c 1 Education Amendment Act, 1989 (No. 1)

Ontario
CHAPTER 1

An Act to amend the Education Act

Assented to February 27th, 1989

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the Education Act, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following clauses:

(za) issue guidelines respecting the keeping of pupil records and require boards to comply with the guidelines;

(zb) approve awards for the purpose of subclause 48 (7) (f) (iv);

(zc) require boards to establish and maintain a policy of affirmative action with respect to the employment and promotion of women;

(zd) provide an assessment equalization factor,

(i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

(ii) for each locality,

(iii) for each public school section that comprises only territory without municipal organization, and
(iv) for each separate school zone that comprises only territory without municipal organization, and determine the assessment roll to which each such factor applies;

(ze) provide interim and final weighting and adjustment factors for the purposes of the regulations;

(zf) prescribe the number of instalments in which payments of legislative grants shall be paid to boards, the dates upon which the payments shall be made and the amounts of the payments as a percentage of the total amount estimated by the Minister to be payable to the boards;

(zg) approve the entering into of an agreement by boards under subsection 159a (1).

(2) Section 8 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following subsection:

Additional (1a) The Minister may, for the purposes of the calculation and payment of legislative grants,

(a) approve classes, courses and programs;

(b) approve adult basic education as defined in subsection 165a (1) provided for boards by,

(i) colleges of applied arts and technology, and

(ii) community groups; and

(c) prescribe the standards that shall be attained by a community group in respect of the provision of adult basic education under subsection 165 (3) and the criteria that shall be used to determine whether the standards are attainable.

2.—(1) Paragraph 14 of subsection 10 (1) of the said Act is amended by striking out "and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools" in the fifth, sixth and seventh lines.

(2) Paragraphs 15 and 16 of the said subsection 10 (1) are repealed and the following substituted therefor:
15. providing for the holding of examinations for persons to become supervisory officers and governing such examinations.

(3) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1986, chapter 64, section 12 and 1988, chapter 27, section 2, is further amended by adding thereto the following subsection:

(2) The Metropolitan Toronto School Board may, subject to the regulations in respect of evening classes, provide during the school day or outside the school day a program for adults, who by reason of age do not have the right to attend a school or class operated by the School Board for exceptional pupils whose intellectual functioning is below that of a person with mild retardation and,

(a) are otherwise qualified to be resident pupils of a board of education that has jurisdiction in The Municipality of Metropolitan Toronto; or

(b) not being qualified to be resident pupils as mentioned in clause (a), were pupils in such a school or class operated by the School Board.

(4) Clause 10 (3) (a) of the said Act is amended by striking out "providing for" in the first line and inserting in lieu thereof "governing".

(5) Subclause 10 (3) (c) (ii) of the said Act is amended by inserting after "enrolment" in the second line "portion, number, estimate, facility, unit, project".

(6) Clause 10 (3) (c) of the said Act is amended by striking out "and" at the end of subclause (iii) and by adding thereto the following subclauses:

(v) applying factors in the calculation of the grants, and

(vi) authorizing the Minister to adjust amounts of assessment.

(7) Clause 10 (3) (e) of the said Act is amended by striking out "calculating" in the first line and inserting in lieu thereof "determining".

(8) Subsection 10 (3) of the said Act is amended by adding thereto the following clauses:
(g) providing for the payment of moneys to assist in the cost of the establishment and maintenance of schools referred to in paragraph 14 of subsection (1);

(h) providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;

(i) governing the provision of assistance for the payment of the cost of education of pupils who,

(i) reside in the territorial districts, on lands held by the Crown in right of Canada or Ontario or by an agency of Canada or Ontario or on other lands that are exempt from taxation for school purposes,

(ii) are qualified to be resident pupils in respect of a school section, separate school zone or secondary school district in Ontario and receive elementary or secondary education in Manitoba or Quebec, as the case may be, where, in the opinion of the Minister, daily transportation to a school in Ontario or the provision of board, lodging and transportation to and from a school in Ontario once a week is impracticable,

(iii) are wards of or in care of a children's aid society, or

(iv) are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;

(j) providing for payments to a board for the purpose of limiting in a year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,

(i) a municipality or part thereof, or

(ii) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board.
(9) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1986, chapter 64, section 12 and 1988, chapter 27, section 2, is further amended by adding thereto the following subsections:

(3a) A regulation made under subsection (3) may,

(a) be general or particular in its application;

(b) with respect to clause (3) (e), prescribe the maximum amount of any fee that may be charged; or

(c) with respect to clause (3) (e), provide for the determination of fees by boards.

(12) A regulation made under this section that applies to The Metropolitan Toronto School Board may,

(a) deem The Metropolitan Toronto School Board and the boards of education in The Municipality of Metropolitan Toronto to be one divisional board of education; and

(b) deem the area municipalities in The Municipality of Metropolitan Toronto to be one urban municipality.

3. Subsection 48 (6) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 12, is repealed and the following substituted therefor:

(6) Despite any other provision of this Part, if a board admits a person who is not a Canadian citizen or a permanent resident to a school that the board operates, the board shall charge the person the maximum fee calculated in accordance with the regulations.

(7) Subsection (6) does not apply to,

(a) a person who is a participant in an educational exchange program under which a pupil of the board attends a school outside Canada without a fee;

(b) a person who enrolled in an elementary school or a secondary school prior to the 1st day of July, 1982;

(c) a person who is a dependant within the meaning of the Visiting Forces Act (Canada);
(d) a person who is in Canada under a diplomatic, consular or official acceptance issued by the Department of External Affairs;

(e) a person who claims to be or is found to be a convention refugee under the Immigration Act (Canada);

(f) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada,

(i) pursuant to employment authorization or ministerial permit issued by the Department of Employment and Immigration,

(ii) under a diplomatic, consular or official acceptance issued by the Department of External Affairs,

(iii) awaiting determination of a claim to be found a convention refugee under the Immigration Act (Canada),

(iv) as a graduate student who is the recipient of an award approved by the Minister for the purposes of this clause and who is in attendance at a university or institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities, or

(v) in accordance with an agreement with a university outside Canada to teach at an institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities; or

(g) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada as a convention refugee under the Immigration Act (Canada).

4.—(1) Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15 and 1988, chapter 27, section 4, is further amended by adding thereto the following clause:
(b) assign a name to a divisional board that has jurisdiction in a territorial district.

(2) Subsection 54 (4) of the said Act is amended by inserting after "City of ......" in the third and fourth lines "or "Conseil de l'éducation de la cité de ......" or both".

(3) Subsection 54 (5) of the said Act is amended by inserting after "Education" in the third line "or "Conseil de l'éducation du comté de ......" or both".

(4) Subsection 54 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by inserting after "Education" in the seventh line "or "Conseil de l'éducation de ......" or both".

(5) Subsection 54 (7) of the said Act is amended by inserting after "Education" in the third line "or "Conseil de l'éducation de ......" or both".

(6) Section 54 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15 and 1988, chapter 27, section 4, is further amended by adding thereto the following subsection:

(8) The name of a divisional board may be as follows where approved by the Minister:

"Conseil de l'éducation de ........ Board of Education" (inserting the name of the defined city, county or name approved by the Minister or assigned by the regulations).

5.—(1) Subsection 60 (3) of the said Act is amended by inserting after "of ......" in the third line "or "Conseil de l'éducation de ....." or both".

(2) Subsection 60 (4) of the said Act is amended by inserting after "Education" in the third line "or "Conseil de l'éducation de ....." or both".

6. Subsection 62 (5) of the said Act is amended by inserting after "Board" in the third line "or "Conseil du secteur scolaire de district de ....." or both".

7.—(1) Clause 83 (5) (a) of the said Act is amended by inserting after "Board" in the second line "or "Conseil des écoles séparées catholiques de ....." or both".
(2) Clause 83 (5) (b) of the said Act is amended by inserting after “Board” in the third line “or “Conseil des écoles séparées catholiques de ......” or both”.

8. Subsection 84 (2) of the said Act is amended by inserting after “Board” in the fifth line “or “Conseil des écoles séparées catholiques de ......” or both”.

9. Subsection 87 (4) of the said Act is amended by inserting after “Board” in the third line “or “Conseil fusionné des écoles séparées catholiques de ......” or both”.

10.—(1) Subsection 111 (1) of the said Act is amended by inserting after “Board” in the fourth line “or “Conseil des écoles séparées catholiques du comté de .........” or both”.

(2) Subsection 111 (2) of the said Act is amended by inserting after “Board” in the fifth line “or “Conseil des écoles séparées catholiques du comté de .........” or both”.

(3) Subsection 111 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by inserting after “Board” in the amendment of 1982 “or “Conseil des écoles séparées catholiques du district de ......” or both”.

(4) Subsection 111 (4) of the said Act is amended by,

(a) striking out “117 and 118” in the second line and inserting in lieu thereof “116 and 117”; and

(b) inserting after “Board” in the fifth line “or “Conseil des écoles séparées catholiques de .........” or both”.

(5) Section 111 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by adding thereto the following subsection:

(5) The name of a county or district combined separate school board may be as follows where approved by the Minister:

“Conseil des écoles séparées catholiques de ......... de (County or District) Roman Catholic Separate School Board” (inserting the name of the county or counties, district or districts, name selected by the board and approved by the Minister or name of area designated by the regulations).
11. Subsection 116 (2) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 22, is further amended by inserting after "Board" in the third line "in English and "Conseil des écoles séparées catholiques d'Ottawa" in French".

12. Subsection 117 (2) of the said Act is amended by inserting after "Board" in the third line "in English and "Conseil des écoles séparées catholiques de Carleton" in French".

13. Section 130 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 23, section 8, is further amended by adding thereto the following subsections:

(5a) Where the arbitrators conclude that it would be more just and equitable in the interests of the supporters of the board for the board when setting the rates to be levied in a year to have apportioned its requirements in accordance with a regulation made under section 214 in respect of the year, the arbitrators shall so advise the board when they have determined and reported the factors under subsection (5).

(5b) After being advised under subsection (5a), the board may resolve to apportion its requirements in accordance with the regulation that applies for the year.

(5c) A board that resolves to apportion under subsection (5b) shall forthwith notify the Minister of its decision.

(5d) The review referred to in section 214 does not apply in the case of a board that acts under subsection (5b).

14.—(1) Subsection 136e (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by inserting after "to" in the second line "in addition to conditions that may be made under clause 10 (3) (b)".

(2) Section 136e of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsection:

(5) A regulation made for the purposes of this section,

(a) may be general or particular in its application; or

(b) may provide for the withholding or repayment of all or part of a grant where a condition of the grant is not satisfied.
15. Section 136i of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsections:

(a) Subsection (1) does not apply where a public board has part of the same area of jurisdiction as a Roman Catholic school board as a result of the fact that a separate school zone that comprises part of the county or district combined Roman Catholic separate school zone for which the Roman Catholic school board was established has a centre that is situate within 4.8 kilometres of the boundary of the public board and is not situate within the area of jurisdiction of the public board.

(b) Part VII-A applies with respect to the election of members elected by separate school electors to a public board to which subsection (1a) applies as if the coterminous Roman Catholic separate school board as defined in subsection 206a (1) was not a Roman Catholic school board.

16. Section 145 of the said Act is amended by inserting after "the ..." in the third line "or "Conseil des écoles séparées protestantes de ..." or both".

17.—(1) Paragraph 19 of subsection 150 (1) of the said Act is amended by inserting after "moneys" in the first line "other than moneys held in a reserve fund and that are"

(2) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984, chapter 60, section 10, is further amended by adding thereto the following paragraph:

19a. invest moneys held in a reserve fund in,

i. guaranteed contracts issued by an insurer licensed under the Insurance Act, and

ii. such securities as a trustee may invest in under the Trustee Act provided that all interest and gain thereon is credited to the fund from which the moneys are invested.

(3) Paragraph 38 of subsection 150 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 10, is amended by adding at the end thereof "or a demonstration school for exceptional pupils".

(4) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984,
chapter 60, section 10, is further amended by adding thereto the following paragraph:

46. designate portions of current expenditure of the board as ordinary expenditures for the purposes of legislative grants provided for by a regulation made under subsection 10 (3).

18. The said Act is amended by adding thereto the following section:

150a. Where in any Act, other than this Act, a board, other than a board that by an Act is given a name in the French language, is given a name in English, the board shall be known by such name in French as the board may by resolution select and the Minister may approve.

19. Section 154 of the said Act is amended by adding thereto the following paragraph:

1a. provide for any or all of the members of the board any benefit that may be provided for the employees of the board under section 155 and any other benefits of a like nature that the board considers appropriate.

20. Subclause 155 (1) (a) (i) of the said Act is amended by adding at the end thereof "and their spouses and children".

21. The said Act is further amended by adding thereto the following section:

159a.—(1) A public board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a Roman Catholic school board may, with the approval of the Minister, enter into an agreement with the Roman Catholic school board to transfer a secondary school established and operated under Part XI or a French-language instructional unit as defined in section 277c to the Roman Catholic school board.

(2) A transfer of a secondary school referred to in subsection (1) is not a closing of the secondary school.

22. Section 165a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 45, is amended by adding thereto the following subsection:

(3) A board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in
writing with a community group for the provision by the group of adult basic education that is approved by the Minister.

23. Subsection 166 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 216, is further amended by,

(a) striking out “severe learning disabilities” in the fifth line and inserting in lieu thereof “severe communication exceptionalities”; and

(b) striking out “premises approved under subsection 9 (1) of Part I (Flexible Services) of the Child and Family Services Act, 1984 for the provision of a child development service or child treatment service” in the amendment of 1984 and inserting in lieu thereof “a place where an agency approved under subsection 8 (1) of Part I (Flexible Services) of the Child and Family Services Act, 1984 provides a child development service, a child treatment service or a child and family intervention service”.

24. Subsection 167 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, subsections (1a), (1b) and (1c), as enacted by the Statutes of Ontario, 1982, chapter 32, section 47, and subsection (2), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, of the said Act are repealed and the following substituted therefor:

(1) A board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof.

(2) A board may pay an allowance in such amount as is determined by the board in addition to the allowance payable under subsection (1) to the chairman and vice-chairman of the board and to the chairmen of committees of the board.

(2a) The additional allowance payable to the chairman may differ from the additional allowance payable to the vice-chairman.

(2b) A member of a board of education elected by separate school electors, a member of the board elected for the purposes of Part XI-A and a member appointed to the board is entitled to an allowance on the same basis as a member of the board elected by public school electors.
(2c) A trustee of a separate school board elected for the purposes of Part XI-A or appointed to the board is entitled to an allowance on the same basis as a trustee who is elected, other than for the purposes of Part XI-A, by separate school electors.

(2d) A board may at any time decrease any allowance payable to members, the chairman or the vice-chairman of the board.

(2e) Where the French-language education council, English-language education council, French-language section or English-language section of a board has a chairman or a vice-chairman of the council or section, as the case may be, the council or section may authorize an additional allowance, not to exceed that paid to the chairman or vice-chairman of the board under subsection (2), to be paid to the chairman or vice-chairman of the council or section.

(2f) A chairman or vice-chairman of a council or section may only be paid one additional allowance.

(2g) An allowance payable under subsection (1), (2) or (2e) with respect to a French-language education council or French-language section shall be included as part of centralized services for the purposes of allocating amounts under section 277n.

25. Subsection 196 (1a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 53, is amended by striking out "subsection (2)" in the eleventh line and inserting in lieu thereof "subsection (3)".

26. Subsection 217 (1) of the said Act is amended by,

(a) adding after "note" in the fourth line "or a banker's acceptance that is drawn as a bill of exchange under the Bills of Exchange Act (Canada) on a bank to which the Bank Act (Canada) applies"; and

(b) striking out "minimum lending rate of the majority of chartered banks on the date of borrowing" in the ninth and tenth lines and inserting in lieu thereof "prime lending rate on the date of borrowing, of the chartered banks listed in Schedule A of the Bank Act (Canada)".

27. Subsection 237 (1) of the said Act is amended by adding at the end thereof "and the guidelines issued by the Minister".
28. Section 252 of the said Act is amended by adding thereto the following subsections:

(2) Two or more boards of education that each have an enrolment in its public and secondary schools of fewer than 2,000, two or more district school area boards or a board of education and a district school area board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

(3) Two or more county or district combined separate school boards that each have an enrolment in its schools of fewer than 2,000, two or more rural or combined separate school boards or a rural or combined separate school board and a district combined separate school board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

29. Subsections 277s (1), (2) and (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted therefor:

(1) Where a French-language section becomes aware that it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify in writing the full board of such fact and the effective date thereof and the board shall forthwith notify in writing the Minister.

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the thirtieth day next following the date upon which the section ceases to operate a unit or provide the education referred to in subsection (1) and the members shall cease to hold office on that date.

(3) A board, upon written request of the French-language section of the board that is received before the dissolution of the French-language section of the board, shall revoke by notice in writing delivered to the Minister, a notice given to the Minister under subsection (1).
(3a) Where a public board agrees to transfer a secondary school established and operated under Part XI to a Roman Catholic school board under section 159a, the agreement to transfer is not an agreement referred to in subsections 277d (2) and (3).

30.—(1) Subclause 127 (1) (g) (v) of the Municipality of Metropolitan Toronto Act, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(v) may provide for expenditures for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the Education Act and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) of that Act and any sum allocated to a reserve fund do not exceed,

(A) for secondary school purposes, an amount that would increase the sum that would be required to be raised by levy for secondary school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill of the dollar upon the total equalized assessments of the area municipalities for public secondary school purposes, and

(B) for public school purposes, an amount that would increase the sum that would be required to be raised by levy for public school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total equalized assessments of the area municipalities for public elementary school purposes.

(2) Subsection 127 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(1b) The School Board may pay an allowance in such amount as is determined by the School Board in addition to
the allowance payable under clause (1a) (a) or (b) to the vice-chairman of the School Board.

(1ba) An allowance payable to the chairman may differ from that payable to the vice-chairman.

(3) Subsection 127 (1c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is amended by inserting after "subsection (1a)" in the second line "or (1b)".

(4) Subsection 127 (7) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6 and amended by the Statutes of Ontario, 1984, chapter 10, section 1, is further amended by adding thereto the following clause:

(ba) "total equalized assessments of the area municipalities" means for public secondary school purposes and for public elementary school purposes the sum of the assessment upon which taxes are levied for such purposes in each area municipality in the year for which the estimates are approved in whole or in part by the School Board where the assessment of each area municipality is adjusted by the application of the latest equalization factor applicable thereto that is provided by the Minister.

31. Moneys that were held by a municipality as of the 31st day of December, 1986 and are still being held and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1989 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.

32.—(1) This Act, except section 13, comes into force on the day it receives Royal Assent.

(2) Section 13 shall be deemed to have come into force on the 1st day of January, 1988.

33. The short title of this Act is the Education Amendment Act, 1989.