

**Horizon School Division No. 67
Regular Board Meeting – Division Office
ERIC JOHNSON ROOM
Tuesday, March 15, 2016 – 1:00 p.m.**

Regular Board Meeting Agenda

A – Action Items

- | | |
|---|------------------------------------|
| A.1 Agenda
A.2 Minutes of Regular Board Meeting held Tuesday, February 23, 2016
A.3 February/March 2016 Payment of Accounts Summary
A.4 Barnwell Interim Financing
A.5 Safe & Caring Policy (LGBTQ) | ENCLOSURE 1
ENCLOSURE 2 |
|---|------------------------------------|

D – Discussion Items

- | | |
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| D.1 CUPE Dinner. Who can attend? (April 7 th or April 28 th)
D.2 February Financial Report | |
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I- Information Items

- | | |
|---|-------------------------------------|
| I.1. Superintendent's Progress Report
I.2. Trustee/Committee Reports <ul style="list-style-type: none">• 1.2.1 Zone 6 ASBA Report – Marie Logan• 1.2.2 March Administrators' Meeting Summary - Rick Anderson• 1.2.3 Facilities Committee Report- Derek Baron I.3. Associate Superintendent of Finance and Operations Report – Phil Johansen
I.4. Associate Superintendent of Programs and Services Report – Clark Bosch
I.5. Associate Superintendent of Curriculum and Instruction Report – Amber Darroch
I.6 Public Forum | HANDOUT

ENCLOSURE 3 |
|---|-------------------------------------|

Correspondence

- | | |
|--|--------------------|
| <ul style="list-style-type: none">• Alberta News – Article re Government Enrollment Funding• Alberta News – Re Throne Speech• From Alberta Education re Stakeholder Satisfaction Survey• News Article re L.T. Westlake Fine Arts School• March 2016 Education Law Reporter | ENCLOSURE 4 |
|--|--------------------|

Horizon School Division No. 67

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The Board of Trustees of Horizon School Division No. 67 held its Regular Board meeting on Tuesday, February 23, 2016 beginning at 1:00 p.m. in the Eric Johnson Room.

TRUSTEES PRESENT: Marie Logan, Board Chair
Bruce Francis, Board Vice-Chair
Blair Lowry, Jennifer Crowson, Terry Michaelis, Rick Anderson, Derek Baron

ALSO PRESENT: Dr. Wilco Tymensen, Superintendent of Schools
Phil Johansen, Associate Superintendent of Finance & Operations
Clark Bosch, Associate Superintendent of Programs, Services & Human Resources
Amber Darroch, Associate Superintendent of Curriculum & Instruction
Nikki Jamieson, Taber Times
Barb McDonald, Recording Secretary

ACTION ITEMS

- A.1 Moved by Derek Baron that the Board approve the agenda as presented with the following additions:
- Under Action Items:**
A.8 – Three-Year Capital Plan
- Under Action Items:**
1.2.4 - Hutterian Brethren Colony Meeting Report
- | | | |
|-------|---|--|
| | Carried Unanimously | AGENDA APPROVED
44/16 |
| A.2 | Moved by Bruce Francis that the Board approve the <i>Minutes of the Regular Board Meeting held Tuesday, January 19, 2016</i> , as provided in Enclosure 1 of the agenda. | BOARD MEETING
MINUTES APPROVED
45/16 |
| | Carried Unanimously | |
| A.3 | Moved by Jennifer Crowson that the Board approve the <i>Minutes of the Special Board Meeting held Wednesday, Monday, January 25, 2016</i> as provided in Enclosure 2 of the agenda. | SPECIAL BOARD
MEETING MINUTES
APPROVED
46/16 |
| | Carried Unanimously | |
| A.4 | Moved by Terry Michaelis that the Board approve the <i>January/February 2016 Payment of Accounts summary</i> in the amount of \$4,275,690.87 as provided in Enclosure 3 of the agenda. | PAYMENT OF
ACCOUNTS REPORT
APPROVED
47/16 |
| | Carried Unanimously | |
| A.5.1 | Moved by Jennifer Crowson that the Board approve the amount of \$275,000 to be taken out of Board restricted reserves which will be designated to address OH&S requirements and to enhance OH&S best practices within all jurisdiction schools. | \$275,000 FROM BOARD
RESTRICTED
RESERVES
DESIGNATED FOR
OH&S REQUIREMENTS
APPROVED
48/16 |
| | Carried Unanimously | |

- | | | |
|-------|--|---|
| A.5.2 | Moved by Derek Baron that the Board approve the amount of \$15,000 to be taken out of Board restricted reserves which will be designated to network and standardize school generated funds financial practices. | \$15,000 FROM BOARD RESTRICTED RESERVES DESIGNATED FOR STANDARDIZING SGF FINANCIAL PRACTICES APPROVED
49/16 |
| | Carried Unanimously | |
| A.5.3 | Moved by Rick Anderson that the Board approve the amount of \$20,000 to be taken out of Board restricted reserves which will be designated for instructional resources and supplies for a new colony school start up for Gold Springs Colony School. | \$20,000 FROM BOARD RESTRICTED RESERVES DESIGNATED FOR NEW COLONY SCHOOL START UP APPROVED
50/16 |
| | Carried Unanimously | |
| A.5.4 | Moved by Blair Lowry that the Board approve the amount of \$275,000 to be taken out of Board restricted reserves which will be designated towards technology in order to implement the provincial Learning and Technology Policy Framework. | \$275,000 FROM BOARD RESTRICTED RESERVES DESIGNATED FOR TECHNOLOGY APPROVED
51/16 |
| | Carried Unanimously | |
| A.5.5 | Moved by Bruce Francis that the Board approve the amount of \$25,000 to be taken out of Board restricted reserves which will be designated for the installation of basketball hoops in the Lomond Community School Multi-Purpose facility. | \$25,000 FROM BOARD RESTRICTED RESERVES DESIGNATED FOR THE LOMOND SCHOOL MULTI-PURPOSE FACILITY APPROVED
52/16 |
| | Carried Unanimously | |
| A.5.6 | Moved by Rick Anderson that the Board approve the amount of \$90,000 to be taken out of Board restricted reserves which will be designated to W.R. Myers High School to improve the handicapped elevator access within the school. | \$90,000 FROM BOARD RESTRICTED RESERVES DESIGNATED TO WRM TO IMPROVE HANDICAP ELEVATOR ACCESS APPROVED
53/16 |
| | Carried Unanimously | |
| A.5.7 | Moved by Terry Michaelis that the Board approve the amount of \$880,000 to be taken out of Board unrestricted reserves which will be designated towards the enhancement of infrastructure maintenance and renewal needs within Horizon schools. | \$880,000 FROM BOARD UNRESTRICTED RESERVES DESIGNATED FOR THE ENHANCEMENT OF IMR WITHIN HORIZON SCHOOLS APPROVED
54/16 |
| | Carried Unanimously | |

A.6	Moved by Rick Anderson that the Board approve first reading of <u>Policy IHG Respecting Human Rights LGBTQ</u> as provided in Enclosure 4 of the agenda.	FIRST READING OF POLICY IHG APPROVED 55/16
	Carried Unanimously	
A.7	Moved by Bruce Francis that the Board approve the waiving of all general school instructional materials fees for all Horizon School Division students. This change will take place with the commencement of the 2016-2017 school year.	WAIVING OF ALL GENERAL SCHOOL FEES APPROVED 56/16
	Carried Unanimously	
A.8	Moved by Derek Baron that the Board approve the 2017-2020 three-year capital plan as presented.	2017-2020 THREE-YEAR CAPITAL PLAN APPROVED 57/17
	Carried Unanimously	

DISCUSSION ITEMS

D.1 Municipal Government Act (City Charter Review)

Wilco informed the Board that the provincial government is currently conducting its first comprehensive review of the Municipal Government Act since 1994. The government wants to ensure that the Act remains responsive to the needs of municipalities so that it can continue to help build strong, prosperous and sustainable communities and cities throughout Alberta. Included in this review will be the addition of a City Charter which could affect 18 cities across the province. Currently the cities of Edmonton and Calgary are piloting this Charter. School jurisdictions have expressed concerns as this City Charter will allow city authorities to gain more unilateral control over reserve lands with respect to land use that is currently mandated for use for schools and parks.

D.2 ASBA Spring Conference

The annual Alberta School Boards Association Spring General Meeting and conference will be taking place in Red Deer on June 6th and 7th. Marie Logan and Wilco Tymensen will be representing Horizon at this event.

D.3 Highway 3 Twinning Development Association

On February 5, 2016, the Highway 3 Twinning Development Association held a meeting where a motion was passed to request support for the twinning of Highway 3 from all municipalities along the Highway 3 corridor. Municipalities were sent a Resolution of Support, requesting signatures in support of the Town of Pincher Creek's application (on behalf of the Highway 3 Twinning Development Association) for funding from the Alberta Community Partnership Inter Municipal Collaboration Grant to fund research and collect data to update studies that were completed 15 years ago. The Horizon School Division Board of Trustees signed the letter of support for the Town of Pincher Creek to move forward with the grant application.

INFORMATION ITEMS

I.1 Superintendent's Progress Report

Wilco Tymensen's February report to the Board included the following information:

- Brought to the attention of the Board changes that will be forthcoming with regard to the Teaching Quality Standard (TQS) and the Principal Quality Practice Guidelines. The government will be seeking feedback this spring with the hope of implementation by September 2016.

I.2 Trustee/Committee Reports

I.2.1 Zone 6 ASBA Report – Marie Logan

Marie Logan, Zone 6 representative, provided an overview of the ASBA Zone 6 meeting that took place in Lethbridge on January 13th which included the following information:

- February 24th is Pink Shirt Day. Individuals have been asked to wear pink to show their support of welcoming, caring, respectful and safe learning environments and promoting healthy relationships
- The 2016 Alberta Rural Education Symposium will be taking place from March 6-8th in Banff. Keynote speakers for this year's conference are Ken Coates and Rex Murphy
- The March 9th Zone 6 meeting will be taking place at the Holy Spirit Board Office beginning at 9:45 a.m. Holy Spirit will be conducting a presentation on Grad Coach for FNMI. There will also be a presentation taking place from Rod Taylor and Donna Crowshoe on "Ensuring First Nations, Metis and Inuit Success: Leadership through Governance".
- Boards have been asked to send feedback by the end of February to Alberta Education regarding the Inclusive Education Policy Framework
- Discussions were held regarding what jurisdictions are doing in terms of school fees

I.2.2 Facilities Committee Report – Derek Baron

Derek Baron, Facilities Committee Chair, provided an update on the work undertaken during the past month within the Facilities Department. Updates in the following areas were provided:

- Maintenance Work During January and February
During the past month, a total of 101 new service request and generated preventive maintenance requests were submitted through Horizons electronic service request generating software, Asset Planner. Most requests were completed while some are in progress
- Maintenance Projects
Central School Cold Storage Shed
- Painting
 - Interior painting of classroom, corridor and administration spaces is ongoing,
 - Painting of door jams, interior and exterior doors remains ongoing as weather permits
 - Covering and removal of miner graffiti
 - Painting the small gymnasium in Lomond School
 - Continue painting of the entire Lomond School facility
- Foliage Maintenance, tree pruning and fertilization
- Surveillance Camera Upgrade
- Infrastructure Maintenance and Renewal (IMR)
- Capital Projects including Barnwell, Warner, W.R. Myers and D.A. Ferguson Schools

Please [click here](#) to review the entire Facilities Committee Report.

I.2.3 February Administrators' Meeting Report – Bruce Francis

Bruce Francis reviewed the highlights of the February 10th Administrators' meeting as presented in Enclosure #7 of the agenda. [Click here](#) to review the entire February 10th Administrators' meeting summary.

I.2.4 February Hutterian Brethren Meeting Report – Terry Michaelis, Rick Anderson

Terry Michaelis and Rick Anderson provided a report on the annual Hutterian Schools Meeting that took place with Colony elders from all Horizon Colony Schools on February 11, 2016

I.3. Associate Superintendent of Finance and Operations Report

Phil Johansen provided a January/February 2016 update to the Board as follows:

- Continuing with ongoing work with the Barnwell, Warner, D.A Ferguson/W.R. Myers modernization projects.
- Informed the Board that the Warner tender has been delayed due to a request from Alberta Infrastructure that additional fire separations will need to be incorporated into the modernization plans. The tender process for Warner School will be taking place in the very near future
- Working closely with Administration and the Warner Hockey School Society
- Phil and Jason will be reviewing a new proposed software package for school based-funds accounting. The purpose of a new software package is that it will provide online access to schools' accounting to better oversee what's happening plus it will provide for faster financial reporting

- Participated in the February 11, 2016 Hutterian Brethren Colony Schools meeting. Mr. Johansen provided a financial update of the last three years to Colony elders at this meeting
- Working with Jason Miller and payrolls to discuss ways to streamline the budget process and budget presentations to schools

I.4 Associate Superintendent of Programs, Services and Human Resources Report

Clark Bosch provided a December 2015/January 2016 update to the Board which included the following information:

- Participating in the Warner Hockey School new coach recruitment. Shortlisting will be taking place within the next week and interviews will follow shortly
- Working with Hockey Alberta and the Warner Hockey School application to become sanctioned
- Mr. Bosch has been meeting with principals during the past few weeks to discuss 2016-2017 enrollment projections
- Staffing timeline and processes have been sent out to teaching staff
- Lomond Community School will be recruiting a new principal with the commencement of the 2017-2017 school year due to the resignation of the current principal who will be relocating to the U.S.
- Participating in ongoing teacher evaluations
- Participated in the February 11, 2016 Hutterite Colony School meeting, the February 4th and 5th CASSIX meeting in Cardston

I.5 Associate Superintendent of Curriculum and Instruction Report

Amber Darroch's report was enclosed in the agenda and included the following information:

KEY ACTION AREA #1:

Ensure core instruction that enhances the development of student competencies (Ministerial Order #001/2013) and incorporates relevant, meaningful, engaging, hands-on, and interdisciplinary learning experiences.

- Literacy Instruction – Teachers from all schools participated in an excellent professional learning session on January 29th offered by national literacy speaker and trainer, Sue Jackson from Scholastic Education. The Associate Superintendent and both Directors of Learning participated alongside the teachers and are furthering their work to identify best practices for literacy instruction and promote them with all classroom teachers. The Director of Learning (Curriculum & Instruction) continues to work as a coach to individual teachers on practices like guided reading.
- Numeracy Instruction – The Director of Learning (C&I) joined five Horizon teachers for a webinar on “multiplicative thinking” for students from Kindergarten to Grade 6.
- Assessment – All three teacher working groups (Kindergarten, Elementary, and Junior High) met for the second time and arrived at draft report cards ready to share with other teacher and administrator colleagues. The professional development segment of the February 9th Administrators' Meeting focussed on these draft reporting tools, the rationale behind them, and school leaders' feedback.
- Dual Credit Initiative with Lethbridge College – Horizon currently has # students enrolled in the Health Care Aide program at the college. They complete their coursework online during the school day, attend on-campus training on scheduled weekends, and complete a summer practicum as part of the program. Alberta Health Services is establishing new criteria for the HCA credential, and Lethbridge College will not be doing an intake of new students for 2016-2017 while this transition occurs.
- Education Technology – The “Tech Guide” at each school serves as the first line of support for any technology concerns staff may have. All Tech Guides participated in a full day session with the Technology Department and Associate Superintendent to share feedback on school-level needs, find out about most recent division initiatives, and consult on future directions.

KEY ACTION AREA #2:

Employ a Response to Instruction and Intervention Framework for teaching and learning to improve literacy and numeracy proficiency and enable all students to reach higher levels of academic achievement.

- Response to Intervention – A couple schools purchased the Fountas & Pinnell Levelled Literacy Intervention materials this month and the Director of Learning (C&I) worked with these schools to review the materials and best practices in using them.
- SIVA Training – The Director of Learning (C&I) co-facilitated SIVA (Supporting Individuals through Valued Attachments) training for 19 staff. SIVA provides a framework for supporting vulnerable students.

KEY ACTION AREA #3:

Increase parent and community engagement through reciprocal and collaborative relationships.

- Jurisdiction Student Engagement Team (JSET) – student representatives from all high schools (Grades 9 through 12) will be participating in a JSET organizational day February 29th.
- Health and Wellness – The Director of Learning attended the EverActive Schools “Shaping the Future” Conference on January 29th and 30th along with a teacher representative from Hays School. The focus of the conference supports priorities and strategies identified in Horizon’s Wellness Fund Project.
- International Education - The International Students and Interns from Korea went and spent a day with the coordinator of International Education and Director of Learning in Castle Mountain where they attempted to learn how to ski for the first time and enjoyed some mountain views. New students from Columbia and from Brazil arrived in January to attend for the second semester. Horizon is hosting one student from Brazil and two students from Columbia attending WR Myers and one student from Brazil attending Vauxhall High School.

Leadership Practices

- CASSIX – The Associate Superintendent continues to serve as secretary on the executive of the Zone 6 CASS. Meetings were held in Cardston on February 4th and 5th.
- CASS Professional Learning with Simon Breakspear – the Senior Admin Leadership Team and Directors attended a one day work shop on January 28 with speaker Simon Breakspear on agile leadership at the system level. We are incorporating strategies from the session in our work implementing our Three Year Education Plan.
- Automated Absence and Substitute Management System – In response to the C2 Committee, the pilot of this software was completed with DA Ferguson Middle School and WR Myers High School and is now being extended to all Horizon schools. Communication and training is occurring with school staffs, as well as with substitute teachers who have not been a part of the pilot. The automated system will go live for all schools upon teachers’ return from the Easter Break.
- University of Alberta Career Fair –Associate Superintendents for Curriculum & Instruction and Programs & Services attended the one day career fair in Edmonton on January 25th to promote Horizon School Division as an employer for beginning teachers.

Correspondence

No items of discussion came forward from Correspondence as provided in Enclosure 9 of the agenda.

COMMITTEE ITEMS

Moved by Jennifer Crowson that the Board meet in Committee.		COMMITTEE
	Carried Unanimously	58/16
Moved by Bruce Francis that the meeting reconvene.		RECONVENE
	Carried Unanimously	59/16
Moved by Blair Lowry that the meeting adjourn		MEETING ADJOURNED
	Carried Unanimously	60/16

Marie Logan, Chair

Barb McDonald, Secretary

PAYMENT OF ACCOUNTS REPORT

Board Meeting - March 15, 2016

General	February 23/16		232946.98
U.S.	February 24/16		581.17
General	March 1/16		1,241,854.56
U.S.	March 2/16		5,213.13
General	March 7/16		386,592.79
"A" Payroll	February 2016	Teachers	1,692,139.21
	February 2016	Support	580,832.48
"B" Payroll	February 2016	Casual	10,154.97
	February 2016	Subs	49,656.65
Total Accounts			3,966,443.79
Board Chair	_____		
PJ:dd			
March 10, 2016			

Administrators' Meeting – Summary

Tuesday, March 8, 2016

MEETING CHAIR: Wilco Tymensen

BOARD MEMBER IN ATTENDANCE: Rick Anderson

ATA REPRESENTATIVE: Linda Virostek

PROFESSIONAL LEARNING

The morning portion of the meeting consisted of a Professional Learning finance session led by Phil Johansen which included information regarding Atrieve and MyBudgetFile

PRESENTATION:

Dr. Ed Wasiak, Assistant Dean from the University of Lethbridge Faculty of Education (Field Experiences Department) provided a brief presentation regarding the PSI, PSII and PSIII student teacher placement program with emphasis on rural placement and also shared some challenges that they are attempting to address which is finding enough placements for these student teachers.

DISCUSSION ITEMS

1. Role of the Learning Support Teacher

Robbie shared a document with administrators on the role of the LST. Administrators considered which of the duties listed applied to their school circumstances and which were administrative vs. teacher responsibilities. A tool was provided to principals so that they could reflect on roles and responsibilities related to student support and intervention.

2. Dossier Reports – Terri-Lynn

Dossier includes some powerful analytics for teachers and school leaders to look at the learning trends in a class, grade and school. Administrators were asked to promote the understanding that universal assessment data should be added in the “Learner Profile” side of the software rather than the “Inclusive Education” side. Info in Learner Profile automatically transfers to Inclusive Education, but not the other way around. The practice of using the universal assessments with all students and using the Learner Profile as a way to trace each student’s learning journey was identified.

3. CUPE Labour Management Meeting

Wilco followed up with Administrators some of the following items and comments that were brought forward at the CUPE Labour Management meeting that took place on February 29th

- OH&S concerns (i.e. - proper reporting of accidents)
- Requests from Support Staff and how many days off they are allowed
- Inquiries regarding the staffing template
- Clarification regarding year-end duties and expectations for staff

4. Policy IHG – *Respecting Human Rights (LGBTQ)*

Wilco reminded Administrators that there will be a public forum taking place on Tuesday, March 8th from 6:30 – 8:00 p.m. in the W.R. Myers gym to provide stakeholders with information regarding the details of Policy IHG. Further updates and possible changes regarding this policy will be shared with Administrators and stakeholders once they become available.

5. School Fees

Wilco informed Administrators that the Board approved a motion at the February 23rd Board meeting to approve the waiving of all general school instructional materials fees for all Horizon School Division students. This change will take place with the commencement of the 2016-2017 school year.

6. Enrollment/Teacher (LST & Admin.)

Clark provided some updates to Administrators regarding projected enrollments for the 2016-2017 school year and that as of now, based on projections, the division will be down approximately 100 students compared to last year's projections. Clark also spoke about staffing and requests for additional teachers. He also clarified LST and Admin. time with Administrators.

7. JSET

Amber informed Administrators that 18 students participated in the February 29th JSET (Jurisdiction Student Engagement Team) day at Division Office. Students from grades 9-12 participated in discussions and surveys regarding educational issues that impact them. The February JSET day consisted of students forming discussion groups and providing their feedback to the following questions:

- What kind of assessment feedback helps you to improve your learning?
- To what degree is self-assessment a part of your classroom experiences and what does it look like?
- What is your preference on how you receive feedback and why do you prefer that way?
- What types of assignments or learning tasks do you feel engage you and other student in really authentic learning?
- How important do you believe it is to be given more than one way to demonstrate what you know and can do in relations to your learning?

The JSET group of students will be having a year-end follow-up event taking place in May.

INFORMATION ITEMS:

1. Possible April 12th Admin. Meeting re Budget

Wilco requested that Administrators keep the date of April 12th open as there may be a last-minute meeting called to discuss budgets.

2. Three-Year Education Plan Update

Wilco shared with Administrators what the Senior Administrative Leadership Team has been doing in terms of the Jurisdiction 3-Year Education plan as follows;

2.1 Sr. Admin including Directors met to discuss a number of items:

- Mybudgetfile.com - Budget 2016 will be built using the software as will school budgets for the 2016-17 school year.
- Transfinder - replaces Versatrans as our transportation software (syncs with Powerschool)
- Literacy Framework
- JSET - Jurisdiction Student Engagement Team
- Public Works - OHS management software
- Role of the LST
- Assessment and Reporting
- Enhanced reporting requirement from GOA

2.2 Associate Superintendent, Curriculum & Instruction

- 18 students representing 8 high schools attending the organizational meeting of the Jurisdiction Student Engagement Team on February 29. The group will meet again in May and is very interested in planning a large student leadership event for Fall 2016
- "Students Achieve" gradebook presentation in Calgary with SIS and teacher rep to examine potential of PowerSchool and a third party program to align with our new report card approaches
- LTPF Community of Practice project team attended provincial meetings in Lethbridge hosted by Holy Spirit on Feb 22 & 23
- "Sub Hub" and absence management training sessions provided to numerous school staff groups

2.3 Director of Learning, Curriculum & Instruction

- Leveled Literacy Intervention Box best practice presentation to schools

- Numeracy Committee worked on developmental continuum K-10 for Math curriculum the next meeting in April will be to develop some common math assessments in numeracy based on Indicators
- Science Olympics planning committee meeting
- Modelling what guided reading in the classroom could look like in the classroom.

2.4 Learning Support Teacher Meetings - Ongoing discussion and focus

- Transition planning and Learning Team Meetings - common approach and collaborative practices for engaging parents, and community/agency partners.
- RTII - Looking at our learning model, what have we done? Where are we at? Steps to move forward - where do we want to go to continue to improve student learning and growth?
- LST Roles and Responsibilities
- Self-Regulation - strategies for all learners
- Dossier - feedback, clarification and discussion - important tool to measure growth, and reflect on instructional practice

3. Demo Slam

Amber and Klaas shared their amazing talents with their respective “Demo Slam” technology presentations.

Meeting adjourned.

Next Meeting – Tuesday, May 10, 2016

From: <alberta.news@gov.ab.ca>

Date: Wed, Mar 2, 2016 at 10:02 AM

Subject: News Release: Government enrolment funding supports students and additional teachers

Government enrolment funding supports students and additional teachers

March 02, 2016 [Media inquiries](#)

The government's commitment to fully funding enrolment growth has led to more than 740 additional teachers in Alberta's classrooms this school year.

In May 2015, government restored education funding for the 2015-16 school year, including funding of enrolment growth, to provide needed resources to support student learning. This decision ensured funding for every Kindergarten to Grade 12 student in Alberta, including the 16,000 new students entering the province's classrooms this school year. School authorities use most of their government funding to secure sufficient numbers of teachers and support staff.

Appropriate funding began to flow to school authorities immediately after enrolment growth was realized. Last week, government announced the allocation of \$51 million to ensure boards would be fully funded through to the end of the fiscal year.

"We know many families are struggling during this economic downturn. Critics would say we should cut, which would result in fewer teachers in the classroom and less support for students. We will not cut and run when families need us the most. Rather, our top priority is ensuring that all of Alberta's students are receiving an education that will prepare them for bright futures in a diversified economy."

David Eggen, Minister of Education

On Wednesday, Minister Eggen visited Bishop Grandin High School, part of the Calgary Catholic School District. The district has seen more than 1,350 additional students and has added more than 50 teachers this year.

"Funding for enrolment growth makes a tremendous difference in our classrooms. It allows us to provide our students with the resources and, most importantly, the teachers they need for a quality education."

Cheryl Low, Chair, Calgary Catholic School District

Government support for K-12 education:

Total operating support to school boards of \$6.6 billion in the 2015-16 fiscal year.

Of Alberta Education's total operating budget, 98 per cent flows to school authorities who deliver education services to students.

The fiscal year cost of funding the 2015-16 enrolment growth is \$104 million.

From: <alberta.news@gov.ab.ca>

Date: Tue, Mar 8, 2016 at 3:19 PM

Subject: News Release: Throne Speech highlights supports for children, job creation and economic diversification

To: wilco.tymensen@horizon.ab.ca

Throne Speech highlights supports for children, job creation and economic diversification

March 08, 2016 [Media inquiries](#)

Government's spring agenda focuses on investment in children in low-income families, job training and job creation.

A new child benefit plan will help 380,000 children living in low-income households, while government works to create new jobs and opportunities, build on traditional economic strengths, diversify markets and products, and increase accountability and responsible public fiscal management.

"We are addressing the energy price shock with continued, focused efforts to diversify markets for our energy products with a new pipeline, major investments in infrastructure priorities and economic diversification, and help for families facing immediate hardship. We will do so in partnership with industry, other Canadian governments, Indigenous peoples, municipalities and all Albertans."

Rachel Notley, Premier

Other highlights of the government's agenda include:

Proposed legislation to end predatory lending;
the establishment of an energy diversification advisory committee and an oil sands advisory group to enhance economic diversification and job creation;
a bill to implement Alberta's Climate Leadership Plan;
a commitment to reform agencies, boards and commissions for better oversight, stewardship and accountability; and a pledge to repeal Bill 22 and engage with Indigenous communities on consultation. "Albertans want an economy that is resilient to energy price swings, public services that are well-managed and efficiently financed, and a society that cares for the vulnerable and opens doors for our children and grandchildren. This next legislative session will go far in accomplishing those goals."

Rachel Notley, Premier

Highlights

Highlights from the 2016 Speech from the Throne and the government's plan to:

- Diversify energy markets
- Pursue a coherent and effective economic strategy
- Invest in a greener, more sustainable economy
- Take a responsible approach to public finances
- Make democratic reforms to ensure accountability

Diversifying Energy Markets

- Continued intergovernmental engagement on pipelines
- Show leadership on climate change
- Work towards a permanent energy regulatory regime that is effective and predictable

Action on Income Security, Diversification and Job Creation

Child Benefit Plan to provide \$340 million for up to 380,000 children in low-income families
Legislation to protect Albertans in economic distress from predatory lending
Expand access to workforce and skills training and retraining for the unemployed
Continue to invest \$34 billion in necessary infrastructure while retaining jobs
Support small- and medium-sized business with venture capital, updated credit union legislation and a new *Promoting Job Creation and Diversification Act*
Modernize royalties to promote innovation, efficiency, transparency and accountability
Implement the Alberta Petrochemicals Diversification Program
Establish the Energy Diversification Advisory Committee

Investing in a Clean Energy Future

Climate Leadership Implementation Act to put the Climate Leadership Plan into action
Reinvest revenues from the carbon levy into creating jobs and economic diversification
Create an energy efficiency agency to help families, businesses and communities reduce energy costs and greenhouse gases
Create the Oil Sands Advisory Group to advise government

Responsible Public Financial Management

Budget 2016 will take a prudent and balanced approach to fiscal plans
Protect health care and education services
Public spending will be managed carefully and efficiently to find all possible economies
Reform of Agencies, Boards and Commissions Act for better oversight, stewardship and accountability of public agencies, boards and commissions

Ongoing Democratic Reform

Receive the report from the All-Party Special Committee on Ethics and Accountability
Present legislation on key democratic reform issues in the fall

Other Legislation

Repeal Bill 22, engage Indigenous communities on consultation
Consult on a new *Indigenous People's Sacred Ceremonial Objects Repatriation Act*
Act to Implement a Supreme Court Ruling Governing Essential Services
Invite public and municipal government comment on a modern *Municipal Government Act*
Modernize Enforcement of Provincial Offences Act to allow police and judiciary to focus on major offences by simplifying management of minor offences
Amend the *Securities Act* for modernization, national harmonization and streamlining

From: **Education Deputy Minister** <EducationDeputyMinister@gov.ab.ca>
Date: Mon, Mar 7, 2016 at 2:50 PM
Subject: 2015-16 Stakeholder Satisfaction with Education in Alberta Telephone Surveys
To:
Cc: Jim Peck <Jim.Peck@gov.ab.ca>

To: All Superintendents
Executive Directors of:
ACSTA (Alberta Catholic School Trustees' Association)
ASBA (Alberta School Boards Association)
AHEA (Alberta Home Education Association)
ASCA (Alberta School Councils' Association)
ATA (Alberta Teachers' Association)
AAPCS (Association of Alberta Public Charter Schools)
ACFA (Association canadienne-française de l'Alberta)
ASBOA (Association of School Business Officials of Alberta)
CASS (College of Alberta School Superintendents)
Fédération des parents francophones de l'Alberta
Fédération des conseils scolaires francophones de l'Alberta
Learning Disabilities Association of Alberta
PSBAA (Public School Boards' Association of Alberta)
CCSSA (Council of Catholic Superintendents of Alberta)

As in previous years, the Ministry of Education will be conducting its annual stakeholder satisfaction telephone surveys to collect public, employer and other stakeholder perceptions of Alberta's education system.

The surveys gather responses from a random sample of parents, the general public, business and industry (employers of recent high school graduates), high school students, teachers, principals, superintendents and school board trustees in the province. The total number of completed surveys will be over 7,000, ensuring that survey results for each of the 11 respondent groups are statistically representative. The survey responses are completely confidential, and only aggregate data will be reported.

The purpose of the surveys is to determine stakeholders' satisfaction with:

- the overall quality of the education system;
- the education system meeting the needs of students and supporting our society and the economy;
- schools providing a safe and caring environment for students;
- preparation of students for lifelong learning, employment and active citizenship;
- the education system having effective working relationships with partners and stakeholders;
- leadership and continuous improvement of the education system;
- knowledge, skills and abilities of recent high school graduates; and
- facilities and equipment in the education system.

Your participation is important as it provides valuable information to help the ministry identify areas of strength and areas needing improvement, thus helping provide a more effective and accountable education system. Some survey results are also used in specific business plan performance measures and will be reported in the ministry's 2015-16 annual report.

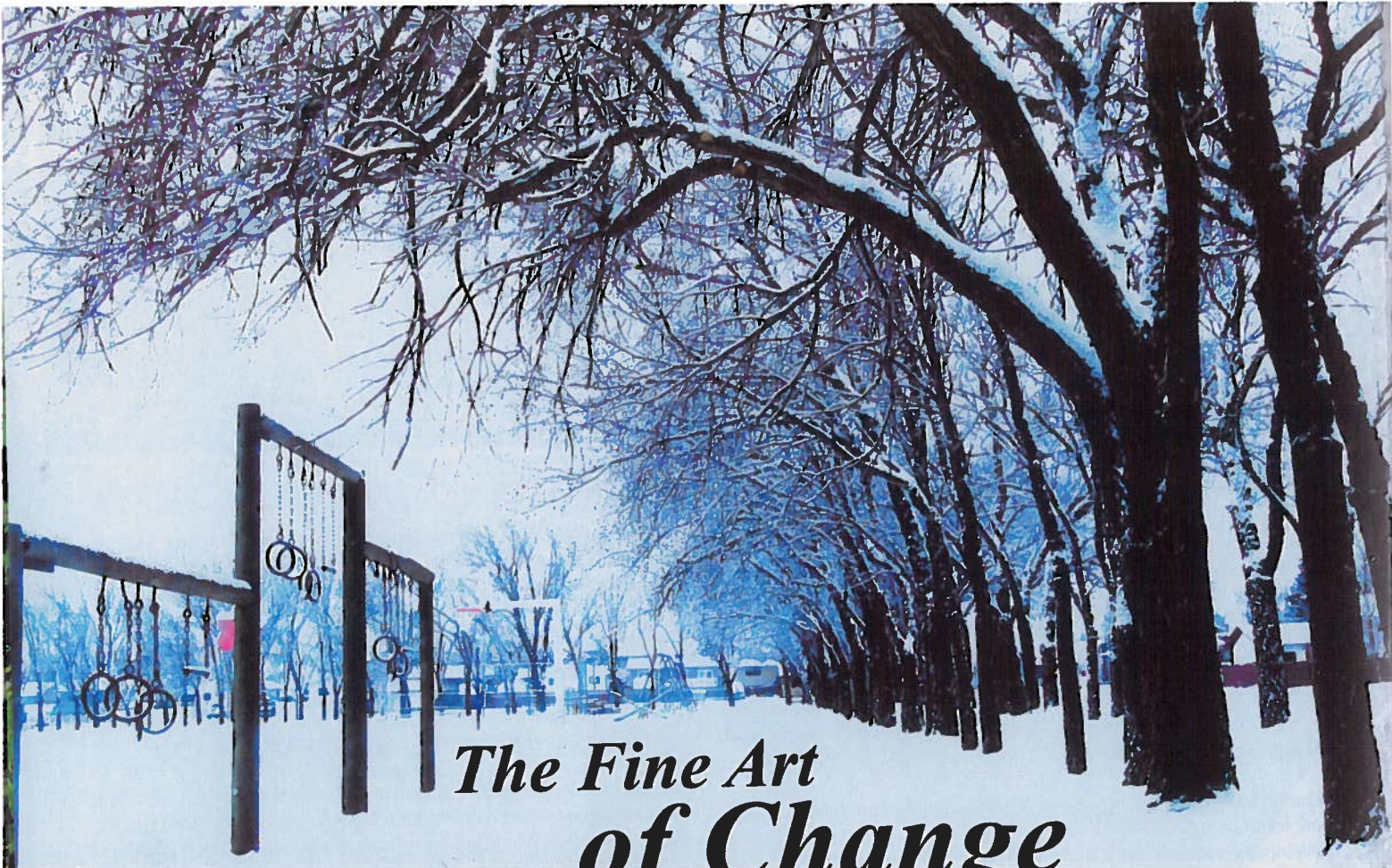
Please note that it would be beneficial if superintendents shared this information with both trustees and school principals.

CCI Research Inc. has been contracted to administer the telephone interviews beginning on March 10, 2016 and finishing the end of April 2016. A summary of the information resulting from the survey will be posted on Education's website. Last year's survey instruments and survey results are available at www.education.alberta.ca/admin/resources/satisfaction.aspx.

If you have questions about the survey, please contact Jim Peck, Senior Manager, Corporate Planning Branch, at [780-422-1963](tel:780-422-1963) (dial 310-0000 first for toll-free access in Alberta) or jim.peck@gov.ab.ca.

Sincerely,

Lorna Rosen
Deputy Minister of Education



The Fine Art of Change

Photo by: Katie Guimond

By Gwen Thomas

In an increasingly changing world, many businesses and institutions have needed to find creative ways to adapt in order to survive and thrive. Such was the case for L.T. Westlake Fine Arts Elementary School in Taber. Facing the possible closure of the school due to dwindling enrolment, an action committee came up with a new direction for the school that was music to the ears of parents and students alike.

The robust cowboy auctioneer steps up onto the platform and the bidding begins ... “Now we have up for bid The “Idea of Fine Arts” ... Do we have - two – two bid, eight – eight bid, ten where? Twenty!!! Twenty, going once, going twice – SOLD! “The idea of Fine Arts”, to the L.T. Westlake Elementary School Community!”

It wasn't through an auction this decision to incorporate fine arts into the curriculum at L.T. Westlake (now Fine Arts) Elementary School in Taber came about, although I have attended many such auction fundraisers that help raise money for the school. It was a unanimous decision by the School Community Committee to establish a fine arts program to revitalize this small, rural school.

Being the only school located on the south side of town, you would think that alone would be enough for sustainable student enrolment, but with changing times along with various other factors, a strain was beginning to be felt. Each year, for the past several years, fewer children attended the school. Inevitably, continuing such a trend would result in it's closure. The School Community was fearful of the school's future and saw an urgency to save it. This required innovation and creativity on the part of Horizon School Division and the entire School Community. This determined group banded together with the purpose of finding a solution that would allow the school to flourish and remain open. They formed

a committee whose goal was to formulate ideas to this end. An idea was finally generated that fit and would also be a drawing card for years to follow ... Fine Arts!

Re-established since 2013, L.T. Westlake Fine Arts Elementary School is at this time the only one in Taber that, with the driving force, has incorporated the Fine Arts within its core curriculum. You might say this was the 'saving grace' that rekindled the interest in families choosing to send their children through those doors believing in what the stimulation of the Art experience could do.

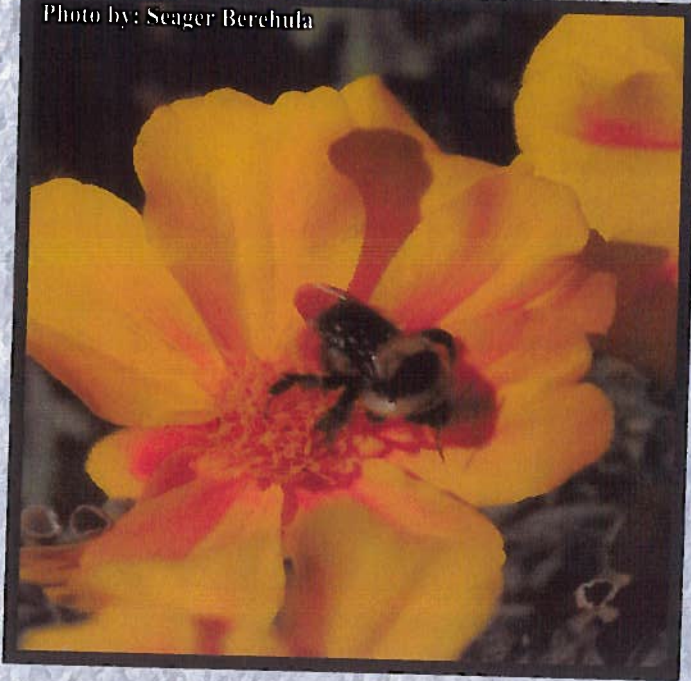


Up, Scale
Photo by: Emma Nelson

“It has been awe inspiring to watch this new world of learning open up for these young school children. They will use these experiences to learn more about life, themselves and others through this door of opportunity in a more encompassing path of education.”

Besides offering lessons in guitar, violin, piano, drum, individual vocal lessons, choir, dancing, art, cooking and photography, fine arts are also incorporated into some of the core curriculum at the school. There has been much research shown to date that the arts play an integral part in the development of each human being. Education in the arts has been closely linked to contributing to academic achievement, social and emotional development, civic engagement, and equitable opportunity.

Photo by: Seager Berchula



I'm a southern Alberta girl through and through, and during all my years of schooling I never had the opportunity to study arts in my educational journey. Now since moving to Taber in 2001, and situated just a few doors down from L.T. Westlake Fine Arts Elementary School, I have witnessed just what an arts education can provide. And as I listen daily to the children happily engaged in the business of having fun outside at recess and feel their vibrant energy drifting over this south side Taber community, I know this school – our school – has a very bright future.

It has been awe inspiring to watch this new world of learning open up for these young school children. They will use these experiences to learn more about life, themselves and others through this door of opportunity in a more encompassing path of education. I read a quote a while ago that I would like to expound upon that said, “Every human being is unique and has the innate ability to heal.” I further add to that thought and say, “every human being is unique and has innate abilities that when discovered, will come through to aid in their education of life”. I believe the more methods a child has the opportunity to learn from, using as many of their own natural abilities as possible, will provide them a greater experience in education and thus in life ... which is where our future lies, in the well-rounded education of our children.



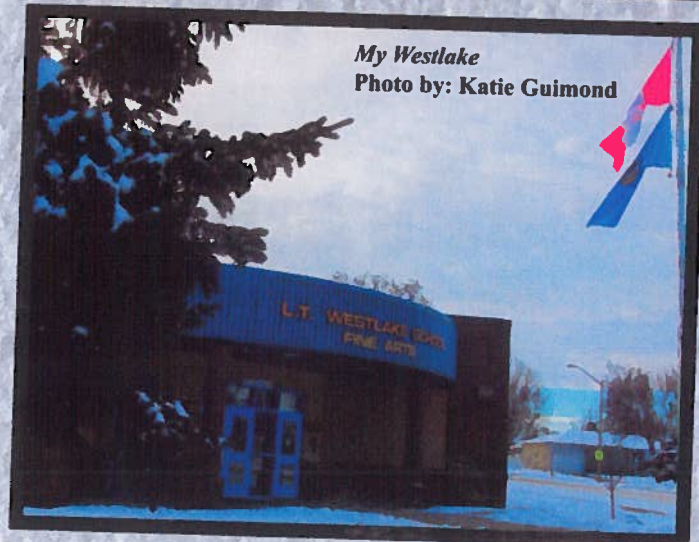
Photo by: Kressley Clarkson and Keura Poitras

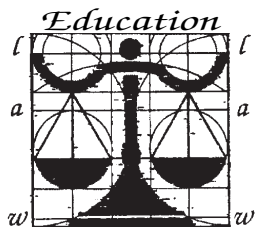
This program would not have been possible without the efforts of so many people who have volunteered their time, talents and love for the fine arts to be a part of the school. I'm sure if these young students were asked how they feel about having fine arts in their school, they would respond with big smiles on their faces because this added path of education is another way for them to discover their magnificence. Enrolment has increased nearly 25% in the last 3 years, a testament to the ongoing success and enrichment this school has brought to its students as well as the Taber community.

Distorted Childhood
Photo by: Seager Berchula



My Westlake
Photo by: Katie Guimond





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Elementary & Secondary

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STUDENTS and THE LAW

No Refund of Private School Tuition

Facts

The plaintiff was the student of a private school. She paid fees for English language training, but did not complete the program, claiming it was not what she signed up for. She wanted a refund.

The Defendant private school, the North American Beijing New Oriental School (“New Oriental”), is owned and operated by Tianyi Wang and her husband Lida Chen. It primarily offers training in English based on the International English Language Testing System (“IELTS”). Chen and Wang also own a private secondary school, called the Horizons Secondary School (“Horizons”). It is operated from the same premises as New Oriental. Horizons enables students to earn the six Ontario Grade 12 credits required for entry into university.

In January 2014, Ms. Yu was in a program at Seneca College but wished to change to a different program. In order to do so, she had to pass an English test, so she returned to New Oriental where she met with Ms. Wang. She said she wanted to go to University, and during their meeting Ms. Wang called a number of post-secondary institutions to discuss what would be required. According to Ms. Yu, she was told she would need her IELTS plus six other courses, and that the cost for this would be \$5,888 but she would be given a discount to \$5,000. She was invited to sit in on a “free demonstration class” that was in progress at the time. She did so, enrolled and paid \$5000 in cash, and began taking classes the next day.

Ms. Yu attended 10 or fewer of these classes. On February 2, 2014, she sent a text message to Ms. Wang (in Mandarin), stating that after having a long talk with her father in China, she had decided to go back to Seneca College, finish the course she had been taking there, and then return to China to be with her parents. She thanked Ms. Wang for “taking care and helping me for such a long time.” Six and a half hours later, she sent a second email, which read “Teacher could you please refund me the tuition?”

Ms. Yu did not receive a reply, and five days later she wrote another, much more aggressive message which she delivered by hand, and in which she claimed she had been registered in the VIP class, was entitled to one-on-one tutoring, had not received such tutoring, and demanded a refund of \$4250 from the \$5000 she

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had paid in tuition, based on a rate of \$50 per hour of actual instruction.

Cause of Action

Ms. Yu brought an action claiming a refund of the tuition she paid.

Decision

The claim was dismissed.

Reasons

The Court saw one issue: what was the understanding or contractual relationship between Ms. Yu and the school, and did it allow for a refund in the event of withdrawal from the program?

The evidence given by Ms. Wang at trial contradicted quite a bit of Ms. Yu's testimony. According to Ms. Wang, Ms. Yu did not sign up for the New Oriental VIP program in 2014, but instead had enrolled in Horizons' high school credit course, which included a language training component, which was offered at a price of \$12,200. The \$5000 was a deposit.

Ms. Yu insisted that it was her belief that she had again enrolled in the New Oriental VIP English program. She admitted that she had never discussed this with Ms. Wang before dropping out and seeking a return of the \$5000 she had paid. She acknowledged receiving an invoice from Horizons which set out the cost of tuition at \$7200 and IELTS training at \$5000, for a total of \$12,200 which was due on January 15, 2014. She also admitted to having received a receipt for the \$5,000 and a brochure from Horizons, and agreed that her purpose in returning to New Oriental was to get into University.

The Court concluded that Ms. Yu was being less than honest. This conclusion was based on the difference in tone between her first text and the hand-delivered letter, the fact that she did not express her alleged concerns with the program to Ms. Wang at any time before asking for her money back, and her insistence that she had enrolled in the VIP program and was entitled to one-on-one

instruction (despite having attended the "demonstration" class and being sent an invoice from Horizon which made no mention of the VIP program), as well as the judge's assessment of the manner in which each of the women gave their evidence.

Whether or not a refund was available to Ms. Yu depended on the terms of her contract with the school, or schools, and what program she was registered in. Obviously, there was no single document that constituted the contract between her and the school, but as noted in *Symonds v. All Canadian Hockey School Inc.* in 2009, the contract between an independent school and the students' parents is found in an interpretation of the entire bundle of documents that are created or used in relation to enrolment – the school brochure or catalogue, the application for admission, the letter of acceptance, and so on.

The Court pointed to one of the documents produced in this litigation, the Horizons Secondary School Registration Form. This had been filled out and signed by Ms. Yu and was the mechanism by which she became enrolled in the full-time credit program offered by Horizons. There is a line in the form, completed by Ms. Yu, which contains an acknowledgement that she had read and understood the "HSS school policy document." This school policy document can be found on the school's website. It contains the following statement:

New students are highly welcome to attend our trial class (optional) which consists of 1.5 hours, after trial run, student should make decision by him/herself for registration. Please note: we do NOT offer any refund once the student has started the program, regardless whether he/she has taken the trial class. Please make sure you understand this policy before you register. Thanks for your cooperation.

The brochure was not produced at trial, but its wording is apparently identical to

the website. The same wording is used for both New Oriental and Horizons, and it was in effect when Ms. Yu attended the VIP program in 2011. Accordingly, it was determined that Ms. Yu knew, or should have known, that she was not entitled to a refund.

The plaintiff made a number of arguments regarding the validity of any contract that may have existed between herself and the school. First, she argued that there was no consideration provided by the named defendant (New Oriental) and that the invoice was tendered by Horizon, which was not a party to the litigation. This was dismissed by the court stating that this was more of a problem for her than for the Defendant, in that if Ms. Yu had a contract, it was with Horizons, and not with New Oriental.

Secondly, the plaintiff argued that there was no contract because there was no "meeting of the minds" between the parties. This assertion is based on the plaintiff's stated belief that she was signing up for New Oriental's VIP program, not for Horizon's full-time credit program. That assertion, however, was not supported by the evidence.

Finally, the plaintiff's representative argued that the defendant had failed to prove which program the plaintiff had enrolled in. The onus of proof, however, is on the plaintiff. It was up to Ms. Yu to prove which program she was enrolled in.

In conclusion, the court found that a contract existed between Dian Yu and Horizons, not Yu and New Oriental. It was a term of the contract that no refunds would be made once a student started the program, and Ms. Yu knew, or should have known, of the existence of that term and was therefore bound by it.

Yu v 2034922 Ontario Inc. O/A North America Beijing New Oriental School, [2016] O.J. No. 532

Authored by
Hilary Stout LL.B., LL.M.



Allegation of Sexual Assault Student Credibility

Facts

In this case the complainant, (“AC”), alleged that during 2012 and 2013, while she was in Grades 1 and 2, the accused sexually touched her on an almost daily basis, and sexually assaulted her during a sleepover at his home. Mr. Bonilla who was a lunch monitor at the school, denied all allegations.

According to AC, every school day during lunch, Mr. Bonilla would take her by the hand and lead her into Classroom F, one of six classrooms located in a portapak area at her school. Once in the classroom, which she described as being “pitch dark” or “darker than dark”, he would touch her and/or force her to touch his “private parts.” These incidents were described as lasting anywhere from about 30 seconds to a couple of minutes.

Lunch at the school began at noon. Students generally ate lunch in their homerooms. Teachers might also eat in their classrooms, but more often ate in the teachers’ lounge. Supply teachers generally ate in their classrooms, however, and regular teachers would often return to class to get things from their desks during the lunch hour. The lunch hour consisted of approximately half an hour spent inside, followed by half an hour outside, weather permitting.

During the lunch hour, there were two lunch monitors on duty in this particular portapak. They would circulate between the hallways and classrooms, with each monitor having primary responsibility for three classrooms. Teachers might come and go to their classrooms, and students would come and go from their classrooms to the washrooms or water fountain. Disruptive or misbehaving students – 2 or 3 each day – would be made to eat their lunch in the hallway.

None of the teachers who gave evidence at trial ever noticed anything unusual or inappropriate occurring between AC and Mr. Bonilla. Given that classroom F is at the end of the hallway from where AC’s homeroom was located, and in light of the fact that Mr. Bonilla always wore a bright orange and yellow monitor vest as his uniform, but was never seen passing the other classrooms (all of which have windows into the hallway) with AC to get to Classroom F, it was felt that something would have been seen during the 14 months during which AC said this abuse went on.

As for the allegations of sexual assault during the sleepover, which occurred on Wednesday, November 27, 2013, AC said that she and Mr. Bonilla’s daughter, Jocelyn, were sleeping in his bed and that he came in a few times during the night, got into bed with them, and touched her. She also said the sleepover was his idea. This was, again, completely denied by Mr. Bonilla, who said that he checked on the girls once that night, between 11:30 and midnight, never got into bed with them, and that if he touched AC at all, it was to tap her shoulder to get her to move closer to the middle of the bed, as she was on the edge. Further, it was his information that the sleepover had been AC’s idea and that he had not been particularly in favour of it, as his wife was away.

AC told her mother about the alleged abuse for the first time the day after the sleepover.

Cause of Action

Mr. Bonilla was charged under the *Criminal Code*.

Decision

The charges were dismissed.

Reasons

The Law

The key issues in this case turned on credibility and the burden of proof. While credibility is often a central issue in criminal cases, it is almost always the key issue in sexual assault cases, as there are rarely any third-party witnesses. The only direct evidence available tends to come from the accused and the complainant, and the rest is circumstantial.

While a case may be decided on the evidence of a single witness, the determination of guilt or innocence should not “devolve into a mere credibility contest between two witnesses.” The classic formulation of how to explain this to a jury is found in *R. V. W.(D.)*, which established 3 elements:

First, if you believe the evidence of the accused, obviously you must acquit.

Secondly, if you do not believe the testimony of the accused but you are left in reasonable doubt by it, you must acquit.

Thirdly, even if you are not left in doubt by the evidence of the accused, you must ask yourself

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whether, on the basis of the evidence which you do accept, you are convinced beyond a reasonable doubt by that evidence of the guilt of the accused.

It is important to emphasize that it is an error of law to treat a case as concluded merely because the trier of fact believes the complainant or disbelieves the accused. The evidence must be assessed in its entirety. There is a common sense element to the assessment of evidence, as well.

The law no longer treats the evidence given by children as inherently unreliable. Instead, it is important for the trier of fact to recognize that the testimony of young children “is to be understood with an eye to common sense as exactitude and detail may be missing from a child’s recall as the world is experienced differently from an adult.”

In this case, AC was 9 years old at the time of trial. She gave her evidence by way of closed circuit television, from a “child-friendly” room while accompanied by a support person. She also adopted the evidence she initially gave the police, which was in the form of a statement videotaped on December 3, 2013.

Mr. Bonilla’s evidence, of course, was that of an adult and therefore to be assessed based on its own internal consistency as well as his demeanor on the witness stand and how well it fit with the rest of the evidence.

The evidence given by third parties in this matter was, for the most part, to the effect that lunch hours at the school are very busy; that students and teachers and other staff come and go throughout; that the classrooms all have windows to the outside and into the hallway, so that even if the lights were off and the blinds closed, no classroom would ever be “pitch dark” at noon; that Mr. Bonilla was never seen walking AC, or any other student, into or out of Classroom F. AC’s evidence that Mr. Bonilla would take her by the hand and walk her into and then out of a darkened and

empty classroom, almost every single day for three school terms in a row, while all these other people were coming and going, and no-one ever saw them, or anything else that gave rise to suspicion, simply made less sense than Mr. Bonilla’s evidence that these events did not happen. Nor could AC really explain why she waited 14 months to tell her mother, especially in light of the fact that her mother had told her about “bad” touching, and that she should report it immediately, many times. AC said she “though it would stop” but if it had continued, day after day and month after month, it seems surprising that she would not have said something to someone, particularly as she made no mention of any kind of threats by Mr. Bonilla of reprisal if she should tell.

One of the most important issues in this case was opportunity to commit the offence. In this case, the evidence showed that for the first 20 minutes or so of each lunch hour, Mr. Bonilla

would be very busy rounding up and organizing literally dozens of students as they went to collect their lunches, returned to their homerooms, came and went to the bathrooms and the water fountain, all the while misbehaving students were eating in the hallway and teachers, another lunch monitor and occasionally a janitor could be anywhere in the portapak, at any time. The evidence also indicated that the line-up of students to go outside for the second half of the lunch hour often began as early as 12:15. In the circumstances, it would seem almost impossible that the events as described by AC could have happened.

Accordingly, the Court found that the Crown had failed to discharge their onus of proof of guilt beyond a reasonable doubt.

R. v. Bonilla, [2015] O.J. No. 6704; 2015 ONSC 7663

Authored by
Hilary Stout LL.B., LL.M.



Legal Briefs: Other Assault Cases

In *R. v. Lavigne*, the Ontario Court of Appeal dismissed a teacher’s appeal from both the conviction and sentence imposed on her at trial after she was found guilty of sexual exploitation of a 17-year-old male student. In particular, her argument was that the sentencing judge had erred in “discounting and completely inverting” the effect of 78 “very impressive” character reference letters filed on her behalf by finding that the letters demonstrated the very qualities that allow crimes like sexual exploitation to happen. As noted by the judge, those letters “show the position of trust and authority” held by teachers such as Ms. Lavigne “in spades,” and it is that position of trust and authority which these teachers then use in exploiting their students.

R. v. Lavigne, [2015] O.J. No. 6843; 2015 ONCA 915

In *R. v. PR*, a grade 7/8 teacher developed an inappropriate relationship with one of his students.

She started coming to talk to him about her personal problems and how she was “cutting” when she was 12. Over time, their interactions became romantic and eventually highly sexual, and the two sent hundreds of emails, texts, and photographs. PR wrote her love poetry and the student, AM, referred to him as the love of her life. Eventually, the school vice principal found the two of them in a closet in the gymnasium. The police were called, and a search warrant led to the discovery of

the extent of the relationship. At trial, PR admitted his guilt and expressed a great deal of remorse. The trial judge was clearly impressed with what he saw as PR's genuine insight into the wrongful nature of his actions. At the same time, he was sensitive to the severity of the crime and the fact that AM was still emotionally connected to PR, such that it was likely she would want to see him again after he had completed his sentence. The judge conducted a detailed review of the law on sentencing in cases involving sexual abuse of children, and was clearly struggling to balance the mitigating factors brought forward on PR's behalf –

his remorse, the guilty plea, the support offered him by his family (including his wife), the fact that he was already in treatment – with the need for denunciation and to protect AM, whether or not she thought she needed such protection. He also noted that while the crime was very serious, PR was not the usual “predator” found in such cases, but instead was a good man who made some very, very bad decisions. Ultimately, he concluded that a 33-month sentence would be appropriate to serve the need for denunciation of the crime. From that, 13 months were deducted to reflect time already spent in custody prior to the sentenc-

ing. As the resulting period of incarceration would be less than two years, PM would be left in provincial custody, rather than being sent to a federal penitentiary, and could continue to access the rehabilitation resources he was already using. The judge then ordered that this sentence be followed by three years of probation, which would ensure that the Court could monitor and prevent any contact between PR and AM once he was released from custody.

R. v. P.R., [2016] O.J. No. 652; 2016 ONCJ 69

Authored by
Hilary Stout LL.B., LL.M.



TEACHERS and THE LAW

Teacher's Dismissal Unjustified but Reinstatement Not Required

Facts

Mr. Dorval was a high school teacher who was terminated from his employment with Edmonton School District No. 7 (the “School Board”) after refusing to obey the order of his school's principal to use letter codes to describe student behaviour (rather than giving a mark of zero) for students who did not complete assignments. Mr. Dorval was one of a number of teachers at the school who used the “replaceable zero” system, which let students hand in assignments late and so get a grade to replace the zero. The letter code system, on the other hand, was not recognized by the computerized grading software, so the zero would not be incorporated and the student's overall mark would not be reduced to reflect their failure to complete an assignment.

Mr. Dorval had been a teacher for 35 years, the last 15 of which were spent at Ross Shepherd Composite High School (“RSCHS”). He had an “unblemished record” and had received high approval ratings from staff, parents and students over the years. He

believed that use of the replaceable zero was an effective means of motivating students to complete assignments, and this was borne out by the fact that he had the highest record in the school (and possibly in the province) for completion rates on student assignments. He decided not to accede to the principal's instructions to use the letter code instead of a replaceable zero because, in his opinion, teachers are professionals and, as such, they (and not the school administration) carry the primary responsibility for assessing students.

Following on Mr. Dorval's refusal to use letter codes was an 11-day period during which he was given two letters of reprimand and the zero grades he gave were changed, by the assistant principal but at the order of the principal, to letter codes. The reprimands also alleged that Mr. Dorval had failed to attend staff meetings.

Mr. Dorval's response was that the School Board had repeatedly stated it had no policy on zeros, and as for the staff meetings, he had missed one because he was, at the time, recovering

from eye surgery and had simply forgotten the other. Otherwise, he had a near-perfect attendance record at staff meetings, which were required, and department meetings, which were voluntary. Nevertheless, he was suspended and, eventually, terminated from his position.

Cause of Action

Mr. Dorval appealed his termination by the school board before the Board of Review (the “Board”), which found in his favour but awarded damages, rather than reinstatement. The school board sought review of the Board's decision by the Court of Appeal, and Mr. Dorval cross-appealed on the grounds that reinstatement should have been ordered.

Decision

Both the appeal and the cross-appeal were dismissed.

Reasons

Suspension

The suspension came about after the school principal reported to the assistant

superintendent that Mr. Dorval had “repeatedly” refused to obey his directives regarding the letter codes and to attend staff meetings, that he had been unprofessional and insubordinate, and that his refusal to implement the letter code system was negatively impacting student achievement. The assistant superintendent wrote to the superintendent on the same day, stating that he agreed with the principal. A suspension hearing was then held to consider the allegations. At the hearing, Mr. Dorval presented his reply in writing.

Shortly after the hearing, the superintendent wrote to Mr. Dorval to advise that he was being suspended. He said that it was one thing to disagree with the philosophy and practice guidelines regarding student assessment, but when “clear practice expectations and guidelines, also based upon accepted philosophical and pedagogical reasoning, have been authorized for mandatory implementation by the Principal and published in the *Ross Shepherd School — Assessment Grading and Reporting Practice 2011-2012*, it is mandatory that staff members adhere to the requirements.” This letter contained several serious errors:

- No evidence of the “accepted philosophical or pedagogical reasoning” behind the letter code system was put forward;
- The “clear guidelines” in the *Ross Shepherd School — Assessment Grading and Reporting Practice 2011-2012* were actually written as being permissive, rather than mandatory (“teachers may” rather than teachers must);
- Mr. Dorval only missed one staff meeting without a medical excuse, and no evidence to suggest otherwise was put forward; and
- It was wrong to suggest that Mr. Dorval had the burden of disproving that he had behaved unprofessionally.

Post-Suspension

Mr. Dorval was given the suspension letter on May 17, 2012. He was told to

turn in all keys and school property and leave the school premises immediately, and not return on pain of being charged with trespassing. He was given a few minutes to collect some personal belongings from his office and was then escorted off school property.

As a result of this hasty departure, Mr. Dorval accidentally took some student exams and assignments with him when he left. The principal demanded these be returned, then took issue with the fact that some of them were unmarked. Moreover, while some of the documents were returned by means of a courier (who showed up at Mr. Dorval’s house without any advance notice), subsequently-discovered papers were delivered by Mr. Dorval to the school secretary on three separate occasions, as they were found.

The principal advised Mr. Dorval that this was utterly reprehensible, and his persistent refusal to obey lawful orders (such as the order to stay off school property), repeated insubordination and neglect of duty “forced him to recommend termination.”

Mr. Dorval’s response to this was that he had been given very little time to pack up his office before leaving, his marking time had been overtaken by the suspension proceedings, some of the assignments were unmarked because they had been handed in late, and certain of the unmarked exams had, in fact, been marked by scanner and the results entered into the school system.

Termination

On August 24, 2012, the principal wrote to the assistant superintendent asking that Mr. Dorval be terminated. This report contained many of the same allegations as the suspension recommendation report, and this time he added that Mr. Dorval had neglected his professional duty during the suspension by refusing to return student papers, failed to mark all of them, and repeatedly violated the terms of his

suspension by coming onto school grounds. Again, these recommendations were endorsed and accepted by the assistant superintendent and a termination hearing was set for September 10, 2012.

At that hearing, Mr. Dorval was told that he would be allowed to make a statement, but he could not ask questions. Informal notes of the hearing were taken by someone who was not identified. The parties present at the hearing were Mr. Dorval, another teacher who was acting as his adviser, the principal, the assistant superintendent, the superintendent, the School Board’s general counsel and the supervisor of staff relations. A request for a copy of the “minutes” of the hearing was denied.

Board of Review

In its decision, the Board noted that, at the termination hearing, the superintendent was both complainant and judge. It went on to find that Mr. Dorval’s actions in not using the letter code system were not disobedient or insubordinate, but rather a proper exercise of his professional judgment. They found that far from repeatedly refusing to attend staff meetings, his attendance record was above average and there were medical or other valid reasons for the meetings he had missed. In conclusion, they found that the principal, and the school board, had not acted fairly or reasonably in suspending and then terminating Mr. Dorval. Further, it was notable that while Mr. Dorval was the only teacher who was suspended in relation to the letter coding system, he was by no means the only teacher who had refused to follow it, and that the principal’s actions in singling him out “contributed extensively to the events that unfolded” thereafter. They went on to note that a transfer should have been considered, but they did not order reinstatement. Instead, they ordered payment of all his monetary losses from the date of termination.

Standard of Review

The law in Alberta is clear that the standard of review of a decision of the Board is that of reasonableness. None of the exceptions to the presumption of reasonableness were applicable to the Board’s decision in this case: there were no issues regarding competing jurisdiction as between the Board and some other tribunal, there were no constitutional issues, and there were no issues of “central importance to the legal system as a whole” to bring the matter outside the Board’s area of expertise.

According, the usual principles of law applicable on review of an administrative decision were applied. These were summarized as follows:

A decision is reasonable if it is justifiable, transparent and intelligible. The reasons must be read together with the outcome and serve the purpose of showing whether the result falls within the range of possible acceptable outcomes that are defensible in respect of the facts and law. The decision must be able to stand up to a somewhat probing examination, and it will be unreasonable only if there is no line of analysis within the reasons that could reasonably lead the decision-maker to its conclusion ...

When assessing reasonableness, the reasons must be reviewed as a

whole and the reviewing court should not parse the decision or seize on specific errors; a decision-maker is not required to make an explicit finding on each constituent element, and reasons need not include every argument, statutory provision, jurisprudence or other detail ... The decision “must be approached as an organic whole, not as a line-by-line treasure hunt for error” ...

The reviewing court should look at the reasons offered or which could be offered in support of the decision and try to supplement them before seeking to subvert them...


Analysis

The school board argued that, because Mr. Dorval had only appealed the termination, the Board should not have considered the events leading up to and surrounding the suspension. The Court of Appeal disagreed, noting that the *School Act* allows the Board to make any investigation it considers necessary, and it was clear that an understanding of the suspension decision was necessary in order to understand the termination decision. Moreover, fairness would demand that the suspension be considered along with the termination, as the latter was in large part based on the former.

Another argument made by the school board was that, by law, in reviewing a case of workplace discipline, the Board

was supposed to limit its determinations to whether or not the employee did as was alleged, whether that conduct warranted discipline, and whether the discipline selected was appropriate. However, the applicable law distinguishes between employees who are required to obey all lawful commands of their employers and *professional* employees, who have legal obligations to persons other than their employer, which require them to exercise a degree of independent judgment in the manner in which they carry out their duties. As a teacher, Mr. Dorval was a professional with legal and ethical obligations to his students, such that he would be entitled and expected to exercise his professional judgment with regard to the best interests of his students. Thus, while Mr. Dorval did disobey certain lawful commands of his principal, he did so as the result of the application of his professional judgment, and in the legitimate belief that the replaceable zero marking system was in the best interests of his students.

The school board also argued that the Board erred in seeming to create a requirement that misconduct must be deliberate in order to warrant discipline. On the contrary, the Board specifically held that intention is not necessary in order to prove misconduct, but its absence tends to make the misconduct less serious. Put another way, the Board did not conclude that Mr. Dorval did not

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refuse to follow orders, it concluded that he had sufficient reasons behind his refusal to obey those orders that discipline was not warranted.

Another issue raised by the school board was that the Board failed to completely set out the law and apply the tests relating to insubordination. The insubordination in issue was said to be, first, in his refusal to comply with the principal's orders to use the letter code system and, second, in the fact that he went to the school three times during his suspension, even though it was a term of the suspension that he not do so.

Again, the Court disagreed. The Board found that the principal's orders regarding the letter code system were unreasonable. It also noted that the principal chose to treat Mr. Dorval's refusal to use the new system as a challenge to his authority, but he did not react in the same way to the two other teachers who refused to use letter codes. Moreover, the Board agreed that Mr. Dorval was disobeying an order when he went onto school property during his suspension, but his explanation was reasonable and, overall, his disobedience did not warrant discipline, much less termination.

The "ultimate issue," of course, was whether the Board was unreasonable in finding that the school board had insufficient grounds in terminating Mr. Dorval's employment. The law requires the employer to act reasonably, and there are both substantive and procedural elements to that requirement. The substantive requirement has to do with just cause. When a school board relies

on misconduct or incompetence to justify the termination of a teacher, its actions are measured by the same standards as any other employer seeking to justify a dismissal. The procedural element relates to fairness. A school board, in terminating a teacher, is required to act fairly, in good faith, without bias and in accordance with its own stated policies. The *School Act* requires the employer to "afford the teacher a reasonable opportunity to be heard and must observe the other requirements of procedural fairness."

The Board found that the termination decision was substantively unreasonable in that the order to use the letter code system was made without consultation, without answering the questions the teachers had about the system, and without regard to the school board's policy and history of generally respecting the professional judgment of their teachers regarding the assessment of students. Finally, the decision was made in a discriminatory manner when Mr. Dorval was singled out from the other teachers who disobeyed the order to use letter codes.

Procedurally, the termination was unreasonable in that the principal and the School Board gave no consideration to Mr. Dorval's explanations as to why he missed the two staff meetings and why he came onto school grounds during the suspension, and the conduct of the hearing, at which Mr. Dorval was not allowed to ask questions and the superintendent acted as both complainant and judge."

The Cross-Appeal

Mr. Dorval had asked the Board for reinstatement, but was given compensation instead. On appeal, he argued that reinstatement is the "presumptive" remedy in situations of wrongful dismissal under the *School Act*, and that there was a sufficient evidentiary basis on the record to allow the Court to order his reinstatement.

The Court agreed that the Board's reasons as to why it did not order reinstatement were extremely brief, but concluded that there were reasons that could have been used to support the decision, so that it was incumbent on them to "supplement, rather than subvert" the Board's conclusions. The rationale they pointed to was one that was in issue before the Supreme Court of Canada in the *Alberta Union of Provincial Employees v. Lethbridge Community College* case, where it was stated that reinstatement is not the presumptive remedy where the employment relationship is no longer viable. It was clear that there was ample evidence for the Board to conclude that the relationship between Mr. Dorval and the School Board had deteriorated past the point of no return. In the circumstances, compensation was a reasonable remedy and, accordingly, the cross-appeal was dismissed as well.

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