even that they have completed a pre-service teacher education program.

Similarly, Bill 52 provides no information with respect to how the content of the “equivalent learning programs, courses of study or other activities” will be developed and assessed or how students engaged in these activities will be evaluated and by whom.

Further, it is not clear from the Bill who will assess the progress of students who are engaged in “equivalent learning” activities or programs and how such an assessment would be made.

Bill 52 leaves important and substantive details to be defined in the regulations that have yet to be drafted, including programs or other activities that constitute equivalent learning, as well as criteria or standards for those programs or other activities.

We are concerned that the College and other education stakeholders may be denied the opportunity to comment on the content of such regulations as they pertain specifically to the teaching profession.

The College, as the Regulator of the teaching profession in Ontario:

- requires criminal records checks from our applicants
- requires out-of-province applicants to have clean teaching records in other jurisdictions
- requires applicants to satisfy language proficiency requirements
- requires our members meet professional and ethical standards
- provides a publicly-accessible register detailing a members’ teaching qualifications and status
- investigates and resolves complaints with respect to allegations of professional misconduct, incompetence and incapacity through our investigation and hearings processes.

Many of these requirements may be compromised by the passage of Bill 52 in its present form.

Previous Legislation – The College Responds to the Government

It is important for the Committee to note that previously proposed legislation would have had a similar detrimental impact on the College’s ability to perform its responsibilities with respect to professional and ethical standard compliance.

Bill 160, the proposed *Education Quality Improvement Act, 1997*, received First Reading in the legislature on September 22, 1997 and Second Reading on October 7, 1997. It was referred to the Standing Committee on Administration of Justice on October 6, 1997, which held hearings in October and November of the same year. It was amended, received Third Reading on December 1, and received Royal Assent on October 8, 1997.

Bill 160 included four clauses that granted broad regulation-making powers, which could be used to permit the hiring of individuals who were not teachers, and who, therefore, would neither be governed by, nor subject to, the College’s authority.

It was the College’s position then, and remains the College’s position today, that these provisions undermined the College’s accountability to serve and protect the public

interest by ensuring that only qualified teachers were present in Ontario's public school classrooms and could be held publicly accountable for their conduct or teaching practice by the College.

On October 20, 1997, the College's Chair of Council and its Registrar appeared before the Standing Committee on the Administration of Justice and made a number of submissions with respect to the importance of having qualified teachers in classrooms. The following points taken from that submission are particularly germane to the issues raised by Bill 52 and the College's concerns about this Bill:

- Parents and students have the right to expect that teachers who are licensed to teach have the knowledge and the qualifications to do so. They have the right to expect that teachers have completed pre-service teacher education programs and are participating in ongoing learning activities that allow them to:
 - plan the delivery of the required curriculum so that the content is connected to the curriculum of past and future years;
 - adapt to evolving curriculum and understand its organization and how it is best communicated to students;
 - develop a variety of teaching strategies and design or select motivating tasks that best encourage their students' learning;
 - assess students' achievement and progress and assist them in meeting expectations and fulfilling their potential; and
 - understand and provide for both exceptional students' various learning needs and differences that may arise from culture, language, family context, prior schooling, student potential and responsiveness to preferred approaches to learning.
- Students also have the right to be taught the subjects covered by the province's curriculum guidelines by teachers who are qualified and accountable for their practice.
- The College cannot confirm that the training of these instructors [those contemplated by Bill 160] meets the standards set by the College for the teaching profession or that these individuals will adhere to a code of ethics or be subject to professional discipline if they breach this code.
- Teachers are responsible for developing a range of instructional strategies based on sound learning theory. They need to address different student needs and bring enthusiasm and a variety of teaching approaches to the classroom. Good teachers know they must persevere and make every reasonable attempt to provide sound learning for every student.

- Teachers must be trustworthy and must understand the legal and ethical responsibility of being a teacher. Members of the profession deeply appreciate the trust that it takes for parents to place their children in the care of teachers and take very seriously the profession's responsibility to uphold that trust by regulating our members.

As a result of submissions to the Standing Committee and discussions with the Ministry of Education and Training staff by the College and the broader educational community, the Minister announced the withdrawal of all four clauses in issue from Bill 160.

Bill 52, while attempting to ensure that students remain in school for as long as possible to further their education, raises many of the same issues. Specifically, we are concerned that Ontario students will likely be taught by individuals who are not College members subject to our regulation.

Even more, we are concerned that students may not even benefit from close supervision of their education program and program provider by licensed professionals who are accountable for their practice to their professional College.

We do not believe it is in the public interest for students of any age to be placed in a position where they are subject to the authority of individuals who are not themselves accountable to a professional regulator.

In light of these concerns, the Ontario College of Teachers submits that Bill 52 must be amended. Development of these amendments may best be informed through broad public consultation.

The public has come to expect that Ontario's children will be taught by teachers who are accountable to their regulatory body for their professional practice. Anything less is not in the public interest.