



Submission on Bill 48 (*Safe and Supportive Classrooms Act*), 2018

The following is a review and discussion of Bill 48, the *Safe and Supportive Classrooms Act*, that seeks to amend the *Ontario College of Teachers Act (OCTA)*, 1996, the *Early Childhood Educators Act (ECEA)*, 2007, the *Education Act* and the *Teaching Profession Act*.

The Ontario Secondary School Teachers' Federation was founded in 1919. OSSTF/FEESO represents almost 60,000 public high school teachers, occasional teachers, educational assistants, instructors, psychologists, secretaries, speech-language pathologists, social workers, plant support personnel, and many other educational workers.

Bill 48 seeks to strengthen the powers of the Ontario College of Teachers (OCT) and the College of Early Childhood Educators (CECE) when dealing with members accused of sexual abuse. We welcome the new restrictions on the definition of sexual abuse as outlined in Bill 48. OSSTF/FEESO takes no issue with the addition of prescribed sexual acts prohibited under the *Criminal Code of Canada* to the list of situations that result in the mandatory revocation of a member's certificate. However, members must be provided with a fair and affordable process to defend themselves when allegations are made. We must also discuss our members' concerns about the proposed changes to the governance structure of the Ontario College of Teachers, concerns about the proposed math test for applicants, and service animal policies for school boards.

OSSTF/FEESO has already made a written submission on the changes imposed by the previous Government. Our concerns with the provision of mandatory suspension and revocation of certificates, as well as the provision of counseling and therapy, are still valid.

1. Right to Defend at College Tribunals:

OSSTF/FEESO is concerned about a system of punishments based on minimum sentences, such as mandatory revocation, with no real checks or balances in place. Professional colleges must be guided to do their due diligence in conducting a fair and thorough investigation when dealing with mandatory revocation. Allegations of sexual abuse need to be thoroughly investigated so that they can be directed to the appropriate committee. Cases that involve medical considerations must continue to be directed to the Fitness to Practice committee, or a mandatory revocation could become the subject of a judicial review.

Appropriately functioning panels of each College Council will require members who have a full and thorough understanding of the education system and what it is like to work with teenagers in an education system. Any changes to the OCTA moving the College away from being a self-governing body would put this requirement in considerable jeopardy.

OSSTF/FEESO is extremely concerned about the current state of a member's ability to defend themselves against false allegations based on the recent egregious actions of the College of Early Childhood Educators (CECE). We believe that amendments to Bill 48 should be implemented to protect members' right to mount a reasonable defense. A recent Superior Court of Justice ruling (Divisional Court File No.: 474/17) upheld a decision by the CECE to assess over \$257,000.00 in hearing costs against a member who did not act

unreasonably, in bad faith or in a vexatious manner during his hearing. However, the court expressed concerns about the adverse effect this would have for members who need to defend themselves.

"We share this concern and we agree that there is a serious risk that this will have a chilling effect on members whose livelihood and reputations are at stake because...The reasonable expectation of members in the past (based on the past practice of this tribunal [CECE] and the OCT tribunal with the same provisions) has been that costs of the hearing will only be ordered where the member's conduct at the hearing was unreasonable. That is no longer the case".

The court further wrote that they cannot make policy decisions and that these concerns should be brought to the legislators.

The College of Early Childhood Educators and the College of Teachers have a track record of being overly aggressive in dealing with members who choose to access the hearing process to present a defense. If such onerous costs are assessed when members present a reasonable defense against allegations of misconduct, the threat and fear of financially debilitating cost awards will cause members to plead guilty, and thereby not be afforded a fair hearing. Being wrongfully accused should not cost a professional their livelihood. This is not just, and goes against the notion of a fair process.

Recommendations:

- a) OSSTF/FEESO recommends ensuring that mandatory revocation of a member's certificate only applies in situations where allegations of sexual abuse are proven to a higher standard than a simple balance of probabilities.
- b) OSSTF/FEESO recommends ensuring that, when members are accused of remarks or behaviour of a sexual nature, revocation is only applied in situations where intent can be fully established.
- c) OSSTF/FEESO recommends amending both the *CECEA* and the *OCTA* to limit the assessment of costs of hearings to situations where the member has acted unreasonably, in bad faith or in a vexatious manner during their defense.

2. Governance Changes to the Ontario College of Teachers:

Bill 48 seeks to strip the requirements for the makeup and ratio of appointed and elected members of the OCT Council and place those decisions solely at the hands of the Lieutenant Governor in Council. The same changes are not present in Bill 48 with respect to the CECE. OSSTF/FEESO is concerned that this could lead to the OCT no longer being a self-governing body. Furthermore, the Bill includes the removal of the provisions that prescribe the specific number of Council members on the Investigation, Discipline, and Fitness to Practice Committees and their panels. This concerns OSSTF/FEESO because it is necessary that those who sit on the Committees and their panels have a teacher's experience and perspective. There is no rationale provided for these changes or why the OCT was singled out for these governance changes. No other professional college has its composition decided at the whim of the Lieutenant Governor in Council.

Recommendations:

- a) OSSTF/FEESO recommends establishing, within the *OCTA*, provisions that maintain a majority of elected members over appointed members on the Council, Committees, and panels of the committees.

- b) OSSTF/FEESO recommends maintaining the teaching profession as a self-regulated profession under the *OCTA*.

3. **Mandatory Math Test for New Applicants to the College:**

OSSTF/FEESO believes that the drop in math scores cannot be attributed to teachers lacking in the foundations of mathematics, but rather it is a result of two other primary factors. The first contributor to declining math scores is the insistence by the Ministry of Education and school boards that math teachers use methods of teaching, such as discovery learning, that are not proven to be effective in secondary curriculum delivery. These methods were implemented with significant training that removed teachers from their classrooms for considerable periods of time. Secondary to this is the amount of time squandered in classes teaching students how to take standardized tests rather than focusing on increasing their math skills. The current government has professed an interest in evidence-based decision-making, and the evidence clearly shows that the Ministry of Education got it wrong on teaching mathematics and standardized testing. In the Bill's introduction, it is stated that the teacher math test is modelled on teacher testing in Australia, England and New York, however Ontario's math scores rank higher than those jurisdictions in PISA testing. A teacher math test requirement will not increase math scores, however it will introduce additional costs required to implement and facilitate the test.

Recommendations:

- a) OSSTF/FEESO recommends that, instead of a math test, the Ministry should review and update the current math curriculum.
- b) OSSTF/FEESO recommends that, should the math test remain as part of the Bill, it should be limited to those applicants who would be teaching math without holding mathematics qualifications.
- c) OSSTF/FEESO recommends replacing EQAO's standardized testing with random testing using questions from the current curriculum. The millions of dollars saved by eliminating EQAO tests could then be funneled into a review of the current mathematics curriculum.

4. **Service Animal Policies:**

Bill 48 seeks to direct Ontario's School Boards to put policies on service animals in place. There are very serious considerations related to such policies that could become human rights issues for school boards. Great care should be taken in creating these policies, as the authors will need to be aware of competing rights issues.

Recommendations:

- a) OSSTF/FEESO recommends consistency in the policies concerning service animals.
- b) OSSTF/FEESO recommends supporting school boards through providing expert advice and training to workers in situations where service animals are used to support their students.
- c) OSSTF/FEESO recommends that the care of service animals not fall under the responsibility of education workers.