

**Addendum to the Board of Trustees Meeting
Monday, October 30, 2017**

OCSTA Communications



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Trustees' Association

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October 13, 2017

TO: Chairpersons and Directors of Education
Senior Human Resources Officials
- All Catholic District School Boards

FROM: Sharon Duffy, Director of Labour Relations

SUBJECT: OECTA Grievance re ECE Breaks/Lunch During Instructional Time

As you may be aware, OECTA had filed a central grievance alleging that within the FDK program, school boards could not schedule ECE breaks/lunch during instructional time. The argument put forth by OECTA sought to convince the arbitrator that within the FDK program, the teacher and the ECE were together the "functional equivalent" of a teacher in other grades. OCSTA and the Crown argued that the restrictions that OECTA was seeking were not required within the Education Act or associated regulation or policies, nor within any central terms.

We are pleased to report that the arguments advanced by OCSTA and the Crown were accepted by the arbitrator, who dismissed OECTA's central grievance. A copy of the decision is attached.

Should you have any questions in regard to the attached decision please do not hesitate to contact us.

Attachment

IN THE MATTER OF AN ARBITRATION

Between:

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

("OECTA")

- and -

ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

(the "OCSTA")

- and -

**THE CROWN IN RIGHT OF ONTARIO AS REPRESENTED BY
THE MINISTRY OF EDUCATION**

(the "Crown")

re central dispute grievance #1402-OU-CDR re Scheduling of Early Childhood Educators.

Russell Goodfellow – Sole Arbitrator

APPEARANCES FOR OECTA:

Bernard Hanson, counsel
Noel Laplante
Tom Doyle

APPEARANCES FOR THE OCSTA:

Eric Roher, counsel
Sharon Duffy
Wally Easton
Simone Rose-Oliver
Denis Charette

APPEARANCES FOR THE CROWN:

David Strang, counsel (on March 16 & 19, 2016)
Ferina Murji, counsel (on all dates)
Percy Toop
Julia Danos
Jeff O'Grady

Hearings held on March 29 and September 16, 2016, and January 19, 2017; written submissions completed on April 17, 2017.

AWARD

The issue in this grievance is whether Early Childhood Educators (“ECEs”) must be scheduled to be present in the Full Day Kindergarten (“FDK”) program classroom for the full length of the “instructional program” in each school day.

The Ontario English Catholic Teachers’ Association (“OECTA”) says yes; the Ontario English Catholic School Trustees’ Association (the “OCSTA”) and the Crown in Right of Ontario as represented by the Ministry of Education (the “Crown”) say no.

The issue arises in the form of a policy grievance brought by OECTA against the Ottawa Catholic School Board (the “Board”). The matter was referred to arbitration under the central dispute resolution process agreed to between OECTA and the OCSTA. The Board’s interests were represented by the OCSTA. The Crown participated as Intervenor.

The case was presented over the course of three hearing days. The OCSTA and Crown each called one witness to testify. No *viva voce* evidence was led by OECTA. Closing submissions were made in writing. The submissions were lengthy and detailed, consuming some 150 pages, and included dozens of statutory, regulatory, ministerial, arbitral, judicial and evidentiary references.

The issue has arisen before. In *Windsor-Essex Catholic District School Board and OECTA*, 2014 CanLII 3570 (ON LA) (Surdykowski), it was held that, "the ECE must be in the classroom (or teaching area) with the teacher for every minute of every instructional day" or, as alternatively put, the "ECE designated for and appointed to a JK or K classroom must be in the classroom for the entire instructional period during a school day". As a result, "ECE breaks [could not] be scheduled or taken during instructional time ...”.

OECTA made no reference to *Windsor-Essex* in its submissions; neither did the OCSTA. Only the Crown referred to it. The Crown noted that *Windsor-Essex*, which was decided before the central process was in place, is the subject of an application for judicial review that has been

adjourned pending the disposition of the present grievance. The Crown further observed that Arbitrator Surdykowski had the benefit of far less material than was placed before me. Finally, the Crown submitted that *Windsor-Essex* was wrongly decided for a number of reasons.

OECTA did not respond to the Crown's submissions concerning *Windsor Essex* and, in the circumstances, I choose not to address it. The differences between this award and *Windsor-Essex* will be evident to a reader of both.

The present award is divided into three quite uneven parts: (i) the background to the present dispute, including a description of what the Board is doing and why; (ii) the parties' submissions in respect of what the Board is doing; and (iii) the reasons for my conclusion that the grievance must be dismissed.

The bulk of the many pages that follow consist of excerpts from the parties' submissions, which, it must be said, were of uniformly high caliber. My analysis is much briefer. And that is because the path I follow has far fewer steps than those taken by OECTA.

Before tracing the journey, it will be helpful to record the precise legal proposition advanced by OECTA, as I understand it: school boards are required by the *Education Act* (the "*Act*") and Regulations to schedule ECEs in their FDK program classes for the full "length of the instructional program of each school day", which is defined in subsection 3(1) of Regulation 298 to the *Act* as "not less than five hours a day excluding recesses or scheduled intervals between classes".

1. Background, including what the Board is doing and why

The legislative background to the issue is described in the following paragraphs of the OCSTA's brief:

16. In 2009, the Province of Ontario announced that it would be introducing a full-day, 5-day-a-week program for JK and K education: the "Full-Day Early Learning Program" or "ELP". This announcement was detailed in a memorandum from then-Deputy Minister of Education Kevin Costante to Directors of Education, dated October 27, 2009, which also

enclosed a B-memorandum from then-Assistant Deputy Minister Nancy Naylor, also dated October 27, 2009.

Exhibit 2, Brief of Documents of OCSTA, Volume 1, Tabs 11 and 12

17. The program was formally initiated with the introduction of Bill 242, which amended the *Education Act*, on February 17, 2010. Bill 242 was ultimately enacted on May 18, 2010. The Bill was accompanied by a letter from the Ministry of Education, dated February 23, 2010.

Exhibit 2, Brief of Documents of OCSTA, Volume 1, Tab 13

Exhibit 4, Brief of Documents of OEFTA, Volume 1, Tab 6

18. The ELP's implementation was to be staged over a number of years, from 2011 to 2015.

19. Under the ELP and the Bill 242 additions to the *Education Act* and its Regulations, the Board is required to operate a full-day JK and K program on every school day in its elementary schools, subject to certain limited exceptions. The Board is also required to designate at least one position in each JK and K class as requiring a properly qualified ECE, and to appoint an ECE to each such designated position. The ECE is to be in addition to the teacher assigned to teach that JK or K class. Under the provisions of the *Education Act*, classes with 15 students or less do not require an ECE. ...

(emphasis added)

The factual background is set out in the following paragraphs:

25. The Board has implemented the ELP using the phased-in process contemplated by Bill 242. The Board grew from 16 schools offering FDK in 2010 to 65 schools providing FDK in 2015.

Exhibit 10, Will-say Statement and Evidence of Ms. Simone Rose-Oliver

26. Currently, the Board operates 217 blended full-day kindergarten classes in 67 schools, and employs 189 full-time ECEs. The Board also has 28 classes with fewer than 16 students, which do not have a designated ECE, pursuant to the prescribed exception. The Board currently has approximately 2,680 students enrolled in JK and 2,709 students enrolled in K classes.

The essence of the Board's approach to ECE scheduling is described, in accordance with the evidence led, as follows:

46. A sample kindergarten day for St. Monica School is found in OCSTA's materials. This is not the model used in every school, as schools

and classrooms are deliberately permitted some flexibility within the requirements of the *Education Act*. St. Monica School has two FDK classes, with 27 students in each class. School hours are between 9:15 am and 3:45 pm. There is a 300 minute instructional day. The students receive a 15 minute recess in the morning and the afternoon. The Board's ECEs operate on, and are paid for, a 7-hour day and a 30 minute unpaid lunch. A typical ECE schedule at St. Monica may look something like this:

- (a) The ECE arrives at school at 8:45 a.m., preparing the classroom for the students' arrival and connecting with their teacher partner. The teacher arrives in the class for 9:00 a.m., 15 minutes before the start of the instructional day. When the students arrive at 9:15 a.m., the instructional day begins. In the morning, the instructional time goes from 9:15 am to 10:30 a.m. and 10:45 a.m. to 12:00 p.m. The students have a 15 minute recess period between 10:30 a.m. and 10:45 a.m. The ECE will supervise the students during this period.
- (b) The ECE is with the students throughout the morning, but takes a 15-minute break at 10:15 am. The teacher continues observations in learning areas during this period.
- (c) Outdoor play for the JK/K students is taken between 11:45 a.m. and 12:15 p.m. when the older students are having lunch. The teacher and ECE will accompany the children during the outdoor play period from 11:45 a.m. to 12:00 p.m. The ECE will remain with the students during outdoor play and will bring them inside for lunch at 12:15 p.m. The teacher's lunch is taken between 12:00 p.m. and 1:00 pm. The students' lunch is taken between 12:15 p.m. and 12:45 p.m. From 12:45 p.m. to 1:00 p.m., the students will transition to quiet time. The ECE will continue to supervise the quiet time until 1:00 p.m.
- (d) At 1:00 pm the teacher returns and the ECE will take his or her own lunch break for half an hour from 1:00 p.m. to 1:30 p.m.
- (e) In the afternoon, the instructional day goes from 1:00 p.m. to 3:30 p.m. The teacher is in the classroom during this period.
- (f) From 1:30 p.m. until the end of the student day at 3:45 p.m., the ECE is with the students, but takes a second 15-minute break between 3:00 and 3:15 p.m. In the St. Monica schedule, from 3:30 p.m. to 3:45 p.m., the students have their afternoon recess. The ECE will supervise this recess. The student day will end at 3:45 p.m. The ECE will stay after school until approximately 4:15 p.m. and during this time may collaborate with his or her teaching partner.

Similar schedules are being used at other Ottawa Catholic schools with relevant variations.

Exhibit 9, Brief of Documents of OCSTA, Volume 2, Tabs 1 and 2

47. As evident from this sample schedule, students are occasionally alone with a teacher and occasionally alone with an ECE. These instances are typically during outdoor play, quiet time, lunch, or recess or another time when the students can be safely supervised.

The upshot is that ECEs take their breaks, and are not with the students, for up to 60 minutes during the course of the 300 minute instructional day, and work, supervising the students, during

the students' recess and lunch breaks. During the ECEs' breaks the teacher is alone with the students.

The foregoing describes *what* the Board is doing. A considerable amount of evidence was led about *why* the Board is doing it and *how*, in the view of the OCSTA and Crown witnesses, it fulfills the educational objectives of the FDK program and meets student needs.

OECTA did not challenge the pedagogical assertions. It did not attempt to argue that the Board's approach was failing students or that it was not meeting student needs as well as would be the case under its view of the statutory requirements. OECTA's position is that the Board's approach is impermissible regardless. Thus, while the general thrust of the pedagogical evidence will be outlined below, I see no need to dwell on it.

2. Submissions as to legality

Why the Board's approach is unlawful, according to the Association

OECTA does not suggest that the manner in which the Board is scheduling ECEs is prohibited by its collective agreement with the Board or, of course, by the Board's collective agreement with the union that represents the ECEs, which is CUPE. OECTA argues that it is contrary to the *Act* and Regulations thereunder.

OECTA's argument is outlined in the following portions of its brief:

WHAT THIS CASE IS ABOUT

Pursuant to paragraph 6.2 of subsection 170(1), and subject to certain exceptions, every school board is required to "operate full day junior kindergartens and kindergartens on every school day, other than professional activity days, in every elementary school of the board".

The issue for determination is whether the obligation to operate a full day junior kindergarten and kindergarten, (FDK) requires that both a teacher and Early Childhood Educator, (ECE), be assigned to and be scheduled to be in attendance at the FDK class for the period of the instructional program as set out in subsection 3(1) of Regulation 298 under the *Education Act*.

If the *Education Act* and regulations thereunder require the assignment and attendance of a teacher and an ECE in the FDK for the period of the instructional program, it follows that if one or the other is not assigned or is scheduled to be absent during the instructional program, that period cannot be included as part of the minimum period of the "instructional program" as required by subsection 3(1) of Regulation 298.

In other words, OECTA does not assert that the *Act* or Regulations speak to the issue *directly* or *expressly*. It does not say that the *Act* or Regulations say that, "An ECE must be scheduled to be present with the FDK class for the full period of the instructional program" or that "An ECE may not be scheduled to be away from the FDK class for any portion of the instructional program". Rather, it derives that alleged requirement or prohibition from certain additional material, provisions and propositions summarized below.

OECTA continues:

WHAT THIS CASE IS NOT ABOUT

For purposes of this case, the Association is not concerned with incidental absences during the period of the instructional program of either the assigned teacher or ECE from the FDK classroom. Nor is this case about their assignments during recesses, scheduled intervals for lunch, or other "scheduled intervals" during the school day.

The issue in these proceedings pertains to scheduled absences of the ECE from the FDK classroom during the period of the instructional program.

THE SUBMISSIONS IN SUMMARY FORM

OECTA makes the following submissions:

1. The applicable principles of statutory construction require the consideration of the "entire context" of the provisions of the *Education Act* with respect to the issue of whether designated ECEs assigned to FDK classes must be assigned to and present for the full duration of the instructional program.
2. Consideration of the "entire context" must be undertaken *before* any determination of whether or not the legislative provisions in question disclose an ambiguity. A finding of ambiguity is not a precondition for the consideration of the "entire context" of the legislation.
3. It is submitted that in this case, a consideration of the "entire context" discloses a legislative intent that delivery of the FDK instructional program be the joint responsibility of a collaborative, reflective

- partnership or team comprised of the FDK teacher and the designated ECE.
4. For purposes of the delivery of instructional program, the educational team comprised of the FDK teacher and designated ECE in the FDK class, is the **functional equivalent** of the single teacher in other grade levels and/or classes. The model of delivery is different, but the function is the same.
 5. The Full-Day Early Learning-Kindergarten Program (Draft version) constituted policy and/or guidelines pursuant to subsection 8(1) of the *Education Act*. Therefore, it required school boards to substantially comply both with the contents of the FDK program but as well, with the prescribed manner in which the program was to be delivered.
 6. The same result applies to the Kindergarten Program, 2016, which replaced the Full-Day Early Learning-Kindergarten Program (Draft version) effective September 2016.
 7. A consideration of the provisions of the Full-Day Early Learning-Kindergarten Program (Draft version) and the Kindergarten Program 2016 supports the inference that the FDK teacher/designated ECE team in the FDK context is the functional equivalent of a teacher in other grades and/or classes.
 8. A consideration of the provisions of the *Education Act* supports the following conclusions:
 - a. Subject to certain exceptions not relevant to these proceedings, school boards are required to operate full day kindergarten programs on every school day, other than professional development days in every elementary school.
 - b. Subject to certain exceptions, school boards are required to appoint both a teacher and a designated ECE to each FDK class.
 - c. The teacher and designated ECE are the functional equivalent of a teacher in other grades and/or classes.
 - d. The Legislature turned its mind to exceptions to the requirement that a teacher/designated ECE team deliver the FDK instructional program. There is nothing in the *Act* or regulations which gives school boards discretion over and above those exceptions to schedule delivery of the FDK instructional program solely by a teacher or qualified designated ECE. Had such discretion been intended, the Legislature could have readily so provided for it. The fact that it did not do so supports the inference that no such discretion was intended.
 9. A review of the case law in connection with the concept of "instructional program" under the *Education Act* supports the conclusion that a teacher assigned to a class must be present for the entire period of the instructional program. Periods where a teacher is absent and/or a non-teacher is present in the class are not included for purposes of compliance with the minimum duration of the

instructional program required pursuant to subsection 3(1) of Regulation 298. Because the function of the FDK teacher/designated ECE **team** is same as that of a teacher in other classrooms and/or grades, the same conclusions apply. Therefore, in the case of the FDK instructional program, compliance with subsection 3(1) of Regulation 298 requires that **both** the teacher and designated ECE be present at least for the prescribed minimum duration of the instructional program.

10. Assuming that is correct:

- a. Both members of the teacher/designated ECE must be present for the full period of the instructional program.
- b. If a member of the FDK teacher/designated ECE team is absent and is not replaced by a qualified teacher and/or ECE, the period of the absence cannot be included as part of the instructional program required pursuant to subsection 3(1) of Regulation 298.

(emphasis added)

I have underlined those portions of OECTA’s argument that, in my assessment, serve as the connective tissue between what the *Act* and Regulations say and the conclusion OECTA invites me to reach. The building blocks would appear to be: (i) the obligation on school boards to *designate* an ECE *position* for each FDK class of 16 or more students; (ii) the obligation to *staff* that *position* with a qualified ECE; (iii) the requirement to provide a 300 minute “instructional program”; (iv) the pre-existing requirement for a “*teacher*” to be present with the class in order for time to count as part of the “instructional program”; (v) the “entire context” of the creation of the FDK program, which is said to support the conclusion that teachers and ECEs are meant to work “side-by-side”, “collaboratively”, “in partnership”, and as “a team” in delivering the FDK program; and (vi) the *proposition* that, *as a team*, the ECE and teacher *together* are the “functional equivalent” of the teacher *alone* in other grade levels or classes. And, from this it is said to follow that just as it is not possible for a *teacher* to be scheduled to be away from the class in order for time to count as part of the instructional program, so too may not an *ECE*. In other words, *the statutory obligation to deliver a 300-minute FDK instructional program* requires the Board to schedule *both* a teacher and an ECE to be present in the classroom for the full 300 minutes.

OECTA develops this argument, in impressive detail, over the succeeding 34 pages of its brief. It reviews case law in support of the ability to utilize “context”, prior to any possible determination of ambiguity, to interpret statutes and regulations, followed by what it considers to be such context, together with what it views as “policies or guidelines”, which are given binding effect by the *Act*, all concerning the ECE role in the FDK program and the nature of the teacher - ECE relationship. OECTA then reviews a number of statutory provisions and regulations that, it submits, support the conclusion that the FDK program is meant to be delivered by a teacher and ECE *together*, with ECEs having “a status substantially similar to that of a teacher”. All of this is said to support the further conclusion that the “teacher/designated ECE team assigned to the FDK program class was intended to be the “*functional equivalent*” of the teacher in other grades or classes” (my emphasis).

OECTA next reviews case law concerning “school day, instructional day and instructional program” with a view to establishing that “instructional program” in subsection 3(1) of Regulation 298 was meant to have a “functional focus on the delivery of program”. OECTA writes:

The following principles can be inferred from the caselaw addressing "instructional program" within the meaning of section 3 of Regulation 298:

1. The instructional program is the smallest unit of measure considered in the Regulation. It falls during the period between the time when classes begin and classes end.
2. The concept of instructional program was intended by the legislature as a student-centered concept intended to establish a minimum period for learning.
3. The mere fact that instruction is being delivered at any or every instructional opportunity does not convert the moment into "instructional time" for purposes of inclusion within the instructional program. To be included as part of the instructional program instruction or delivery of curriculum must be *assigned* or *required* during the period of time.
4. The mere fact that an activity is designated as non-instructional time by a school board and excluded from the instructional program in and of itself is not determinative. Notwithstanding the school board's designation, if in fact, instruction is *assigned* or *required* by the school board in that period, it is part of the instructional program.

5. The instructional program cannot include periods of non-instruction supervised by unqualified persons. Similarly, periods of supervision by non-teachers cannot count as instruction time.

OECTA then returns to its “functional equivalence” argument, as follows:

Those principles were derived from cases which involved teachers only. We take the position that taking into account: the context surrounding the introduction of the Full Day Early Learning Statute Law Amendment Act, 2010, (Bill 242), the curriculum established by the Ministry of Education which all school boards were required to implement in their FDK classes and the overall scheme of the amendments made to the *Education Act* to implement the Full Day Early Learning Program, it must be concluded that the FDK teacher/designated ECE team assigned to a FDK is the functional equivalent of the teacher assigned to other grades or classes.

Assuming that is correct, the same principles ought to apply to teachers and ECE's in respect of FDK classes. It follows that if in other grades and classes a qualified teacher must be assigned and present for the period of time to be included as part of the instructional program, similarly, in the case of the FDK class, both members of the teacher/ECE *team* must be present for the period to be included as part of the instructional program. Therefore, compliance with subsection 3(1) of Regulation 298 requires that both members of the *team* must be present for entire period of the minimum prescribed period of the instructional program.

All of which brings OECTA to subsection 3(1) of Regulation 298. After noting that the subsection was amended in connection with the development of the FDK program to include “pupils in full day junior kindergarten or kindergarten”, OECTA writes:

The Legislature turned its mind to the issue of the delivery of the instructional program in FDK classes and chose to remove school board discretion to establish the length of the FDK instructional program and to impose the *same* five hour minimum for the instructional program. At the same time, it did not give school boards discretion to assign only a teacher or ECE for parts of the instructional program. Against the *backdrop of the existing arbitral caselaw* with respect to the instructional program, and in particular, the requirement that qualified teachers must be present for the period to be included in the instructional program, the fact that the Legislature chose not to give school boards such discretion supports the conclusion that the Legislature intended that *both* the teacher and designated ECE be present in the class for the entire period of the instructional program.

From this OECTA invites the following conclusion:

CONCLUSION

OECTA respectfully submits that:

1. The FDK teacher/designated ECE team is intended to be the functional equivalent of a teacher assigned to other grades and/or classes. The model of delivery is different, but the function is the same.
2. In order to comply with subsection 3(1) of Regulation 298, both the teacher and ECE must be present in the class for the entire period of the instructional program.

Why the Board's approach is lawful, according to the OCSTA

The OCSTA introduces its response to OECTA's submission as follows:

Part I. OVERVIEW

1. This matter turns on a primarily legal question of statutory interpretation, however, the answer to that question will have broad-ranging factual and practical repercussions:

2. This grievance arbitration asks the following question:

Do the *Education Act* and Regulations thereunder preclude a district school board from scheduling an Early Childhood Educator ("ECE") to be absent from a full day Junior Kindergarten ("JK") or Kindergarten ("K") class for scheduled intervals during the instructional day, including contractually required breaks/lunch periods, without a qualified replacement being assigned, or a replacement being assigned in accordance with the *Education Act* and Regulations thereunder?

Exhibit 2, Brief of documents of OCSTA, Volume 1, Tab 2

3. Put another way, this grievance asks whether the *Education Act* requires that both an ECE and a teacher be in a JK or K class for every minute of the entire instructional period during the school day.

4. The Ontario Catholic School Trustees' Association ("OCSTA") submits that it does not. OCSTA submits that the Ontario English Catholic Teachers' Association ("OECTA") has not met its burden of proof to establish a violation of the applicable legislation.

The OCSTA outlines its response as follows:

9. The grievance alleges that the Ottawa Catholic District School Board (the "Board") has violated the *Education Act* and its Regulations, and Ministry of Education policies, guidelines, and directives. OECTA alleges that ECEs

have been scheduled to be absent from the full day kindergarten class to which they are assigned on a regular basis in many schools. The grievance does not allege any contravention of the collective agreement between OECTA and the Board. In fact, there are no provisions in the central terms of the collective agreement with respect to ECEs or the obligations of the Board.

Exhibit 2, Brief of Documents of OCSTA, Volume 1, Tab 1

10. In its written submissions, OECTA confirms that its primary position on the grievance relates to the *Education Act*, its Regulations, and Ministry materials. OECTA submits that pursuant to those sources, both the teacher and the ECE must be present for the full period of the instructional program.

OECTA's submissions, page 4, paragraph 10(a)

11. In contrast, OCSTA's position is that, in the circumstances of the Board, there has been no violation of the *Education Act*, its Regulations, or any Ministry of Education materials, nor has there been any violation of the collective agreement.

12. The Board's collective agreement with CUPE, Local 2357, outlines its obligations with respect to ECEs. Among other items, the CUPE collective agreement provides ECEs with a 30-minute unpaid lunch and two 15-minute breaks in each half of the normal scheduled day at a time decided by the Board. The collective agreement also provides that the ECE work week shall consist of five seven-hour days from Monday to Friday inclusive, for a total of 35 hours per week, excluding an unpaid lunch period.

Exhibit 2, Brief of Documents of OCSTA, Volume 1, Tab 19

13. OCSTA submits that the Board is entitled to schedule these ECE breaks at a time that it chooses, including during the instructional day, without a replacement ECE being scheduled. OCSTA submits that there is no legislative or collective agreement requirement for the ECE to be present in order for classroom time to be considered "instructional", nor is there any requirement for side-by-side or "joined at the hip" classroom instruction by teachers and ECEs. There is nothing that requires an ECE assigned to a JK or K class to be in the classroom with the teacher for the entire instructional day. Giving ECEs reasonable breaks or a half hour lunch during the instructional day does not violate the Education Act or its regulations. There is nothing in the legislation which disentitles ECEs from taking these breaks, or disentitles school boards from scheduling them, without a replacement.

14. Because this matter turns on the language in the *Education Act* and Regulations, the key inquiry will be one of statutory interpretation. OCSTA submits that the plain and ordinary meaning of the words in the *Education Act* is clear, not ambiguous, and does not preclude the Board's practice of scheduling ECE breaks during the instructional day.

15. In brief, under the relevant paragraphs of subsection 170(1) of the *Education Act*, the Board's obligation is to operate JK and K classes in its elementary schools, to designate at least one position in each such class as

requiring an ECE, and to appoint an ECE to each such position. The ECE's responsibilities in that role are then set out in section 264.1 of the *Education Act*, which provides that the ECE must co-ordinate and co-operate with teachers with respect to certain classroom matters. Further, subsection 264.1(3) expressly states that nothing in that section limits the duty of the teacher, including the duty to instruct. OCSTA submits that these duties do not require that the ECE be present in the classroom with the teacher during every minute of instructional time. There is nothing in the legislation that suggests that the Board would be in violation of its duty to provide a minimum period of instruction simply because the designated ECE was taking a break without a replacement.

(emphasis added)

That argument, coupled with various factual submissions concerning how the scheduling works and the ways in which, according to the OCSTA and Crown witnesses, it meets the educational needs of pupils, is then developed over 35 pages. The core of the OCSTA's factual submission is that the scheme of "play-based learning", managing the "flow of the day", and "minimizing transitions", supports its scheduling approach, pedagogically. The following is but a flavour of those detailed submissions and the evidence led:

39. Another key principle of the Board's FDK program is the minimization of transitions. Students stay in the classroom, doing activities in large blocks of time, and relevant instructors rotate in and out of the classroom to minimize disruption to student activities.

Exhibit 10, Will-say Statement and Evidence of Ms. Simone Rose-Oliver

40. Ms. Oliver testified that, in connection with the principles of play-based learning and minimizing transitions, the students stay in their "home base" classroom. The ECE stays with the group all day, and the English or French teacher rotates through.

41. Ms. Oliver also explained the importance of having consistent educator presence over lunch and recess. FDK students are constantly learning, and need support for each part of the school day, whether it's during play-based learning in the indoor classroom, play-based learning in an outdoor activity, or informal learning while playing at recess and at lunch.

42. During these times, students learn and need support with many things, such as opening packages or teaching about nutrition and pacing. Lunch and recess are an opportunity for further conversation and continued learning for students. For this to be effective, the students need a comfort level with the supervising adult. Accordingly, for this reason, the ECE is generally scheduled to stay with the children over lunch and recess. At this time, the ECE is alone with the students and is not accompanied by the teacher.

43. The ECE is thus generally scheduled to take his or her breaks during a different point in the day, usually during quiet time, nap time, quiet reading time, or another instructional activity where students are developing self-regulation and well-being.

44. The Board takes an integrated, seamless approach to its FDK program in that lunch and recess require the supervision and engagement of either the ECE or teacher. In this regard, lunch and recess are an integral part of the school program; there is nothing in the legislation precluding this approach.

....

48. As Ms. Oliver testified, this model is working well for the Board and is effectively meeting the needs of the Board's JK/K students. There has been positive feedback from educators and families, and the Board is documenting the ongoing benefits for students. Further, the Ministry has not notified the Board of any contravention of the *Education Act* or Regulations as a result of this practice.

49. The Ministry of Education's witness, Ms. Dolores Cascone, also testified that she did not consider this practice to be inconsistent with the FDK program.

50. Ms. Cascone, an Education Officer with the Ministry of Education, testified that the pace and nature of activity in a FDK class varies over the course of the day and is responsive to needs of children, so the educator team can arrange for the ECE to take their breaks without disrupting the flow of the day or leaving the class inadequately supervised.

Exhibit 7, Will-Say Statement and Evidence of Dolores Cascone

51. Ms. Cascone gave evidence that an educator team could structure their day to allow the ECE to take their lunch while the teacher supervises the class, allowing the ECE to be available to supervise the children over the children's lunch or nutrition break. The ECE's lunch would need to be taken when the children are involved in instructional activities that can be safely supervised by an individual teacher. Ms. Cascone testified that the interactions with children during lunch are always an opportunity for learning and observation, so having the children supervised by their ECE during lunch or a nutrition break may contribute to the team's work.

Exhibit 7, Will-say Statement and Evidence of Dolores Cascone

52. The flexibility provided by this approach is effective, fully complies with the relevant provisions of the *Education Act* and the relevant collective agreements, and is meeting the pedagogical needs of the Board's JK/K students.

Apart from or in addition to the legal propositions appended, in three places, to the foregoing factual representations, the OCSTA's legal argument is summarized in the following paragraphs:

Part III. LEGAL SUBMISSIONS

53. OCSTA's position on the grievance may be summarized as follows:

- (a) The plain and ordinary meaning of the words in the *Education Act* is clear, not ambiguous, and does not preclude the practice of scheduling ECE breaks during instructional time, without a replacement ECE. The Board's duty is simply to appoint an ECE to a designated position in a JK or K class. The ECE's duty is to co-operate and co-ordinate with teachers with respect to various classroom matters, but does not require the ECE to be in the classroom at all times during the instructional day or tied to the hip of the teacher. Further, the presence of the ECE does not detract from the teacher's duty to instruct and thus is not required for purposes of the Board's duty to provide the minimum period of the instructional program.
- (b) The Ministry documents referred to by OECTA are not "policies" or "guidelines" as contemplated by the *Act*, and they are therefore extrinsic evidence. Because there is no ambiguity in the *Education Act*, it is inappropriate to consider those extrinsic documents when interpreting the provisions of the *Act*.
- (c) Even if there were ambiguity or some other basis to consider the Ministry documents, OECTA's proposed interpretation of them is incorrect and cannot be sustained. References to teamwork and collaboration are not meant to result in literally working side by side at all times.

54. OCSTA does not dispute that the teacher and ECE are meant to deliver the ELP as a "team". OCSTA strongly disagrees, however, that the teacher/ECE team is the "functional equivalent" of the teacher in older grades, as submitted by OECTA, and strongly disagrees that the teacher and ECE team are both required to provide students with instruction.

55. As detailed further below, OECTA's submissions rest entirely on the assumption that the teacher/ECE team is the functional equivalent of the teacher in older grades. However, OECTA did not call any evidence on this point nor was the proposition put to the Ministry witness. OECTA's position is entirely inferential and is based on inadmissible non-legislative materials. OCSTA submits that OECTA bears the onus of proof to establish the grounds for its grievance, and that it has failed to do so.

56. In contrast, OCSTA submits that there is no reference to functional equivalence in the *Education Act* or Regulations. Rather, the legislation is clear and unambiguous; it does not preclude the practice of scheduling ECE breaks during formal instructional time without a replacement ECE.

The OCSTA submissions conclude:

Part IV. Conclusion

150. It is OCSTA's position that OECTA bears the onus of proving its case, and it has failed to do so. Having called no evidence on its arguments regarding alleged functional equivalence, OECTA's submissions are entirely inferential. OCSTA submits that those inferences cannot be sustained, and that, accordingly, OECTA's position must fail.

151. There is nothing in the *Education Act* or Regulations preventing the Board's practice of scheduling ECE breaks during the instructional day without replacements. The Board is required to operate JK and K classes; to designate positions in those classes as requiring an ECE; and to appoint an ECE to those designated positions. These obligations are entirely unrelated to instruction by an ECE or to an ECE's presence in the classroom, and the Board has complied with all of them.

152. OECTA seeks to equate a teacher/ECE team with a teacher alone, and thus to conclude that both members of the team must be present in the classroom for the time to count as instructional minutes. However, this directly contradicts subsection 264.1(3) of the *Education Act*, which states that notwithstanding the presence of an ECE, nothing is to detract from the teacher's duty to instruct.

153. OCSTA submits that the teacher/ECE team is *not* the functional equivalent of a teacher in an older grade, and further, that it is *not* necessary for both members of the JK/K educator team to be present for the entire period of the instructional program.

154. The plain and ordinary meaning of the words in the *Education Act* and Regulations are clear, and not ambiguous. Accordingly, it is inappropriate to consider extrinsic sources in interpreting them.

155. The *Education Act* plainly discloses that the duty of an ECE is to coordinate and co-operate with a teacher with respect to various classroom matters. It is not the duty of an ECE to instruct. It is also not the duty of an ECE to stand beside a teacher at all moments in the instructional day.

156. Accordingly, OCSTA respectfully requests that this matter be dismissed.

Why OECTA's position is wrong, according to the Crown

After identifying the issue in dispute, the Crown highlights what it sees as the fundamental difficulty with OECTA's argument:

5. As the issue in dispute is considered, it is critical to underscore that this is a *central dispute* filed on behalf of teachers (by OECTA) to challenge

the school board's *scheduling practises* with respect to *non-teachers* (i.e. a group of employees in an entirely distinct bargaining unit).

6. Accordingly, it follows that the present central grievance does not assert an alleged violation of a collective agreement term, nor does it assert a violation of a specific provision of the *Education Act* or the Regulations made thereunder related to the scheduling requirements of ECEs. Furthermore, the grievance does not assert that a specific provision or requirement of a policy or guideline (whether binding or not) has been expressly violated.
7. Rather, in furtherance of this central dispute, OECTA references the *Education Act*, its Regulations and various and programming material to assert that several provisions and statements contained in each must be read, considered and scrutinized in such a way that ultimately fetters the school board's ability to schedule required breaks for ECEs during the period of *instructional programming*.
8. OECTA takes this position notwithstanding the fact that it has failed to point to a single provision or policy statement which specifically and expressly precludes ECEs from leaving the classroom during the construct of instructional time. More importantly, OECTA has failed to introduce any evidence to support its position in this matter. Therefore, OECTA has not tendered any evidence to suggest that ECEs who take breaks during instructional time are somehow failing to perform their roles in the manner that is expected for the successful implementation of full-day junior kindergarten and kindergarten. Nor has OECTA tendered any evidence to suggest that ECEs who take breaks during instructional time are somehow failing the students they engage with or the teachers they work with.
9. Instead, OECTA is simply relying upon the general legislative amendments, programming documents and a number of preliminary announcements to assert that ECEs cannot take the breaks they are entitled to during instructional time. OECTA contends that because ECEs work with teachers as an "educator team", because the team is responsible for the learning objectives of their junior kindergarten and kindergarten students, because students are entitled to receive a certain period of time as "instructional time" and because teachers are required to remain in the classroom for the period of "instructional time", that same obligation must be placed upon ECEs.
10. It is the Crown's position that this is simply not the case. There are no legislative or binding requirements that expressly or implicitly circumscribe a school board's ability to schedule required breaks for ECEs during the period of the school day where instructional programming is provided to the students. With respect, that cannot be the case based on the legislative amendments that were introduced to support the FDK Program.
11. It is the Crown's respectful submission that the legislative amendments are clear as are the programming documents. To levy such onerous

obligations on ECEs/school boards and to impose such rigidity into the FDK Program would have required clear and express language in the legislative amendments supporting the introduction of the FDK program.

The Crown outlines its response to OECTA's argument as follows:

12. There is absolutely nothing in the *Education Act* or in the associated Regulations or in any other binding policy document that requires ECEs to remain in the classroom for every minute of the instructional program. Further, there is no legislative or policy requirement that precludes school boards from scheduling ECEs for their required breaks during the time where instructional programming is provided to students.
13. The introduction of Full Day Kindergarten for four and five-year-olds in Ontario was a tremendous undertaking. Over a period of five years, the government ushered in a transformational new early learning program for more than ten thousand classes across the province that was completely unlike the traditional teaching philosophy for kindergarten students. Unlike the traditional model of kindergarten, the Full-Day Early Learning Program is premised on a play-based pedagogy, where young four and five-year old students are treated as capable and responsible for determining and developing their own interests and following their own learning curiosities.
14. An important component of the new program, which focuses upon a play-based pedagogy, is the introduction of an "educator-team" for each junior kindergarten and kindergarten classroom comprising of one teacher and a second professional, a registered ECE. The basis for introducing an ECE to each full day kindergarten classroom was to provide for a collaborative and co-operative environment amongst the teacher and the ECE, where the strengths, skills and training of each individual are meant to best support the students.
15. While the efficient and productive collaboration of the educator team is one of the key components to the implementation of the Full Day Kindergarten program, the program and the legislation have expressly maintained distinctions between the role of the teacher and the ECE. For example, the *Education Act* and its Regulations continue to define duties of teachers and underscore the fact that the introduction of ECEs in junior kindergarten and kindergarten classrooms was not intended to derogate from any of the teacher's prescribed duties under the Act.

The Crown then proceeds to identify certain alleged deficiencies in the conclusions drawn from the material relied on by OECTA as "context" in respect of what the Crown describes as OECTA's assertion that "teachers and ECEs working 'side-by-side' effectively means that they should be 'inseparable' during instructional time". The Crown continues:

17. OECTA asserts that the "provisions of the Full-Day Early Learning-Kindergarten Program (Draft Version) and the Kindergarten Program 2016 supports the inference that the FDK teacher/designated ECE team in the FDK context is the *functional equivalent* of a teacher in other grades and/or classes". Using this *functional equivalence* theory, OECTA asserts that because the function of the FDK teacher and designated ECE team is the same as that of a teacher in other classrooms and/or grades, both members of the FDK educator team are required to comply with the obligation to be present in the classroom for the minimum duration of the instructional program required pursuant to subsection 3(1) of Regulation 298. The Crown vehemently challenges this assertion and takes the position that such a proposition entirely misunderstands the purposes and pedagogy which underlies the Full Day Kindergarten program.

The Crown explains its own interest in the matter as follows:

18. While the determination of this dispute is certainly of importance to the central parties, it is also of substantial interest to the Crown. While the potential cost implications are clearly and understandably a primary concern, of considerable importance is the issue of protecting the sanctity of provincial education policy. In this matter, the Association is pursuing a central grievance on an issue that does not arise directly out of its collective agreement, nor is it taking issue with a purported violation of a specific provision of the *Education Act* or its Regulations. Rather, the Association is asserting that the government, in its proposal to have educator teams direct junior kindergarten and kindergarten classrooms under the new model, intended to impose existing obligations of teachers on to designated ECEs working in those classrooms. OECTA has not pointed to any particular authority or legislative provision to ground its claim in this regard. Rather, it takes us along a scenic tour of several documents, papers, memoranda and general provisions of legislation/regulations to, essentially, chart out a dot-to-dot map which attempts to establish that ECEs are obliged to remain in the classroom during instructional time. While this scenic drive approach is creative, it is not a convincing manner in which to assert such a significant constraint on school boards' ability to schedule its employees and most importantly, it cannot support a change to the education policy that the government has crafted with respect to the Full Day Kindergarten program.

The Crown then develops these submissions over the ensuing 34 pages of its brief, devoting considerable attention to the non-legislative or “programming documents”, as it describes them, to which OECTA refers as part of its case. For various reasons, the Crown submits, such documents cannot be relied on and, even if they can, do not support the ultimate conclusion asserted by OECTA. Rather, they support or reveal the conclusion that the system of “play-based

learning”, which unfolds over the course of the *full school day* for four and five year olds, is not organized around the “construct of instructional time”.

Penultimately, the Crown offers what it describes as its "perspective" on the dispute:

129. The Crown's interest as Participant in this matter relates to both its role as funder of education and its responsibility to set education policy for the province.

130. While the Crown's interest regarding the potential cost implications of a decision in favor of the Association is self evident, its interest with respect to education policy may be somewhat more opaque and deserving of further elaboration.

131. Quite simply, the amendments to the *Education Act* create the legislative scheme that is required to implement the Full Day Kindergarten program in accordance with the education policy that the Crown intended to set for four and five-year-olds entering school for the first time. These amendments included requirements where such requirements were needed, they included permissive provisions where such permissions were needed and the amendments were simply silent where no change or alternative direction was needed and where a flexible approach was intended.

132. To have certain obligations and requirements imposed on the *Education Act*, which the Legislature did not think necessary or appropriate to include when enacting Bill 242, *Full Day Early Learning Statute Law Amendment Act, 2010*, would not only undermine Legislative prerogative, it would challenge the Crown's role and responsibility to determine education policy.

133. For the Crown, this dispute does not simply raise an issue of scheduling. Rather, it is a central grievance that is challenging the implementation of education and program policy under the scheme of the *Education Act*. The Crown's paramount concern is to protect against having requirements assumed and read into legislation without clear legislative intent.

134. In addition to the overarching concern of having education policy set via labour arbitration, the Crown's concern is to have *rigidity* thrust into a program that was specifically meant to be *flexible*.

135. When the government of the day sought to develop, legislate and then introduce the Full Day Kindergarten program to benefit four and five-year-old children, the government chose to define the framework and components of a program that supported what it wanted to set as provincial education policy. It is the Crown's respectful submission that these policy objectives, as well as the process and structure that was woven into the legislation to achieve these policy objectives, should not be easily cast aside in the context of a labour arbitration dispute whereby each party is seeking to pursue its own specific interests.

From there, the Crown invites the following conclusion:

136. The Association is pursuing a central grievance that attempts to circumscribe the school board's ability to schedule required ECE breaks during the instructional program period. It relies on the argument that as part of the educator team teachers and ECEs are required to work together. Given that teachers are required to remain in the classroom during instructional time, OECTA argues that the same obligation should be imposed on ECEs. While OECTA has vigorously advanced its position in this matter, it has failed to point to any specific legislative provision that specifically supports their assertions. Furthermore, OECTA chose not to introduce any evidence in support of its position. It did not introduce evidence to suggest that ECEs leaving the classroom to take scheduled breaks during instructional time either impacted ECEs' responsibilities in the Full Day Kindergarten program or student success in the program. Rather, in support of its assertions OECTA relies on programming material and general communications and memoranda which referred to teachers working *side by side* that were issued prior to the enactment of the amendments to the *Education Act* in support of the Full Day Kindergarten program.

137. It is the Crown's position there is absolutely nothing in the *Education Act* or the Regulations made thereunder to support OECTA's position. In fact, a close examination of the legislative provisions establishes the converse of what OECTA is asserting and confirms the position of the Crown in this matter.

138. While OECTA attempts to place a significant emphasis on the programming documentation and while it attempts to elevate those documents to the status of secondary legislation, with respect, those attempts are futile as nothing in the programming documents support OECTA's contention that ECEs must remain in the classroom during periods of the instructional program.

139. Further, OECTA's argument that the educator team is the *functional equivalent* of a single teacher in other non-junior kindergarten and non-kindergarten classes is entirely misguided. It completely ignores and discounts the philosophy and programming principles of the Full Day Kindergarten program.

140. This central dispute is of particular concern and interest to the Crown. While this is an arbitration issue, there is no specific collective agreement provision at issue. Instead, OECTA has asked for a general interpretation of the *Education Act*, as it is not relying upon a specific provision which it asserts has been breached. It is asking for specific requirements to effectively be imposed upon the statutory framework that was developed in support of the Full Day Kindergarten program. Accordingly, through this arbitration process, OECTA is asking that the school board's management right to schedule breaks be fettered without cause. More importantly to the Crown, through this arbitration process, OECTA is asking that provincial education policy be altered for the benefit of its bargaining (sic) members. The alteration and amendment of provincial education policy must be considered only in the rarest of circumstances.

141. Finally, it is critical to underscore that this issue affects not just the teachers that are represented by OECTA, but many other individuals who are represented by different bargaining agents in the education sector in the province. For example, although this dispute arises in the context of the Catholic School Board system, the determination of this matter will ultimately affect more than ten thousand (10,000) Full Day Kindergarten classrooms across seventy-two (72) school boards and will affect classrooms. Moreover the decision will impact junior kindergarten and kindergarten classrooms that are presently working extremely well with the flexibility afforded under the existing program and supported by the *Education Act*. The impact of this decision cannot be emphasized enough as it has the potential to significantly affect not only funding issues, but the education policy that was created in support of the Full Day Kindergarten Program.

142. It is the Crown's position that the clear and express language of the amendments in support of the Full Day Kindergarten program overwhelmingly supports its position in this dispute. Accordingly, the Crown asks that this central grievance matter be dismissed in its entirety.

Why, according to OECTA, the OCSTA and Crown submissions are wrong and its is correct

There was obviously, in the OCSTA and Crown briefs, much for OECTA to respond to; OECTA did not shrink from the task.

OECTA organized its reply submissions in part by setting out and addressing its understanding of the OCSTA and Crown positions and the basis for them. Thus, under the heading, "The Legislation supports the conclusion that the early learning program must be delivered by a team but the team is not the functional equivalent of a teacher", counsel for OECTA replied to some of the more detailed aspects of the OCSTA and Crown submissions as follows:

9. I make the following submissions in reply:
 - a. Subsection 3(1) of Regulation 298 imposes a requirement that the length of the *instructional program* of each school day for pupils of compulsory school age and *pupils in full day junior kindergarten or kindergarten* shall be not less than five hours a day excluding recesses or scheduled intervals between classes.
 - b. The minimum requirement applies to the "instructional program" and not "instruction" per se.

- c. Whether or not ECEs "instruct" is not relevant to the issue of whether subsection 3(1) requires that ECEs be assigned for the minimum duration of the instructional program.
- d. Pursuant to subsections 3(5) and (5.1) of Regulation 298, elementary students, including FDK students must have a minimum lunch interval of 40 minutes and pursuant to subsection 3(8) of Regulation 298, a morning and afternoon recess of not less than 10 minutes and not more than 15 minutes.
- e. In order to meet the requirement, there can be no expectation or requirement of delivery of instructional program during those periods. That being the case, it follows that not only are qualified ECEs not required for those scheduled intervals, but if so assigned, delivery of curriculum can neither be expected nor required.
- f. It follows that if OCSTA and the Crown are correct and ECEs are not required to be present during the minimum period of the instructional program, there is in fact, no minimum requirement to have ECEs present at any point during the school day.
- g. In any event, implicit in the submissions of the OCSTA and the Crown is a narrow view of instruction which is not supported in the caselaw.
- h. Even if I am wrong with respect to the relevance of "instruction" to the operation of subsection 3(1) of Regulation 298, pursuant to subsection 264.1 and (2) of the *Education Act*, ECEs have responsibility for certain aspects of instruction in the delivery of the instructional program.
- i. That is not to say that ECEs have the same responsibilities as teachers in that regard. Nor is that a necessary condition for section 3(1) of Regulation 298 to apply.
- j. OECTA does not assert that FDK teachers and ECEs must work side by side. OECTA does assert that both an FDK teacher and ECE must be assigned to the class for the minimum period of the instructional program. That does not mean, nor was it at any point suggested that they must always be in the same room during the instructional program.

(emphasis added)

After replying that it was not required to offer *evidence* of "functional equivalence", as suggested by the parties opposite, because it is an "inference with respect to legislative intent drawn from a review of the 'entire context', the relevant statutory provisions and the scheme of the *Act* and Regulations as a whole", OECTA next dealt with what it argues is an incorrect

limitation the OCSTA and Crown would place on the meaning of “instructional program” in subsection 3(1) of Regulation 298:

14. One of the principal submissions of both the OCSTA and the Crown is that while the legislation contemplates delivery of the Early Learning Program by a FDK teacher and ECE acting as a team, only teachers have the obligation and the responsibility to instruct. On that basis, both conclude that neither subsection 3(1), or any other provision of the *Education Act* or regulations thereunder, require the assignment of an ECE for the full duration of the minimum period of the instructional program.
15. That result obtains only if "instructional program" is interpreted to mean "instruction" and instruction is defined narrowly to mean "active teaching". Two points in connection with that. First, in Regulation 298, where the Legislature intended to use the term instruction it did so. (See in that regard: duties of a principal in subsections 11(1)(a), 11(3)(a), 11(3)(k), 11(5)(b), 11(11) and duties of a teacher subsections 20 (a) and (c).
16. I note as well in that regard, that subsection 20(1) of Regulation 298 requires that teachers be, "responsible for effective instruction". Subsection 20(b) requires that teachers "carry out . . . the instructional program". If instructional program and instruction were interchangeable, there would have been no need for the reference to "instructional program" in subsection 20(b) of Regulation 298.
17. Second, "instructional program" has been given a broad interpretation in the caselaw ...

OECTA then refers to two cases in which it was found, in other contexts, that “... the instructional program includes more than active teaching. It includes supervision of planned learning activities” [*Toronto Catholic District School Board* 139 L.A.C. (4th) 366 (Abramsky)] and “...all activities the essential character of which involved the delivery of planned subject curriculum to classes of students”: [*Toronto District School Board* [2004] O.L.A.A. 423 (Newman)]. After setting out further excerpts from what it submits are statutorily binding “policies or guidelines”, specifically the Ministry of Education’s “Full Day Early Learning Kindergarten Program (Draft Version)” and “The Kindergarten Program 2016”, in support of what it describes as the “scope of the expected and required collaboration and coordination of the FDK teacher and ECE in connection with the implementation of the Early Learning Program”, OECTA writes:

26. From the program documents themselves, it could not be clearer that the delivery of the Early Learning Program requires *both* the FDK teacher and ECE working together as a team.
27. That is the result whether or not the duties of the ECE amount to "instruction".
28. Because effective implementation of the Early Learning Program requires *both* the FDK teacher and ECE working together as a team, it necessarily follows that subsection 3(1) of Regulation 298, which imposes a minimum duration of that Program, requires that both the FDK teacher and the ECE be assigned and be present for the minimum prescribed length of the instruction program. It is absurd to suggest that if *both* the FDK teacher and ECE working together as a team are necessary to the effective implementation of the Early Learning Program, that both are *not* required to be assigned and present for the minimum prescribed duration of that Program.
29. Even if the Full Day Early Learning Kindergarten Program (Draft Version) and the Kindergarten Program, 2016 do not constitute policies and/or guidelines within paragraph 3.0.0.1 of subsection 8(1) of the *Education Act*, subsection 264.1(1) of the *Education Act* contemplates that ECEs assigned to a designated position in a FDK class have an obligation to coordinate and cooperate with the FDK teacher with respect to "providing education to pupils in junior kindergarten and kindergarten" and with respect to "[o]bserving, monitoring and assessing the development of pupils in junior kindergarten and kindergarten".
30. It is difficult to conceive how the essential character of those obligations do *not* involve the delivery of planned subject curriculum to classes of students. Again, it follows that implementation of the Early Learning Program requires *both* the FDK teacher and ECE working together as a team. Again, because effective implementation of the Early Learning Program requires *both* the FDK teacher and ECE working together as a team, both must be assigned and present for the prescribed minimum duration of the instructional program as set out in subsection 3(1) of Regulation 298.

OECTA's next line of reply was in connection with its paragraph 9(f) above. Under the heading, "If there is no mandatory minimum requirement to have ECEs present to deliver the early learning program the implication is that school boards have unfettered discretion", OECTA writes:

31. Both the OCSTA and the Crown were adamant in their assertions that the amendments to the *Education Act* and Regulations thereunder do not require ECEs to be present for the *full period* of the instructional program as set out in subsection 3(1) of Regulation 298.

32. But the position that ECEs are not required to be present for the *full period* of the instructional program raises the obvious question, "what then is the obligations on school boards to assign and have ECEs present during the minimum period of the instructional program".
33. Neither the OCSTA nor the Crown addressed that issue.
34. However, the implication of the position that the ECE need not be assigned and be present for the minimum prescribed duration of the instructional program is obvious. If the OCSTA and the Crown are correct and there is no requirement to have ECEs assigned and present at least for the minimum prescribed period of the instructional program as required by subsection 3(1) of Regulation 298, it necessarily follows that school boards have unfettered discretion to determine what, *if any* period of time, ECEs will be assigned to the instructional program.
35. There are a number of problems with that conclusion.
36. First, it is inconsistent with the fact that the Legislature turned its mind to the issue of the application of subsection 3(1) of Regulation 298 and expressly removed any discretion school boards had with respect to the minimum length of the instructional program for the Early Learning Program.
- ... [paragraphs with supporting references omitted]
41. The Legislature turned its mind to the issue of the delivery of the instructional program in FDK classes and chose to remove school board discretion to establish the length of the FDK instructional program and to impose the *same* five hour minimum for the instructional program. At the same time, it did not give school boards discretion to assign only a teacher or ECE for parts of the instructional program. Against the *backdrop of the existing arbitral caselaw* with respect to the instructional program, and in particular, the requirement that qualified teachers must be present for the period to be included in the instructional program, the fact that the Legislature chose not to give school boards such discretion supports the conclusion that the Legislature intended that *both* the teacher and designated ECE be present in the class for the entire period of the instructional program.
42. Second, the assertion that school boards have unfettered discretion with respect to the assignment of ECEs to the instructional program is inconsistent with the amendments introduced by the *Full Day Early Statute Law Amendment Act, 2010* which made applicable to designated ECEs substantially similar qualification requirements and as well, *exceptions* to those requirements which were already applicable to teachers.

... [paragraph with supporting references omitted]

After setting out the statutory provisions concerning the qualifications of persons that may be employed as ECEs and when exceptions may be made, OECTA continues:

44. In that regard, if a school board has unfettered discretion to (*sic*) the period of time an ECE is assigned to a FDK classroom or not, there is little point to the provisions addressing circumstances where qualified ECEs are not available. That quite simply is an absurd result. The fact that the Legislature provided for exceptions to the appointment of qualified ECEs supports the inference that in all other circumstances, the assignment of a qualified ECE is required. Moreover, the fact that the Legislature did not otherwise provide for discretion to assign ECEs to FDK classes for something less than the minimum duration of the instructional program suggests that no such discretion was intended.
45. Finally, pursuant to section 3 of Regulation 298, the school day is comprised of the instructional program, scheduled intervals between classes and the period before classes begin and other classes end when the school buildings and playgrounds are open to pupils. If there is no minimum requirement to have ECEs present during the instructional program, there is then no minimum requirement to have ECEs present at all.

OECTA next referred to an award upon which it also relied in its initial brief concerning periods of time that do and do not form part of the “instructional program”, before continuing:

49. If, as Arbitrator Herlich found, recesses and lunch breaks are periods of time *during which there is typically no expectation or requirement that teachers engage in instructional activities*, designated ECEs cannot be expected or required in those intervals to implement program. If that is correct, there is no pedagogical value in assigning designated ECEs to those periods. Moreover, if there can be no requirement or expectation for delivery of the Early Learning Program in scheduled intervals between classes, there is no requirement to assign either ECEs or teachers to those periods.
50. It necessarily follows that *if*, as the OCSTA and Crown suggest, there is no requirement to assign ECEs for the minimum length of the "instructional program" as set out in subsection 3(1) of Regulation 298, there is no mandatory requirement for ECEs at all.
51. That leads to the absurd result put forward by OCSTA that school boards have a mandatory duty, subject to certain exceptions, to designate ECE positions in FDK classrooms and to "appoint" qualified ECEs to those positions, but no corresponding mandatory minimum requirement to "use" ECEs in the delivery of the instructional program.

From there, OECTA proceeded to address an OCSTA submission concerning the definition of “class” in a Regulation to the *Act* and the relationship between that definition, which is “a group of pupils who are scheduled to spend more than 50 percent of their instructional time together”, and the requirement it asserts for ECEs to spend *all* of the instructional day with the class. OECTA submits that the obligation to appoint an ECE to a class, so defined, supports a conclusion that it is for the purpose of instruction and for whatever portion of the instructional day the pupils are scheduled to be together *for instruction*.

OECTA’s next line of response was advanced under the heading “Instruction is a broad term which encompasses the duties of an ECE”. OECTA asserts that the OCSTA and Crown submissions proceed from “a narrow definition of instruction”, which is “at odds with the caselaw” and that, for purposes of inclusion in the “instructional program”, “instruction” is not limited to active teaching but “includes any activity the essential character of which pertains to the delivery of curriculum or program and to a period of time in which the delivery of curriculum or program is required or expected”. Thus, OECTA submits, “a period of ‘supervision’ during a period of time in which delivery of curriculum is required or expected is included as part of the mandatory ‘instructional program’, but interaction with students in other parts of the school day in which delivery of program is not expected is excluded”.

OECTA views this as important because of the duties imposed on ECEs by the *Act* to coordinate and cooperate with the FDK teacher, “... in providing education to pupils” and with respect to “[o]bserving, monitoring and assessing the development of pupils ...” All of this, in OECTA’s submission, amounts to “instruction” and therefore supports the conclusion that the requirement to be present for the “minimum period of the instructional program required by Regulation 3(1) of Regulation 298” applies not just to teachers but to ECEs as well.

OECTA’s next line of reply was delivered under the heading, “The *Education Act* enumerates the duties of teachers but not ECEs and the operation of subsection 264.1(3)”. OECTA disagrees with what it understands to be the OCSTA and Crown submission that the absence of any similar enumeration of duties for ECEs as exists for teachers, other than the duty to coordinate and cooperate with the teacher with respect to certain matters, *and* the fact that only teachers have the obligation to “instruct”, means that “the requirement to be present during

the minimum period of the instructional program required by Regulation 3(1) of Regulation 298 is applicable to teachers only”.

OECTA submits that the provision of the *Act* that states that “nothing in [the section concerning the duties of teachers and ECEs to “coordinate” and “cooperate” with each other respect to certain matters] limits any duties of teachers under this *Act*”, including certain specifically listed duties, such as “instruction”, provides no support for the idea that ECEs need not be scheduled to be present for the full length of the instructional program of each school day. To the contrary, OECTA submits, the provision supports the conclusion that there is an overlap in duties and responsibilities of teachers and ECEs, something that, OECTA asserts, is also supported by aspects of the non-legislative materials referred to by the Crown.

Thus, while OECTA concedes that ECE and teacher duties are not the same, it submits that both are essential to the delivery of the FDK program and the differences do not mean that ECEs are not engaged in “instruction” or that their work is not “encompassed by the ‘instructional program’ within the meaning of subsection 3(1) of Regulation 298”.

OECTA also submits, in its reply brief, that its position is not that teachers and ECEs must “work side by side”, only that “ECEs must be assigned to and be present for the minimum period of the Early Learning Program as required under subsection 3(1) of Regulation 298”.

OECTA next sought to distinguish, as arising in different legal contexts and dealing with different legal issues, two cases relied on by the OCSTA, one of which was also relied on by the Crown, which differentiated between the roles of teachers and ECEs in the Early Learning Program.

Finally, in reply, OECTA clarified which of the many non-statute, non-regulation, documents to which it had referred in its principal submission it was relying on as “policy or guidelines”, within the meaning of paragraph 3.0.0.1 of subsection 8(1) of the *Act*, and which as “context”. In respect of the latter, OECTA reiterates its earlier submission that a finding of ambiguity is not a precondition to considering contextual evidence.

3. Decision

The issue in this case is whether school boards are required by the *Education Act* or Regulations to schedule ECEs to be present in FDK program classrooms for the full length of the “instructional program” in each school day.

In my view, they are not. I begin with a few basic observations.

First, the party asserting a legislative requirement or prohibition bears the onus of proving it. That is OECTA in this case. As emphasized by the Crown, OECTA asserts a statutory *limitation* on the ability of school boards to make work assignments or, alternatively, a statutory *requirement* on school boards to make work assignments in a particular way. The onus is on OECTA to prove that limitation or requirement.

Second, as noted above, the limitation or requirement asserted by OECTA is clearly *not* set out expressly or directly in the *Act* or Regulations. As already observed, neither the *Act* or Regulations say, “An ECE must be scheduled to be present with the FDK class for the full period of the instructional program” or “An ECE may not be scheduled to be away from the FDK class for any portion of the instructional program”, or anything similar, as they easily could have.

Third, not only do the *Act* or Regulations not say that directly or expressly, OECTA does not refer to any arguably ambiguous provision or provisions to that effect. Rather, it asserts that when the *Act*, Regulations, policies and guidelines, and certain contextual materials are read together, *the obligation on school boards to operate an FDK program* requires ECEs to be present for the full period of the “instructional program”.

I am unable to agree. Recognizing that delivery of the 300-minute instructional program requires the constant scheduled presence of “teachers”, I cannot find the same to be true for ECEs. The *Act* does not say it, the Regulations do not say it, it does not appear in any policy or guideline, and it is not a feature of any of the materials to which OECTA refers as “context”, even assuming I was able to consider them.

The *closest* any of these sources would appear to come is in the very earliest of documents referred to by OECTA, *which predate the legislation*. In three communications by the Ministry of Education, the Deputy Minister of Education, and two government ministers on the day it was announced that there would be an Early Learning Program, reference is made to such things as a “blended staffing model” and an “educator team” consisting of a certified teacher and an ECE “working side-by-side” to deliver the program.

Contrary to the submission of OECTA, I do not consider these materials to be properly before me¹. However, even if they were, given their timing and the fact that the “side-by-side” formulation was not repeated in any of the subsequent materials, seemingly being replaced by references to ECEs and teachers working “together”, as a “team” and “collaboratively”, I believe such representations are deserving of little or no weight. Third, and in any event, such statements cannot reasonably bear the interpretation OECTA would place upon them. There is absolutely no reason to conclude they were intended literally or to reflect a requirement that ECEs and teachers be present together in the FDK classroom for the entirety of the 300-minute instructional program. That, in my opinion, would be to attribute a degree of precision or specificity to the statements that they clearly do not possess.

As for the subsequent statements relied on by OECTA, *i.e.* those that appear in documents created *after* the legislation came into force, including in those few that OECTA identifies as “policies and guidelines” within the meaning of paragraph 3.0.0.1 of subsection 8(1) of the Act², nothing is added in my view, to what the *Act* and Regulations themselves say. I agree with the submissions of the OCSTA and Crown that being a member of an “educator team” or “working together” in “partnership” or “collaboratively” does not speak to the question of whether both

¹ I disagree with OECTA’s interpretation of *Bell ExpressVu Limited Partnership v. Richard Rex et al and the Attorney General of Canada*, 2002 SCC 42, and agree with that of the OCSTA. I interpret the references in that case to consideration of the “larger statutory scheme” to be to “statutes” and statutory materials “that deal with the same subject matter”, of which the “provision under consideration” forms a part: see para. 27. While that would appear to include what the Crown here refers to as “subordinate legislation”, which, in my view, includes “policies and guidelines” issued under the authority of paragraph 3.0.0.1 of subsection 8(1), *absent ambiguity* it would not include the additional materials referred to by OECTA.

² These are the “Full Day Early Learning Kindergarten Program Document (Draft Version)”, the “Kindergarten Program, 2016”, and the “Ontario Schools Kindergarten to Grade 12, Policy and Program Requirements, 2011”.

members of the team must be present together in the classroom at all times. Such statements would appear to go no further than does the legislation itself in providing for cooperation and coordination between the teacher and ECE in respect of certain specific matters.

All of which, as I see it, explains the need for the “functional equivalence” theory: something to bridge the gap between what the legislation says and what it does not but which OECTA invites me to conclude; something that would tie the obligations of school boards in respect of teachers *to ECEs*. And that “something”, as developed by OECTA, is the assertion that teachers and ECEs in the FDK program are the “*functional equivalent*” of teachers alone in other grade levels or classes. Hence, the proposition runs, just as a *teacher* must be present in other grade levels or classes in order for school boards to satisfy their full 300 minute “instructional program” obligations so too must teachers *and ECEs* be present in the FDK program.

With the utmost of respect for the detailed command of the legislative and non-legislative material revealed by this argument, I simply cannot agree. As I see it, “functional equivalence” is a theory, described as an inference, chasing a result, that is nowhere provided for. What is needed is not “*functional equivalence*” but *legal equivalence* – something that would convey a *clear legislative intent* that ECEs and teachers are to be *treated the same* in respect of school boards’ 300 minute “instructional program” obligations, and that something is not there.

School boards are required to deliver a 300-minute instructional program on each school day at all grade levels, now including Kindergarten and Junior Kindergarten. And, delivery of the “instructional program” at other grade levels has been recognized as requiring the continuous scheduled presence of a “teacher”³. That requirement, however, is tied to the status, qualifications and duties and responsibilities of a “teacher”, which include the duty to “teach”, to

³ See *London Catholic District School Board and OECTA*, dated April 19, 2003 (Etherington) and *Toronto Catholic District School Board and OECTA* (2005), 139 L.A.C. (4th) 366 (Abramsky). I note, in passing, that OECTA’s position in this case would appear to be at least somewhat at odds with that which it advanced successfully, and correctly in my opinion, in the first of these cases *viz.* that the “statutory scheme” would be undermined if non-teachers could be used to supervise students during instructional time because the scheme is “directed to ensuring delivery and administration of the instructional program *by qualified teachers*”: p. 21 (emphasis added).

provide “instruction”, and “to carry out ... *the instructional program* assigned to the *teacher* by the principal” (emphasis added) ⁴.

These are *not* the duties of an ECE. As emphasized by the OCSTA and Crown, ECE duties, though important, are different. They are defined as “cooperating” and “coordinating” with the “teacher” in respect of certain specific matters, which include “providing education”, but which do not include “teaching”, “instruction” or, indeed, carrying out the “instructional program”. All of these remain *teacher* duties, undiminished by the presence of ECEs⁵. Thus, not only are ECEs not, of course, “teachers”⁶, the two together does not *add up to a “teacher”* or *stand in the shoes of a teacher* for purposes of the 300-minute “instructional program”. The legislation simply does not provide for it.

The Crown submits that, “there could have been a number of amendments in a number of different sections of the legislation to support the notion that the role of the ECE ... is a required component of instructional programming ... [b]ut there is not one that would support that position”. I agree with that submission. The Crown also submits the Legislature’s silence in this regard was deliberate: in the context of the “massive”, “transformational”, province-wide, FDK undertaking, the intention was to afford school boards as much flexibility as possible with respect to implementation; it was not to tie local school boards’ hands any more than was reasonably necessary to give effect to the fundamental precepts of the Early Learning Program. About that I am less able to say; however, I am satisfied that nowhere is the contrary intention expressed.

⁴ See subsection 264(1) of the *Act* and section 20 of Regulation 298, the latter of which, as the OCSTA points out, also refers to the responsibility for “effective instruction” and the need for the teacher to be “present in the classroom” as of certain times before the commencement of classes in the morning and afternoon.

⁵ See subsection 264.1(3) of the *Act*. As further noted by the Crown, the difference between teacher duties and ECE duties is also reflected in amendments concerning the duties of “teaching assistants”, which now include, “complement[ing] *instruction by teachers* and the *work* of early childhood educators” (emphasis added): see subsection 170.3(b) of the *Act*.

⁶ Indeed, as observed by the Ontario Labour Relations Board in a different context, and without wishing to at all diminish the obvious importance of ECEs to the FDK program, ECEs are also not “quasi-teachers”: see *District School Board of Niagara and ETFO*, [2012] OLRB Rep. Feb. 114.

The obligations that apply to school boards in respect of “teachers” and the “instructional program” have not been made to apply to ECEs and the instructional program. ECEs and teachers are different statutory creatures with different duties and responsibilities. The duties and responsibilities of teachers that require their scheduled presence for the full 300-minute instructional program have not been “divvied up” or shared as between teachers and ECEs. Teachers are statutorily responsible for “instruction”; ECEs are not. In the context of the FDK program, there is simply a new category of educational professional on the scene with whom the teacher is required to coordinate and cooperate, and *vice versa*, in delivering the new educational product.

The *Act* and Regulations require school boards to provide an FDK program, to designate an ECE to JK and K classes of 16 or more pupils, and to fill the designated positions with qualified ECEs. The *Act* and Regulations also require *ECEs* to “coordinate” various matters with “teachers” and to “cooperate” with them in various ways in planning for and delivering the FDK program. In my view, those obligations cannot bear the weight of statutorily mandated around-the-clock 300-minute instructional program ECE scheduling as claimed by OECTA. I agree with the OCSTA that there is “nothing ... that suggests that the Board would be in violation of its duty to provide a minimum period of instruction simply because the ECE was taking a break without a replacement”. The limitation, obligation or requirement for which OECTA contends is simply *not* a feature of the *Act* or Regulations and I am unable to infer it.

Before leaving this matter, it may be useful to comment briefly on the point raised by OECTA in its reply submissions that if school boards are not required to schedule ECEs to be present in FDK program classrooms for *all* of the instructional day, for what period of the instructional program, *if any*, must they be present or do school boards have complete and unfettered ECE scheduling freedom. I do not know the answer to that question. It is not what this case was about. I will leave to another day and another case, should it ever arise, the question of whether a school board can schedule an ECE mandatorily designated for a particular class to be away from the class for longer periods of time than the ECEs’ contractual breaks while being with the students during the students’ lunch and recess.

Finally, because we are dealing with the highly emotive and important topic of early childhood education, it may be useful to reiterate that OECTA does not assert, and called no evidence to suggest, that the Board's approach to ECE scheduling is not meeting the pedagogical needs of its students or living up to the educational theories underlying the Early Programming Program. And, as noted, the evidence led by the OCSTA and Crown was very much to the contrary. While I see no need to rely on that evidence for my interpretive conclusion, I do draw attention to it for the benefit of those who might read this decision from other than a purely legal perspective.

The grievance is respectfully dismissed.

DATED at Toronto this 13th day of October 2017.



Russell Goodfellow – Sole Arbitrator



Ontario Catholic School
Trustees' Association

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Patrick Daly, *President*
Beverley Eckensweiler, *Vice President*
Nick Milanetti, *Executive Director*

October 17, 2017

MEMORANDUM

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Patrick J. Daly, President

SUBJECT: **Revisions to the Pupil Accommodation Review and Community Planning and Partnership Guideline**

As you are aware, the Ministry of Education announced in June 2017 that they would conduct further consultations in respect of the Pupil Accommodation Review (PARG) process and revisions to the Community Planning and Partnership guideline (CPPG).

On October 12, 2017, the Ministry of Education, in partnership with the Ministry of Infrastructure, announced the next stage in these public consultations. The government's intention to "encourage joint responsibility for integrated community planning, with a focus on communication between school boards, municipal governments and community partners about boards' capital plans".

The government is seeking feedback on the proposed revisions to the PARG and OCSTA encourages Catholic school boards to submit their concerns and recommendations to the Ministry of Education at www.edu.gov.on.ca/eng/policyfunding/reviewguide.html.

The deadline for submissions is **Wednesday, December 6, 2017**.

If you have any questions, please do not hesitate to contact me or Stephen Andrews at sandrews@ocsta.on.ca.

Attachment

Ministry of Education

Minister

Mowat Block
Queen's Park
Toronto ON M7A 1L2

Ministère de l'Éducation

Ministre

Édifice Mowat
Queen's Park
Toronto ON M7A 1L2



Ontario

October 12, 2017

Dear Colleagues,

As you are aware, in June of this year, Ontario launched its [Plan to Strengthen Rural and Northern Education](#). The feedback received from school board and municipal partners was central to the development of this plan, which comprised process improvements and funding enhancements designed to better support: quality rural education; sustainable use of school space in rural communities; and decision-making around school closures. Thank you for your important contributions to this work. We are now writing to request your support during the next phase of the plan's implementation.

As part of the plan, the Ministry of Education committed to revising its [Pupil Accommodation Review Guideline \(PARG\)](#) and [Community Planning and Partnerships Guideline \(CPPG\)](#). While the government's rural and Northern education engagement focused primarily on rural and Northern communities, we heard that the pupil accommodation review process for all school boards requires an overhaul. That is why, this fall, the Ministry of Education will begin the process of revising its PARG to promote inclusion of community impact alongside the focus on student achievement and well-being.

In addition, the Ministry of Education will also be revising its Community Planning and Partnerships Guideline (CPPG) to encourage joint responsibility for integrated community planning, with a focus on communication between school boards, municipal governments and community partners about boards' capital plans.

We invite you to provide your feedback on the proposed revisions to the PARG and CPPG online at, www.edu.gov.on.ca/eng/policyfunding/reviewguide.html.

We will also be engaging Ontario's four trustee associations, and the Association of Municipalities of Ontario (AMO) to set up a reference group that will provide advice on these matters. For more information on this reference group, I encourage your boards or councils to contact the relevant organization.

.../2

**ONTARIO
15010**

Your input will once again be invaluable, as we build on our work to support students and communities in Ontario.

Sincerely,

A handwritten signature in black ink, appearing to read 'MH' with a stylized flourish.

Mitzie Hunter, MBA
Minister of Education

A handwritten signature in black ink, appearing to read 'Bob' with a stylized flourish.

Bob Chiarelli
Minister of Infrastructure



Ontario Catholic School
Trustees' Association

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Patrick Daly, *President*
Beverley Eckensweiler, *Vice President*
Nick Milanetti, *Executive Director*

October 18, 2017

TO: Trustees & Directors of Education
- All Catholic District School Boards

FROM: Patrick Daly, President

SUBJECT: Multi-Year Strategic Planning Supports for CDSBs

The Ontario Education Services Corporation (OESC) has updated the Trustee Professional Development Module 6 – *The Strategic Role and Multi-Year Strategic Planning* – to encompass the content contained in the Ministry of Education’s recently released guidebook on this topic for trustees. As mentioned in our October 2nd memo to boards regarding the newly released Multi-Year Strategic Planning Guide for School Board Trustees, the perspectives and insights of individuals representing English and French, Catholic and Public School Systems helped to shape and enrich the content of this guide making it not only a good resource, but a highly relevant reference for trustees.

The newly revised Trustee Professional Development Module 6 is now enhanced by this updated material and you are invited to access this online module in the OCSTA Catholic Trustees Modules Centre located at:

<http://www.ocsta.on.ca/trustee-modules-2/>

Your OCSTA member login user name and password is required to access this area of the OCSTA website (if you need assistance accessing your login information, please contact Ashlee Cabral at OCSTA – acabral@ocsta.on.ca).

OESC has also assembled a roster of experienced facilitators to work with boards at any stage of the multi-year strategic planning process. For more information you are invited to contact Kendra Devine at OESC – kdevine@oesc-cseo.org.

From: Sharon McMillan [<mailto:SMcMillan@ocsta.on.ca>]
Sent: Thursday, October 19, 2017 10:46 AM
To: Sharon McMillan <SMcMillan@ocsta.on.ca>
Subject: Catholic Education Week Branding and Design Files

To: Chairs, Directors of Education and CDSB Communications Departments
From: Sharon McMillan, OCSTA Director of Communications

OCSTA is pleased to announce that design and branding elements for the 2018 Catholic Education Week theme – Renewing the Promise – are now available and can be downloaded directly from the Catholic Education Week website at the following link:

<http://www.ocsta.on.ca/resources/catholic-education-week-resources/cew-2018-graphics-logos/>

We hope you will find these files helpful in developing and promoting Catholic Education Week related curriculum, programs and initiatives. The Catholic Education Week poster will be released early in the new year along with the CEW school packages.

As always, the collection of Catholic Education Week materials are located at:

<http://www.goodnewsforall.ca>

Best regards,

Sharon McMillan
DIRECTOR OF COMMUNICATIONS

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Join our Together in Faith initiative! [Sign up](#) to receive news about Ontario's Catholic schools.