



**État des lieux :
accès à l'éducation en français langue première et à l'immersion française**

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**Current state of affairs:
Access to French first language education and French immersion**

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As part of its Study on the challenges associated with access to French-language schools and French immersion programs in British Columbia

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Table of Contents

1	Introduction.....	1
1.1	Purpose.....	1
1.2	Key definitions.....	1
1.3	Historical overview of the Francophone community in B.C.....	2
2	The legal framework of the right to French first language education program in B.C..	3
2.1	Section 23 of the <i>Charter</i>	3
2.2	No constitutional right to an education in an immersion program.....	6
3	Current state of affairs and major challenges in French first language education in B.C.....	7
3.1	Challenges to be overcome in B.C.: The French first language program is not of equivalent quality to the majority program.....	7
3.1.1.	A number of CSFC-B schools have to share their facilities with English-language schools.....	7
3.1.2.	School buildings are often old or inadequate.....	7
3.1.3.	A number of CSFC-B schools are overcrowded.....	8
3.1.4.	School bus travel times are long, due to very large catchment areas.....	8
3.1.5.	Not all communities have a secondary program.....	8
3.1.6.	A number of CSFC-B schools are in rented facilities.....	8
4	Current state of affairs and major challenges for French immersion schools in B.C.	10
4.1	French immersion in B.C.: History and current situation.....	10
4.2	Challenges to be overcome for French immersion in B.C.....	11
4.2.1.	Demand is outstripping supply: Long waiting lists for enrolment.....	11
4.2.2.	There is a shortage of qualified French second language teachers.....	11
5	Federal funding for French first language and French immersion programs.....	12
5.1	The legal framework of federal funding for French first language and French immersion programs.....	12
5.1.1.	Obligations arising from the <i>Charter</i>	12
5.1.2.	Obligations arising from the <i>Official Languages Act</i>	12
5.1.3.	Federal spending power.....	12
5.2	Federal government initiatives in French first language education and French immersion.....	13
5.2.1.	The Official Languages in Education Program ("OLEP").....	13
5.2.2.	The need to modernize and divide up the Protocol.....	14
6	Recommendations for the Federal Government.....	16
6.1	Establish a federal fund for the construction of schools.....	16
6.2	Consult the minority before alienating lands that could serve as sites for the construction of new schools.....	16
6.3	Supplement the federal fund for the creation of community spaces and extracurricular activities.....	17
6.4	Modernize the Protocol and make it a tripartite agreement.....	17
6.5	Establish a federal fund to improve school transportation.....	18

2 The legal framework of the right to French first language education program in B.C.

2.1 Section 23 of the *Charter*

[6] Section 23 of the *Charter* guarantees the right to instruction in French in a French first language program in B.C., which includes:

- a. the right to a primary and secondary education in the minority language that is substantively equivalent to that offered in majority language schools;
- b. the right to school facilities for the linguistic minority that are equivalent to those of the linguistic majority; and
- c. the right to management and control of education for the linguistic minority, by the linguistic minority over all aspects of education that have an impact on language and culture.⁹

[7] The objectives of section 23 of the *Charter* are:

- a. to maintain both official languages and their cultures;
- b. to promote the development of both official languages;
- c. to correct the gradual erosion of minorities; and
- d. to redress the wrongs committed in the past, primarily against minority Francophone communities.¹⁰

[8] In order to take advantage of the rights conferred by section 23 of the *Charter*, right holders must demonstrate that they belong to one of the three categories set out in section 23, namely:

- a. Canadian citizens whose first language learned and still understood is that of the Francophone or Anglophone minority of their province;
- b. Canadian citizens who have received their primary school instruction in Canada in the minority language of the province in which they reside; or
- c. Canadian citizens of whom any child has received or is receiving primary or secondary school instruction in French or English in Canada.

[9] For clarity, it is important to note that individuals who meet at least one of these three criteria are right holders under section 23 of the *Charter*, even if they have no children of school age, including individuals who have no children and individuals whose children have completed

⁹ See generally *Mahé v Alberta*, [1990] 1 SCR 342.

¹⁰ See generally *Mahé v Alberta*, [1990] 1 SCR 342.

their schooling.

[10] Moreover, B.C.'s *School Act* allows the CSFC-B to admit into a French first language program the children of individuals who would meet the criteria of section 23 of the *Charter* if they were Canadian citizens (see **Tab 4**).¹¹ Although the admission criteria in B.C. are more generous than the categories of right holders under section 23 of the *Charter*, they are still among the most restrictive in the country. In many other provinces, admission policies are much broader and allow the school boards themselves to determine who is eligible to enroll in French first language education programs. This is an important issue for the CSFC-B, which would like to adopt a more permissive and flexible admissions policy.

[11] It should be noted that some students do not speak French when they enter the French first language program in kindergarten, for example, children from exogamous families whose home language is not French. These students need additional support in the form of Francisation programs. Such programs are needed in order for section 23 of the *Charter* to be fully realised and, consequently, governments are required to finance them.

[12] According to paragraph 23(3) of the *Charter*, the application of section 23 must take into account the "number criterion". The relevant figure is "the number of persons who will eventually take advantage of the contemplated program or facility." Although it is impossible to know the exact figure, a rough estimate can be made "by considering the parameters within which it must fall – the known demand for the service and the total number of persons who potentially could take advantage of the service" (emphasis added).¹²

[13] The education offered in the French first language program must be substantively equivalent to that of the majority, taking into account the following six principles:

a. Equality must be substantive rather than formal:

L'article 23 repose sur la prémisse que l'égalité réelle exige que les minorités de langue officielle soient traitées différemment, si nécessaire, suivant leur situation et leurs besoins particuliers, afin de leur assurer un niveau d'éducation équivalent à celui de la majorité anglophone.

Section 23 is premised on the fact that substantive equality requires that official language minorities be treated differently, if necessary, according to their particular circumstances and needs, in order to provide them with a standard of education equivalent to that of the official language majority.¹³

b. Equivalency in education must be determined by considering the parent's perspective:

Des parents raisonnables qui détiennent ces droits seraient-ils dissuadés d'envoyer leurs enfants dans une école de la minorité linguistique parce que l'école est

Would reasonable rights-holder parents be deterred from sending their children to a minority language school because it is meaningfully inferior to an available

¹¹ *School Act*, RSBC 1996, c 412, s. 166.13.

¹² *Mahé v. Alberta*, [1990] 1 SCR 342, p. 365, 68 DLR (4th) 69 [Mahé].

¹³ *Arsenault-Cameron v Prince Edward Island*, [2000] 1 SCR 3, 2000 SCC 1 at para 31.

véritablement inférieure à une école de la majorité linguistique où ils peuvent les inscrire ? majority language school?¹⁴

c. Equality must be analyzed locally and not on a province-wide basis:

En effet, dans les communautés linguistiques minoritaires, les écoles sont un instrument primaire de transmission de la langue et, donc, de la culture... Dans bon nombre de ces communautés, les changements démographiques et l'évolution du rôle des établissements religieux ont fait des écoles locales de la minorité linguistique des centres communautaires essentiels.

Indeed, in minority language communities, schools are a primary instrument of linguistic, and thus cultural, transmission... In many such communities, demographic changes and the shifting role of religious establishments have turned local minority language schools into vital community centres.¹⁵

d. The distance between right holders and school facilities, the quality of school transportation and transportation times must also be taken into account:

If a parent says that she withdrew her children from school two years ago because it took too long to get to the school on the bus... it is evidence that transportation time of a certain duration is a factor that has, in fact, led rights-holders to remove their children from the school. It is evidence of the point at which accessibility becomes an obstacle to enjoyment of the constitutional right.¹⁶

e. Equality must also be analyzed using a contextual approach:

[...] la comparaison est de nature contextuelle et holistique, tenant compte non seulement des installations matérielles, mais aussi de plusieurs autres facteurs, y compris la qualité de l'instruction, les résultats scolaires, les activités parascolaires et le temps de déplacement. Une telle approche s'apparente à la façon dont les parents prennent des décisions relatives à l'instruction de leurs enfants.

[...] the comparative exercise is contextual and holistic, accounting for not only physical facilities, but also quality of instruction, educational outcomes, extracurricular activities, and travel times, to name a few factors. Such an approach is similar to the way parents make decisions regarding their children's education.¹⁷

f. Equality must be determined without reference to costs and practicalities:

[...] on tient compte des coûts et des considérations pratiques pour déterminer où se situe une communauté linguistique minoritaire sur l'échelle variable des droits garantis par l'art. 23. Si cette communauté

[...] issues of costs and practicalities are considered in determining where a minority language community falls on the sliding scale of rights guaranteed under s. 23. Where the community is entitled to the

¹⁴ *Association des parents de l'école Rose-des-vents v British Columbia (Education)*, 2015 SCC 21 at para 35 [APÉ RdV].

¹⁵ APÉ RdV at para 27.

¹⁶ *L'Association des parents de l'école Rose-des-vents v Conseil scolaire francophone de la Colombie-Britannique*, 2012 BCSC 1614 at para 22.

¹⁷ APÉ RdV at para 39.

a droit au plus haut niveau de services d'enseignement, au même titre que la communauté majoritaire, il n'est pas nécessaire de tenir compte des coûts et considérations pratiques pour décider si les titulaires des droits reçoivent les services auxquels ils ont droit.

highest level of educational services, on an equal footing with the majority community, costs and practicalities will not be relevant to a determination of whether the rights holders are receiving the services to which they are entitled.¹⁸

2.2 No constitutional right to an education in an immersion program

[14] Neither the *Charter* nor the provincial *School Act* confers a right to B.C. parents to have their children educated in French in a French immersion program¹⁹. Moreover, immersion programs cannot replace the French first language education programs guaranteed by section 23 of the *Charter*, since immersion does not promote the development of a Francophone identity. This principle was confirmed by the Supreme Court in *Solski*: “[...] it would be contrary to the purpose of the provision to equate immersion programs with minority language education.”²⁰

¹⁸ *APÉ RdV* at para 50.

¹⁹ *Whittington v Saanich Sch. Dist.* 63, [1987] 44 DLR (4th) 128 at para 24.

²⁰ *Solski* at para 50.

3 Current state of affairs and major challenges in French first language education in B.C.

3.1 Challenges to be overcome in B.C.: The French first language program is not of equivalent quality to the majority program

[15] Currently, the French first language education offered in British Columbia is not equivalent to the education programs offered to the Anglophone majority. Outlined below are seven of the main obstacles to equivalency in French first language education in the province. The number of students enrolled in CSFC-B schools is growing from year to year and its problems are becoming increasingly urgent. The CSFC-B is the school district that has seen the fastest growth in B.C. In the school years from 2012-2013 to 2015-2016, the rate of growth in CSFC-B school populations was 12.9%, while in other school districts, enrolment from kindergarten through grade 12 fell by 1.4%.²¹ This growing student population requires adequate facilities and more opportunities in French.

3.1.1. A number of CSFC-B schools have to share their facilities with English-language schools

[16] The CSFC-B has 37 schools, but a number of them are not in homogeneous environments. Some programs share their facilities, i.e. they use facilities inside an English-language school, for example École la Passerelle in Whistler (see **Tab 14**) and École des Glaciers in Revelstoke. Others use buildings or portables on the same property as an Anglophone school (as is the case at École du Pacifique in Sechelt (see **Tabs 7 and 8**) and École de la Vallée in Pemberton (see **Tab 9**)) or even an English-language college (École les Aiglons in Squamish).

3.1.2. School buildings are often old or inadequate

[17] At least six schools are located in inadequate buildings that are unsuitable for providing a 21st century education and quite simply too old, which has a negative effect on the quality of the education offered to students in the French first language program:

- a. École la Vérendrye in Chilliwack (see **Tabs 10 and 11**);
- b. École du Pacifique in Sechelt (see **Tabs 7 and 8**);
- c. École Anne-Hébert in East Vancouver (see **Tab XX**);
- d. École Rose-des-Vents in the West Side of Vancouver;
- e. École des Voyageurs in Langley; and
- f. École des Navigateurs in Richmond.

[18] For example, École la Vérendrye in Chilliwack does not have a gymnasium, so students are required to leave the school and go to the "farmer's hall," a building on the property adjacent to the school which is rented by the CSFC-B during the week, but used as a venue for events evenings and weekends (see **Tabs 10 and 11**). École Anne-Hébert in East Vancouver is very

²¹ Government of British Columbia, "2015/16 Final Operating Grants," online: <<http://www2.gov.bc.ca/assets/gov/education/administration/resource-management/k12funding/15-16/15-16-operating-grant-tables.pdf>>.

old and has been in need of renovations for decades (see **Tab 12**). Today, it would cost less to replace the building than to bring it up to standard.

3.1.3. A number of CSFC-B schools are overcrowded

[19] Several schools of the CSFC-B are already overcrowded without attracting the majority of eligible students residing in their catchment areas.

[20] For instance, the school in Victoria, which offers kindergarten through grade 12, is the only French-language school in southern Vancouver Island and serves an enormous territory (for a map of its catchment area, see **Tab 20**). The school was too small when it was built in 2007, and as a result of substantial renovations to increase its capacity, it can now accommodate 486 students. In the 2016-2017 school year, 723 students were enrolled from kindergarten through grade twelve.

3.1.4. School bus travel times are long, due to very large catchment areas

[21] At least three schools serve catchment areas that are too large, resulting in extremely long school bus trips. This has a serious negative impact on the ability of CSFC-B schools to recruit and retain students, particularly in Victoria, Vancouver, Kelowna and the Fraser Valley. For example, students living in the Fraser Valley (Mission, Chilliwack and Abbotsford – see map see **Tab 19**) have to go to Surrey to receive a secondary education, an average distance of 71 kilometres (one way), taking an average of 100 minutes on the bus, morning and evening. The obvious consequence of this situation is that only 19 students from grades eight through twelve are willing to make the trip. Considering the fact that there are at least 447 children eligible to receive their secondary education in French in the region (i.e. children with a parent who is a right holder under section 23(1)a) of the Charter), the lack of a French-language school in the Fraser Valley is a serious problem.

3.1.5. Not all communities have a secondary program

[22] Only seven schools in the province offer a French-language secondary education in a homogeneous setting. And of those seven schools, only five currently have access to adequate infrastructure to allow them to provide a quality secondary program (a sixth school in this category is currently under construction in Port Coquitlam). The space used by the secondary program at École l'Anse-au-Sable in Kelowna (which is mainly in portables located on the school site) is inadequate to provide a quality secondary program equivalent to the education offered to students of the same age in the language of the majority.

[23] A secondary education partially in French first language is offered in five English-language schools (i.e. two or three courses are offered in French to students in each grade). For various reasons (lack of space in the English-language schools, scheduling conflicts with English-language courses, etc.), it is not possible for students in Sechelt, Nanaimo, Penticton, Prince George and Campbell River to receive a secondary education completely in French, much less one that is equivalent to that of the education offered to the majority.

3.1.6. A number of CSFC-B schools are in rented facilities

[24] At least 10 schools are located in facilities rented from an English-language school board or a third party:

- a. École de la Vallée in Pemberton (see **Tab 9**);
- b. École du Pacifique in Sechelt (see **Tabs 7 et 8**);
- c. École la Passerelle in Whistler (see **Tab 14**);
- d. École les Aiglons in Squamish;
- e. École des Sentiers-alpins in Nelson;
- f. École des Grands-Cèdres in Port Alberni;
- g. École des Glaciers in Revelstoke ;
- h. École Sophie-Morigeau in Fernie; and
- i. École Entre-lacs in Penticton.

[25] The lack of predictability with regard to the medium and long-term future of these schools creates uncertainty in the communities affected, undermining the ability of the CSFC-B to attract and retain students at these schools. Moreover, this situation leads to problems regarding the division of responsibilities between the CSFC-B and the owner, particularly with regard to the general maintenance of the buildings which, although they belong to the majority, must be renovated at the expense of the CSFC-B.

4 Current state of affairs and major challenges for French immersion schools in B.C.

4.1 French immersion in B.C.: History and current situation

[26] B.C.'s French immersion programs began in 1968.²² When they started, the programs had only a few hundred students, but they saw enormous growth in the 1990s, so that by 1999, 29,979 students were enrolled in French immersion programs in B.C.²³ Forty of them offer a French immersion program and 20 school boards offer the late French immersion program.²⁴ During the 2014-2015 school year, 8.03% of students in B.C. were enrolled in French immersion programs, representing 50,308 out of 633,428 students.²⁵

[27] There are two approaches to French immersion in the province:

- a. **Early immersion:** In early immersion programs, students begin their instruction in French in kindergarten. English is only introduced into the curriculum in grade three.
- b. **Late immersion:** In late immersion programs, students are enrolled in English-language programs until grade five. In grade six, they start having classes almost exclusively in French. English is reintroduced into the curriculum in grade seven, but comprises no more than 20% of instruction.

In grade eight, the early and late immersion programs are combined in secondary school. In grades 8-10, between 50% and 75% of instruction is given in French. That percentage is reduced to 25% in grades eleven and twelve.

[28] The Vancouver Board of Education ("VBE") offers the early immersion program in 14 elementary schools in Vancouver, the late immersion program in two schools in grades 6 and 7, and the immersion program is offered in three secondary schools from grades 8 to 12.²⁶ In the 2014-2015 school year there were 4,912 students enrolled in the VSB's French immersion programs, making up 9.0% of students enrolled in VSB schools.²⁷ In the 2015-2016 school year, 5,313 students were enrolled, representing 10.1% of VSB students.²⁸

²² Canadian Parents for French, "Our History," online: <<http://bc-yk.cpf.ca/about-us/what-is-cpf/our-history>>.

²³ Canadian Parents for French, "35 Years Strong: Then, Now and a Roadmap Moving Forward" (2013), online: <<http://bc-yk.cpf.ca/wp-content/blogs.dir/1/files/CPF-BC-Yukon-35-Years-Strong-English.pdf>>.

²⁴ Canadian Parents for French, "35 Years Strong: Then, Now and a Roadmap Moving Forward" (2013), online: <<http://bc-yk.cpf.ca/wp-content/blogs.dir/1/files/CPF-BC-Yukon-35-Years-Strong-English.pdf>>.

²⁵ Canadian Parents for French, "Enrolment Statistics," online: <<http://bc-yk.cpf.ca/research-advocacy/enrolment-statistics>>.

²⁶ Radio-Canada, "Le programme d'immersion française du conseil scolaire de Vancouver ne suffit plus" ["The Vancouver school board's French immersion program is no longer adequate"] (14 January 2013), online: <<http://ici.radio-canada.ca/regions/colombie-britannique/2013/01/14/002-immersion-francaise-forte-demande-cb.shtml>>.

²⁷ British Columbia, Ministry of Education, "Student Statistics-2015-16" (2016), online: <http://www.bced.gov.bc.ca/reports/pdfs/student_stats/039.pdf>.

²⁸ British Columbia, Ministry of Education, "Student Statistics-2015-16" (2016), online: <http://www.bced.gov.bc.ca/reports/pdfs/student_stats/039.pdf>.

4.2 Challenges to be overcome for French immersion in B.C.

[29] French immersion programs face a number of challenges that limit their potential. In order for French immersion program graduates to achieve a significant level of bilingualism, these barriers to accessibility must be overcome. The following are the two most urgent challenges.

4.2.1. Demand is outstripping supply: Long waiting lists for enrolment

[30] The demand for French immersion programs in B.C. is growing rapidly and the province has not succeeded in increasing the supply at the same pace. In B.C., long line-ups where parents wait outside, even overnight, school lotteries and long waiting lists are a reality for parents who wish to enroll their children in French immersion programs.²⁹

[31] At the VSB, enrolment in the provincial French immersion program has increased by 50% over the last decade according to the Ministry of Education. In a number of schools, because of the high demand, available spaces are allocated using a lottery system. For example, parents at the VSB's École Bilingue in Vancouver learned at a recent information session that more than 100 children had registered for some 36 spaces in the school's French immersion program.³⁰

4.2.2. There is a shortage of qualified French second language teachers

[32] There is currently a shortage of qualified French second language teachers. "Make a Future", the B.C. job posting website for careers in education, had 234 and 245 postings for French immersion teaching positions in 2012 and 2013, respectively.³¹ However, two of the largest universities in B.C., the University of British Columbia and Simon Fraser University, only between 40 and 60 teachers graduate each year in their French-language teacher training programs.

²⁹ Tracy Sherlock, "Shortage of French teachers acute across B.C.," *Vancouver Sun* (21 April 2015), online: <<http://www.vancouversun.com/life/Shortage+French+teachers+acute+across+report+finds/10992557/story.html>>, cited in "Canadian Parents for French September 2015 newsletter," online: <[https://www.sd43.bc.ca/middle/maplecreek/Publications/Canadian%20Parents%20for%20French%20\(CPF\)/CPF%20Newsletter%20sept%202015.pdf](https://www.sd43.bc.ca/middle/maplecreek/Publications/Canadian%20Parents%20for%20French%20(CPF)/CPF%20Newsletter%20sept%202015.pdf)>.

³⁰ Radio-Canada, "Le programme d'immersion française du conseil scolaire de Vancouver ne suffit plus" (14 January 2013), online: <<http://ici.radio-canada.ca/regions/colombie-britannique/2013/01/14/002-immersion-francaise-forte-demande-cb.shtml>>.

³¹ Andrea Woo, "B.C. seeks French teachers – and finds those who can, won't," *The Globe and Mail* (7 April 2014), online: <<http://www.theglobeandmail.com/news/british-columbia/bc-seeks-french-teachers-and-finds-those-who-can-wont/article17853640>>.

5 Federal funding for French first language and French immersion programs

5.1 The legal framework of federal funding for French first language and French immersion programs

5.1.1. Obligations arising from the Charter

[33] Section 23 of the *Charter* imposes on governments a positive obligation to mobilize resources in order to ensure the equivalency of French first language education, and this includes a positive obligation to “alter or develop major institutional structures.”³² Moreover, as stated above, section 23 of the *Charter* guarantees the minority the right to exclusive management and control over all aspects of education that have an impact on the French language and culture. Nothing in the text of section 23 of the *Charter* limits the scope of this obligation to provincial and territorial governments. Where the federal government acts in the area of education, through funding agreements for example, it must act in accordance with section 23.

5.1.2. Obligations arising from the Official Languages Act

[34] Under Part VII of the *Official Languages Act*³³ (the “OLA”), the wording of which is given at **Tab 5**, the federal government “is committed to enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development and fostering the full recognition and use of both English and French in Canadian society.”³⁴

[35] The OLA requires federal institutions to “ensure that positive measures are taken for the implementation of the commitments under subsection (1).”³⁵ To ensure that these commitments are implemented, the OLA states that “the Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society,”³⁶ including measures to “encourage and support the learning of English and French.”³⁷

5.1.3. Federal spending power

[36] Federal spending power in the area of education is crucial to the extent that it allows the government of Canada to provide funds to private individuals, organizations or governments for purposes on which the Canadian Parliament does not necessarily have the power to legislate, including education.³⁸ Thus, there is nothing to prevent the federal government from taking

³² *Mahé v Alberta*, [1990] 1 SCR 342 at p. 365.

³³ *Official Languages Act*, RSC 1985, c 3, (4th Supp.).

³⁴ *Ibid* at s. 41(1).

³⁵ *Ibid* at s. 41(2).

³⁶ *Ibid* at s. 43(1).

³⁷ *Ibid* at s. 43(1)b).

³⁸ Mark Power et al., “Le soutien financier accordé par le ministère du Patrimoine canadien pour l’enseignement dans la langue de la minorité : constats et proposition de réforme” [“The financial support provided by the Department of Canadian Heritage for minority language education: findings and proposals for reform”] (2010-2011) 12 RCLF 163 at p 195 [Power].

positive measures on behalf of minority official language communities in the area of education through transfers of funds. For instance, the Canada/British Columbia Special Agreement for the Implementation of Francophone Schools Governance, signed in March 1997, is an example of such an agreement between the federal and provincial governments on minority education.³⁹ As explained above, these transfers of funds must be made in accordance with section 23 of the *Charter*, particularly with regard to management and control.

5.2 Federal government initiatives in French first language education and French immersion

5.2.1. *The Official Languages in Education Program ("OLEP")*

[37] The OLEP is "a mechanism through which the federal government provides contributions to the costs incurred by the provinces and territories in the delivery of minority-language education."⁴⁰ A protocol for agreements is established between Canadian Heritage and the Council of Ministers of Education, Canada ("CMEC") every five years. Then, Canadian Heritage and the Ministers of Education of each province and territory conclude multi-year bilateral agreements tailored to the priorities of the province.⁴¹ The current protocol covers the funding period from 2013 to 2018, and negotiations on its renewal are set to begin shortly.

[38] The objectives of the OLEP with regard to linguistic minority education are:

- a. to provide members of the French-language minority or members of the English-language minority in each province/territory with the opportunity to be educated in their own language and to experience cultural enrichment associated with that community;⁴² and
- b. to implement the rights to primary and secondary instruction in the minority language guaranteed by section 23 of the *Charter*.

[39] Pursuant to the protocol and the bilateral agreements from 2009 to 2013, Canadian Heritage will have provided more than 590 million dollars to the Ministries of Education of the provinces and territories.⁴³ For 2013-2018, the federal government committed to providing \$30,182,860 to fund French first language education programs in order to enhance:

- a. enrolment rates;

³⁹ Canada-British Columbia Special Agreement for the Implementation of Francophone Schools Governance, between the government of Canada and the government of British Columbia, 19 March 1997. This agreement established a framework for cooperation between the federal and provincial governments for the implementation of a system of governance for French first language schools. The government of Canada committed to make a financial contribution to the province, and the province committed to take measures to respond to the ruling in *L'Association des parents francophones de la Colombie-Britannique et al. v British Columbia* (1996).

⁴⁰ Council of Ministers of Education, Canada, "Official Languages in Education Protocol," online: <<http://www.cmec.ca/156/Programs-and-Initiatives/Official-Languages/Official-Languages-in-Education-Protocol/index.html>>.

⁴¹ Power, p. 169.

⁴² Council of Ministers of Education, Canada, "Protocol for Agreements For Minority-Language Education and Second-Language Instruction 2013-2014 to 2017-2018," online: <<http://www.cmec.ca/docs/programs/initiatives/olp/protocol/Protocol-2013-2018-EN.pdf>> [Protocol for Agreements].

⁴³ Power at p 170.

- b. the number of programs offered;
- c. student performance;
- d. access to technology;
- e. access to postsecondary education; and
- f. support for teaching staff.⁴⁴

[40] With regard to French immersion programs, the objective of the OLEP is to provide the residents of each province/territory with the opportunity to learn English or French as a second language along with the opportunity for cultural enrichment.⁴⁵ For the years 2013-2018, the federal government committed to provide \$50,339,230 for the funding of second language programs in order to enhance:

- a. enrolment rates;
- b. the number of programs offered;
- c. student performance;
- d. the number of cultural activities;
- e. access to postsecondary education; and
- f. support for teaching staff.⁴⁶

5.2.2. The need to modernize and divide up the Protocol

[41] For some time, official language minority communities have been demanding that the Protocol be modernized as it does not adequately meet the needs of the minority and does not provide them with the opportunity to participate actively at the negotiating table.

[42] Since the Protocol is between Canadian Heritage and the CMEC, and the bilateral agreement is between the province and Canadian Heritage, the CSFC-B is not able to determine the way in which these funds are spent, nor is it able to require effective accountability. Indeed, this instrument allows the province to determine the education needs of the minority unilaterally, which is contrary to section 23 of the *Charter*, since it affects management and control. Moreover, this instrument does not require that communities accept the protocol and agreement or even that they be consulted about them or their implementation.

[43] These instruments do not allow either the Department of Canadian Heritage or the CSFC-B to require effective accountability on the part of Ministries of Education in determining the uses made of the funds.

[44] In 2005, the Standing Senate Committee on Official Languages recommended that the federal government "ensur[e] the direct participation of French-language school boards in the negotiation of education agreements."⁴⁷ However, the Conservative government of the day

⁴⁴ British Columbia, Ministry of Education, "French Funding Guide" (2013-2018), online: <<http://www2.gov.bc.ca/assets/gov/education/administration/kindergarten-to-grade-12/french-funding/13-18/2013-2018-canada-bc-agreement.pdf>> at Annex 3.

⁴⁵ Canadian Heritage, "Protocol for Agreements For Minority-Language Education and Second-Language Instruction 2013-2014 to 2017-2018 between the Government of Canada and the Council of Ministers of Education, Canada", online: <<http://www.cmec.ca/docs/programs/initiatives/olp/protocol/Protocol-2013-2018-EN.pdf>>.

⁴⁶ British Columbia, Ministry of Education, "French Funding Guide" (2013-2018), online: <<http://www2.gov.bc.ca/assets/gov/education/administration/kindergarten-to-grade-12/french-funding/13-18/2013-2018-canada-bc-agreement.pdf>>, Annex 3.

⁴⁷ Power at p 176.

refused to adopt that recommendation, noting that “negotiations on this partnership will, however, remain between the two orders of government.”⁴⁸

⁴⁸ Power at p 177.

6 Recommendations for the Federal Government

[45] A significant improvement of the French first language programs, particularly with regard to school infrastructure, is necessary in order to ensure better retention of students from kindergarten through grade 12. The numbers speak volumes. In 2016-2017, only 176 students are enrolled in grade 12 in a French first language program in B.C. However, there are 629 students in 2016-2017 enrolled in kindergarten.

[46] French immersion programs also face this problem, with a great deal of interest on the part of parents and students at the beginning of the program, but with many fewer students completing it to grade twelve. The attrition rate is particularly high after grade seven, when students begin to consider their postsecondary studies. For example, between the 2013-2014 and 2014-2015 school years, 17.49% of French immersion students in B.C. did not go on to grade eight in the program.⁴⁹

[47] One of the consequences of the many challenges affecting French first language education in B.C. is that many parents with rights under section 23 of the *Charter* choose to enroll their children in French immersion programs, which are often offered in better facilities that are closer to their homes. By ensuring that schools in the French first language program are accessible and of high quality, the federal government will also respond to the challenges of French immersion programs: right holder parents will take advantage of the French first language program, which will free up spaces in French immersion programs with long waiting lists.

[48] The following is a non-exhaustive list of initiatives the federal government could finance in B.C. to ensure equivalency in French first language education.

6.1 Establish a federal fund for the construction of schools

[49] The federal government is currently investing heavily in infrastructure in order to stimulate the economy. Using part of this money to build and renovate CSFC-B schools would both create jobs and promote the development of the Francophone community in the province. As indicated above, students in the French-language program too often find themselves in school buildings in a poor state of repair, in facilities that are shared with English-language schools and/or overcrowded. To ensure that CSFC-B students receive an education that is substantively equivalent to that of the linguistic majority, a major priority of the federal government must be to address these serious infrastructure problems.

6.2 Consult the minority before alienating lands that could serve as sites for the construction of new schools

[50] Since at least 2004, the CSFC-B has attempted to acquire lands for new elementary schools in Vancouver, west of Main Street.⁵⁰ The federal government has been aware that the CSFC-B requires new land in this area since at least 2007. In 2011, the province approved the necessary funding for the acquisition of a new site and the construction of a new elementary

⁴⁹ Canadian Parents for French, "Enrolment Statistics," online: <<http://bc-yk.cpf.ca/research-advocacy/enrolment-statistics>>.

⁵⁰ Conseil scolaire francophone de la Colombie-Britannique v British Columbia (Education), 2016 BCSC 1764.

school, however, the province and the CSFC-B have yet to succeed in acquiring a site for this purpose.

[51] Despite this set of facts, the federal government, through Public Works and Government Services Canada and the Department of National Defence, transferred two of its strategic sites located in Vancouver, west of Main Street. These two sites, the “Fairmont” site (previously the general quarters of the Royal Canadian Mounted Police) and the “Jericho” site (see map at **Tab 15**), would lend themselves well to the CSFC-B’s needs, but the federal government transferred them to be redeveloped and sold.

[52] This governmental decision was taken without consulting the CSFC-B and without taking into consideration the needs of the Francophone community, despite the fact that the CSFC-B and the British Columbia Ministry of Education had communicated to the federal government that a part of each site was needed for the construction of new French-language schools.

[53] The transfer of these lands clearly violates the federal government’s obligations pursuant to Part VII of the OLA to take positive measures to promote the development of the communities. The sale also limits the implementation of section 23 in Vancouver, west of Main Street. Indeed, the Supreme Court of British Columbia recently confirmed, in a judgment rendered by Justice Russell, that violations of section 23 of the *Charter* in Vancouver, west of Main Street, are in part due to the Government of Canada’s lack of action.⁵¹ Justice Russell also highlights how challenging it can be to find a site in Vancouver, west of Main Street and concludes that the VBE, on the other hand, keeps all its school sites. The City of Vancouver takes into consideration the needs of the VBE, but not those of the CSFC-B.

[54] We strongly encourage the federal government to put in place regulations dealing with the transfer of real estate and other assets that would direct government agencies to take into consideration the interests and needs of official minority-language communities when disposing of these properties. Other Canadian jurisdictions have adopted similar regulations (see, for instance, **Tab 6**).

6.3 Supplement the federal fund for the creation of community spaces and extracurricular activities

[55] Extracurricular activities and special events are also “supplementary” needs that greatly benefit from federal contributions. To create a real community environment and promote the development of Francophone identity, the CSFC-B would like to offer its students a variety of extracurricular activities in French to strengthen their connection with the Francophone community. It is also important for the Francophone community in the province that the schools serve not only as educational facilities, but also as gathering spaces for the whole community. In order to achieve this, more funding is required in order to provide adequate community spaces in all CSFC-B schools.

6.4 Modernize the Protocol and make it a tripartite agreement

⁵¹ *Conseil scolaire francophone de la Colombie-Britannique v British Columbia (Education)*, 2016 BCSC 1764 at paras 3683, 3696, 3701-3702, 3709, and 3711.

[56] As explained above, the Protocol and the funding agreements on minority language education are in dire need of modernization so as to improve accountability mechanisms and ensure compliance with the federal government's obligations under the *Charter* and the OLA. Moreover, minority Francophone communities (in B.C. and elsewhere) need a real voice in elementary and secondary education.

[57] The best way to achieve this objective is to remove elementary and secondary French first language education from the current Protocol and to conclude a new agreement – a tripartite one – between the CMEC, Canadian Heritage, and the Fédération nationale des conseils scolaires francophones, the organization that represents the interests of minority Francophone school boards. The signing of a tripartite Protocol would prevent governments from continuing to determine the priorities of elementary and secondary French first language education unilaterally.

[58] The proposal to modernize and divide up the Protocol is not a radical one. It is a simple demand that the federal government transfer its best practices to the funding of minority language education. For example, today it would be unthinkable to conclude an agreement on behalf of an indigenous people without including it as a signatory. Indeed, the former Conservative government entered into tripartite agreements on education to which organizations representing First Nations were signatories. Moreover, it would simply mean implementing one of the recommendations made by the Standing Senate Committee on Official Languages in 2005, one which was rejected out of hand by the former Conservative government.

6.5 Establish a federal fund to improve school transportation

[59] Today many right holder parents are discouraged from sending their children to CSFC-B schools due to extremely long transportation times caused by excessively large catchment areas and an inadequate transportation system. Although in many cases the catchment areas are much too large, it is inevitable that minority Francophone schools will serve larger geographical areas than Anglophone schools. Thus, although a number of districts offer little or no bus service, school transportation is essential to CSFC-B schools. Consequently, the establishment of an adequate transportation system requires additional expenditures that are necessary in order to ensure substantive equivalence in French first language education.

[60] The establishment of an effective transportation system will eliminate a major barrier to the accessibility of French first language programs in the province. To that end, funding from the federal government would be extremely useful to the CSFC-B and would allow it to reduce bus times and thereby attract more children of right holders under section 23 of the *Charter*.

Libellé de l'article 23 de la Charte | Wording of section 23 of the Charter

**DROITS À L'INSTRUCTION DANS LA LANGUE
DE LA MINORITÉ**

MINORITY LANGUAGE EDUCATIONAL RIGHTS

Langue d'instruction

Language of instruction

23. (1) Les citoyens canadiens :

23. (1) Citizens of Canada

a) dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de la province où ils résident,

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue dans laquelle ils ont reçu cette instruction est celle de la minorité francophone ou anglophone de la province, ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.

Continuité d'emploi de la langue d'instruction

Continuity of language instruction

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

Justification par le nombre

Application where numbers warrant

(3) Le droit reconnu aux citoyens canadiens par les paragraphes (1) et (2) de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité francophone ou anglophone d'une province :

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

a) s'exerce partout dans la province où le nombre des enfants des citoyens qui ont ce droit est suffisant pour justifier à leur endroit la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité;

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

b) comprend, lorsque le nombre de ces enfants le justifie, le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique financés sur les fonds publics.

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

Articles pertinents de la Partie VII de la Loi sur les langues officielles
Relevant sections of Part VII of the Official Languages Act

Partie VII : Promotion du français et de l'anglais

Engagement

41 (1) Le gouvernement fédéral s'engage à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement, ainsi qu'à promouvoir la pleine reconnaissance et l'usage du français et de l'anglais dans la société canadienne.

Obligations des institutions fédérales

(2) Il incombe aux institutions fédérales de veiller à ce que soient prises des mesures positives pour mettre en œuvre cet engagement. Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.

Mise en œuvre

43 (1) Le ministre du Patrimoine canadien prend les mesures qu'il estime indiquées pour favoriser la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et, notamment, toute mesure :

- a) de nature à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement;
- b) pour encourager et appuyer l'apprentissage du français et de l'anglais...

Part VII: Advancement of English and French

Government policy

41 (1) The Government of Canada is committed to

- (a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and
- (b) fostering the full recognition and use of both English and French in Canadian society.

Duty of federal institutions

(2) Every federal institution has the duty to ensure that positive measures are taken for the implementation of the commitments under subsection (1). For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.

Specific mandate of Minister of Canadian Heritage

43 (1) The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society and, without restricting the generality of the foregoing, may take measures to

- (a) enhance the vitality of the English and French linguistic minority communities in Canada and support and assist their development;
- (b) encourage and support the learning of English and French in Canada...

Education Act

ONTARIO REGULATION 444/98 DISPOSITION OF SURPLUS REAL PROPERTY

Consolidation Period: From September 1, 2016 to the e-Laws currency date.

Last amendment: O. Reg. 115/16.

This is the English version of a bilingual regulation.

CONTENTS

	Sections	
<u>PART I</u>	DISPOSITIONS FOR SPECIFIED SERVICES AND GRANTS OF EASEMENTS	1-1.1
<u>PART II</u>	OTHER DISPOSITIONS	
	<u>APPLICATION</u>	2
	<u>INTERPRETATION</u>	2.1
	<u>BODIES TO RECEIVE PROPOSALS FROM DISTRICT SCHOOL BOARDS</u>	3
	<u>BODIES TO RECEIVE PROPOSALS FROM SCHOOL AUTHORITIES</u>	4
	<u>PROPOSALS FOR LEASE</u>	5
	<u>EXPRESSIONS OF INTEREST AND OFFERS</u>	6-9
	<u>ACCEPTANCE OF OFFERS</u>	10-11
	<u>DISPOSITION TO OTHERS AFTER PROPOSAL PROCESS</u>	12
	<u>MISCELLANEOUS</u>	13-14
<u>Schedule 1</u>	Universities	
<u>Schedule 2</u>	Service system managers	
<u>Schedule 3</u>	Lead agencies for child and youth mental health	
<u>Schedule 4</u>	Board leases	

PART I DISPOSITIONS FOR SPECIFIED SERVICES AND GRANTS OF EASEMENTS

1. (1) Subject to subsection (3), a board that has adopted a resolution under clause 194 (3) (a) of the Act that real property is not required for the purposes of the board may sell, lease or otherwise dispose of the property to a person referred to in subsection (2) if the purpose of that person in acquiring the property is to provide one or more of the services described in paragraphs 1 to 7 of subsection 5 (5) of the *Development Charges Act, 1997*. O. Reg. 444/98, s. 1 (1).

(2) The persons referred to in subsection (1) are:

1. The municipality in which the property is located.
2. Any local board of the municipality in which the property is located.
3. If the property is located in an upper-tier municipality, that upper-tier municipality.
4. If the property is located in an upper-tier municipality, any local board of that upper-tier municipality. O. Reg. 444/98, s. 1 (2); O. Reg. 303/03, s. 1.

(3) A sale, lease or other disposition under this section must be at fair market value. O. Reg. 444/98, s. 1 (3).

1.0.1 A board that has adopted a resolution under clause 194 (3) (a) of the Act that real property is not required for the purposes of the board may lease the property to a person if the purpose of that person in acquiring the property is to occupy and use the property for the purposes of,

- (a) a child care centre within the meaning of the *Child Care and Early Years Act, 2014*;
- (b) a family support program as defined in subsection 3 (2) of Ontario Regulation 137/15 (General) made under the *Child Care and Early Years Act, 2014*;
- (c) a third party program; or
- (d) the provision of a children's recreation program described in paragraph 8 of subsection 6 (1) of Ontario Regulation 138/15 (Funding, Cost Sharing and Financial Assistance) made under the *Child Care and Early Years Act, 2014*. O. Reg. 115/16, s. 1.

1.1 (1) A board may grant an easement over any of its real property if,

- (a) it has adopted a resolution under clause 194 (3) (a) of the Act that it does not require for its purposes the interest that the easement would create;
 - (b) the grant of easement is for the consideration that the board considers reasonable; and
 - (c) the grant of easement does not have the effect of rendering any school site or part of a school site no longer suitable for providing pupil accommodation. O. Reg. 535/00, s. 2.
- (2) In subsection (1),

“easement” means an easement, right-of-way, right or licence in the nature of an easement, *profit à prendre* or other incorporeal hereditament, but does not include such an easement arising by operation of law. O. Reg. 535/00, s. 2.

PART II OTHER DISPOSITIONS

APPLICATION

2. (1) This Part applies if,

- (a) a board proposes to sell, lease or otherwise dispose of real property;
- (b) the board has adopted a resolution under clause 194 (3) (a) of the Act that the property is not required for the purposes of the board; and
- (c) the sale, lease or other disposition is not permitted under Part I. O. Reg. 444/98, s. 2 (1); O. Reg. 535/00, s. 3.

(2) If this Part applies, a board shall not sell, lease or otherwise dispose of property except after issuing a proposal in accordance with section 3 or 4, as the case may be, and except in accordance with this Part. O. Reg. 444/98, s. 2 (2).

(3) For the purposes of this Part, a building is considered to be last used for providing pupil accommodation even if, since it was last so used, it was used by the board primarily for storage or maintenance purposes. O. Reg. 444/98, s. 2 (3).

INTERPRETATION

2.1 (1) In this Regulation,

“approved agency” means an approved agency within the meaning of the *Child and Family Services Act*; (“agence agréée”)

“approved corporation” means an approved corporation within the meaning of Regulation 70 of the Revised Regulations of Ontario, 1990 (General) made under the *Child and Family Services Act*; (“personne morale agréée”)

“board of health” means a board of health within the meaning of the *Health Protection and Promotion Act*; (“conseil de santé”)

“expression of interest” means an expression of interest that complies with subsection 6 (2); (“manifestation d’intérêt”)

“fiscal year” means the period commencing on September 1 in each year and ending on August 31 of the following year; (“exercice”)

“health unit” means a health unit within the meaning of the *Health Protection and Promotion Act*; (“circonscription sanitaire”)

“lead agency for child and youth mental health” means an agency set out in Column 2 of Schedule 3; (“organisme responsable des services de santé mentale aux enfants et aux jeunes”)

“LHIN” means a local health integration network within the meaning of the *Local Health System Integration Act, 2006*; (“réseau local d’intégration des services de santé”)

“local services board” means a board within the meaning of Part I of the *Northern Services Boards Act*; (“régie locale des services publics”)

“qualifying education agreement” means an agreement between a board and a facility to provide a qualifying education program within the meaning of the provision in the most recent regulation made under section 234 of the Act that determines the board’s facilities amount; (“entente sur l’enseignement admissible”)

“service area” means a service area listed in Column 1 of Schedule 3. (“aire de service”) O. Reg. 115/16, s. 2.

(2) For the purposes of this Regulation, the following are indigenous organizations:

1. Métis Nation of Ontario Secretariat.
2. Chiefs of Ontario.
3. Ontario Federation of Indigenous Friendship Centres.
4. Association of Iroquois and Allied Indians.
5. Nishnawbe Aski Nation.

6. Grand Council Treaty #3.
7. Union of Ontario Indians. O. Reg. 115/16, s. 2.

BODIES TO RECEIVE PROPOSALS FROM DISTRICT SCHOOL BOARDS

3. (1) An English-language public district school board shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The French-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The English-language separate district school board or Roman Catholic school authority that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The French-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.4 The board of a Protestant separate school that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 1. The French-language public district school board the area of jurisdiction of which includes the property.
 2. The English-language separate district school board or Roman Catholic school authority the area of jurisdiction of which includes the property.
 3. The French-language separate district school board the area of jurisdiction of which includes the property.
 4. The board of a Protestant separate school the area of jurisdiction of which includes the property.
- 4.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 4.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
5. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
6. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,
 - i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 6.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 6 i, ii and iii.
7. The university named in Schedule 1 the head office of which is nearest to the property.
- 7.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 7.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 7.3 The board of health for the health unit in which the property is located.
8. The Crown in right of Ontario.
9. The municipality in which the property is located.
10. If the property is located in an upper-tier municipality, that upper-tier municipality.

11. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
- 11.1 All indigenous organizations listed in subsection 2.1 (2).
12. The Crown in right of Canada. O. Reg. 444/98, s. 3 (1); O. Reg. 303/03, s. 2 (1); O. Reg. 146/04, s. 2 (1, 2); O. Reg. 415/05, s. 1 (1); O. Reg. 290/08, s. 2 (1); O. Reg. 115/16, s. 3 (1-4).
- (2) A French-language public district school board shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The English-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The French-language separate district school board or Roman Catholic school authority that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The English-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.4 The board of a Protestant separate school that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 1. The English-language public district school board the area of jurisdiction of which includes the property.
 2. The French-language separate district school board or Roman Catholic school authority the area of jurisdiction of which includes the property.
 3. The English-language separate district school board the area of jurisdiction of which includes the property.
 4. The board of a Protestant separate school the area of jurisdiction of which includes the property.
- 4.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 4.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
5. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,
 - i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 5.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 5 i, ii and iii.
6. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
7. The university named in Schedule 1 the head office of which is nearest to the property.
- 7.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 7.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 7.3 The board of health for the health unit in which the property is located.
8. The Crown in right of Ontario.
9. The municipality in which the property is located.

10. If the property is located in an upper-tier municipality, that upper-tier municipality.
11. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
- 11.1 All indigenous organizations listed in subsection 2.1 (2).
12. The Crown in right of Canada. O. Reg. 444/98, s. 3 (2); O. Reg. 303/03, s. 2 (2); O. Reg. 146/04, s. 2 (3, 4); O. Reg. 415/05, s. 1 (2); O. Reg. 290/08, s. 2 (2); O. Reg. 115/16, s. 3 (5-8).
- (3) An English-language separate district school board shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The French-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The English-language public district school board or the board of a district school area that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The French-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.4 The board of a Protestant separate school that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 1. The French-language separate district school board the area of jurisdiction of which includes the property.
 2. The English-language public district school board or the board of district school area the area of jurisdiction of which includes the property.
 3. The French-language public district school board the area of jurisdiction of which includes the property.
 4. The board of a Protestant separate school the area of jurisdiction of which includes the property.
- 4.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 4.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
5. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
6. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,
 - i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 6.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 6 i, ii and iii.
7. The university named in Schedule 1 the head office of which is nearest to the property.
- 7.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 7.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 7.3 The board of health for the health unit in which the property is located.
8. The Crown in right of Ontario.

9. The municipality in which the property is located.
10. If the property is located in an upper-tier municipality, that upper-tier municipality.
11. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
- 11.1 All indigenous organizations listed in subsection 2.1 (2).
12. The Crown in right of Canada. O. Reg. 444/98, s. 3 (3); O. Reg. 303/03, s. 2 (3); O. Reg. 146/04, s. 2 (5, 6); O. Reg. 415/05, s. 1 (3); O. Reg. 290/08, s. 2 (3); O. Reg. 115/16, s. 3 (9-12).
- (4) A French-language separate district school board shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The English-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The French-language public district school board or the board of a district school area that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The English-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.4 The board of a Protestant separate school that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 1. The English-language separate district school board the area of jurisdiction of which includes the property.
 2. The French-language public district school board or the board of a district school area the area of jurisdiction of which includes the property.
 3. The English-language public district school board the area of jurisdiction of which includes the property.
 4. The board of a Protestant separate school the area of jurisdiction of which includes the property.
- 4.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 4.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
5. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,
 - i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 5.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 5 i, ii and iii.
6. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
7. The university named in Schedule 1 the head office of which is nearest to the property.
- 7.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 7.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 7.3 The board of health for the health unit in which the property is located.

8. The Crown in right of Ontario.
 9. The municipality in which the property is located.
 10. If the property is located in an upper-tier municipality, that upper-tier municipality.
 11. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
 - 11.1 All indigenous organizations listed in subsection 2.1 (2).
 12. The Crown in right of Canada. O. Reg. 444/98, s. 3 (4); O. Reg. 303/03, s. 2 (4); O. Reg. 146/04, s. 2 (7, 8); O. Reg. 415/05, s. 1 (4); O. Reg. 290/08, s. 2 (4); O. Reg. 115/16, s. 3 (13-16).
- (5) A lead agency for child and youth mental health to which a proposal is issued may refer the proposal to an approved corporation or approved agency that operates a children's mental health centre in the service area in which the property is located. O. Reg. 115/16, s. 3 (17).
- (5.1) A LHIN to which a proposal is issued may refer the proposal to a health service provider in the LHIN's local health system, as determined under the *Local Health System Integration Act, 2006*. O. Reg. 115/16, s. 3 (17).
- (6) A body mentioned in paragraph 9 or 10 of subsection (1), (2), (3) or (4) to which a proposal is issued may refer the proposal to any of its local boards, not including a school board. O. Reg. 444/98, s. 3 (6); O. Reg. 415/05, s. 1 (6).
- (7) The Crown in right of Ontario may refer the proposal to any agency, board or commission of the Crown in right of Ontario. O. Reg. 444/98, s. 3 (7).
- (7.1) An indigenous organization to which a proposal is issued may refer the proposal to a band, a council of a band, an education authority, a corporation or organization wholly owned or controlled by one or more bands or councils of bands or a corporation that is a member of the Ontario Federation of Indigenous Friendship Centres. O. Reg. 115/16, s. 3 (17).
- (8) The Crown in right of Canada may refer the proposal to any agency, board or commission of the Crown in right of Canada. O. Reg. 444/98, s. 3 (8).

BODIES TO RECEIVE PROPOSALS FROM SCHOOL AUTHORITIES

4. (1) A board of a district school area shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The board of a secondary school district established under section 67 of the Act that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The English-language separate district school board or Roman Catholic school authority that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The French-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
1. A board of a secondary school district established under section 67 of the Act the area of jurisdiction of which includes the property.
2. The English-language separate district school board or Roman Catholic school authority the area of jurisdiction of which includes the property.
3. The French-language separate district school board the area of jurisdiction of which includes the property.
- 3.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 3.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
4. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
5. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,

- i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 5.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 5 i, ii and iii.
6. The university named in Schedule 1 the head office of which is nearest to the property.
- 6.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 6.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 6.3 The board of health for the health unit in which the property is located.
7. The Crown in right of Ontario.
8. The municipality in which the property is located.
9. If the property is located in an upper-tier municipality, that upper-tier municipality.
10. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
- 10.1 All indigenous organizations listed in subsection 2.1 (2).
11. The Crown in right of Canada. O. Reg. 444/98, s. 4 (1); O. Reg. 535/00, s. 4 (1); O. Reg. 303/03, s. 3 (1); O. Reg. 146/04, s. 3 (1, 2); O. Reg. 415/05, s. 2 (1); O. Reg. 290/08, s. 3 (1); O. Reg. 115/16, s. 4 (1-4).
- (2) A board of a secondary school district established under section 67 of the Act shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
- 0.1 The board of a district school area that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The English-language separate district school board or Roman Catholic school authority that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The French-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
- 1. A board of a district school area the area of jurisdiction of which includes the property.
 - 2. The English-language separate district school board or Roman Catholic school authority the area of jurisdiction of which includes the property.
 - 3. The French-language separate district school board the area of jurisdiction of which includes the property.
- 3.1 All facilities that,
- i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 3.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
4. The college known as Collège Boréal d'arts appliqués et de technologie.
- 4.1 REVOKED: O. Reg. 115/16, s. 4 (7).
5. The university named in Schedule 1 the head office of which is nearest to the property.
- 5.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 5.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.

- 5.3 The board of health for the health unit in which the property is located.
6. The Crown in right of Ontario.
7. The municipality in which the property is located.
8. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
- 8.1 All indigenous organizations listed in subsection 2.1 (2).
 9. The Crown in right of Canada. O. Reg. 444/98, s. 4 (2); O. Reg. 535/00, s. 4 (2); O. Reg. 146/04, s. 3 (3, 4); O. Reg. 415/05, s. 2 (2); O. Reg. 290/08, s. 3 (2); O. Reg. 115/16, s. 4 (5-9).
- (3) A Roman Catholic school authority shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The board of a secondary school district established under section 67 of the Act that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The English-language public district school board or the board of a district school area that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The French-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 1. A board of a secondary school district established under section 67 of the Act the area of jurisdiction of which includes the property.
 2. The English-language public district school board or the board of a district school area the area of jurisdiction of which includes the property.
 3. The French-language public district school board the area of jurisdiction of which includes the property.
- 3.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 3.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
4. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
5. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,
 - i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 5.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 5 i, ii and iii.
6. The university named in Schedule 1 the head office of which is nearest to the property.
- 6.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 6.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 6.3 The board of health for the health unit in which the property is located.
7. The Crown in right of Ontario.
8. The municipality in which the property is located.

9. If the property is located in an upper-tier municipality, that upper-tier municipality.
10. If the property is located in the geographical area within which a local services board may exercise its jurisdiction, the local services board.
- 10.1 All indigenous organizations listed in subsection 2.1 (2).
11. The Crown in right of Canada. O. Reg. 444/98, s. 4 (3); O. Reg. 535/00, s. 4 (3); O. Reg. 303/03, s. 3 (2); O. Reg. 146/04, s. 3 (5, 6); O. Reg. 415/05, s. 2 (3); O. Reg. 290/08, s. 3 (3); O. Reg. 115/16, s. 4 (10-13).
- (4) A board of a Protestant separate school shall issue a proposal to sell, lease or otherwise dispose of the real property to each of the following bodies on the same day:
 - 0.1 The English-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.2 The French-language public district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.3 The English-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 - 0.4 The French-language separate district school board that holds or held a leasehold interest in the property for pupil accommodation at any time during the fiscal year, or the preceding fiscal year, on or before the day the proposal under this subsection is issued, if any.
 1. The English-language public district school board the area of jurisdiction of which includes the property.
 2. The French-language public district school board the area of jurisdiction of which includes the property.
 3. The English-language separate district school board the area of jurisdiction of which includes the property.
 4. The French-language separate district school board the area of jurisdiction of which includes the property.
- 4.1 All facilities that,
 - i. have a qualifying education agreement with the board, and
 - ii. are located in the same municipality as the property or, if the property is not in a municipality, are located in the same geographic area, within the meaning of the *Territorial Division Act, 2002*, as the property.
- 4.2 The service system manager set out in Column 2 of Schedule 2 if the property is located in the area described in Column 1 of Schedule 2.
5. The English language college, within the meaning of Regulation 771 of the Revised Regulations of Ontario, 1990 as that regulation read immediately before it was revoked by Ontario Regulation 36/03, for the area in which the property is located.
6. The college known as Collège d'arts appliqués et de technologie La Cité collégiale, if the property is located in the geographic area of,
 - i. the Frontenac Management Board, as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the *Municipal Act* on January 7, 1997 and published in *The Ontario Gazette* dated February 15, 1997,
 - ii. the upper-tier municipalities of Renfrew; Lanark; Prescott and Russell; Leeds and Grenville; or Stormont, Dundas and Glengarry, or
 - iii. the municipalities of Brockville, Cornwall, Gananoque, Ottawa, Pembroke, Prescott and Smiths Falls.
- 6.1 The college known as Collège Boréal d'arts appliqués et de technologie, if the property is located anywhere other than in the geographic areas listed in subparagraphs 6 i, ii and iii.
7. The university named in Schedule 1 the head office of which is nearest to the property.
- 7.1 The lead agency for child and youth mental health set out in Column 2 of Schedule 3 if the property is located in the service area described in Column 1 of Schedule 3.
- 7.2 The LHIN for the geographic area, as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, in which the property is located.
- 7.3 The board of health for the health unit in which the property is located.
8. The Crown in right of Ontario.
- 8.1 REVOKED: O. Reg. 415/05, s. 2 (4).

9. The municipality in which the property is located.
10. If the property is located in an upper-tier municipality, that upper-tier municipality.
- 10.1 All indigenous organizations listed in subsection 2.1 (2).
11. The Crown in right of Canada. O. Reg. 444/98, s. 4 (4); O. Reg. 303/03, s. 3 (3); O. Reg. 146/04, s. 3 (7, 8); O. Reg. 415/05, s. 2 (4); O. Reg. 290/08, s. 3 (4); O. Reg. 115/16, s. 4 (14-17).
- (5) A lead agency for child and youth mental health to which a proposal is issued may refer the proposal to an approved corporation or approved agency that operates a children's mental health centre in the service area in which the property is located. O. Reg. 115/16, s. 4 (18).
- (5.1) A LHIN to which a proposal is issued may refer the proposal to a health service provider in the LHIN's local health system, as determined under the *Local Health System Integration Act, 2006*. O. Reg. 115/16, s. 4 (18).
- (6) A body mentioned in paragraph 8 or 9 of subsection (1), paragraph 7 of subsection (2), paragraph 8 or 9 of subsection (3) or paragraph 9 or 10 of subsection (4) to which a proposal is issued may refer the proposal to any of its local boards, not including a school board. O. Reg. 415/05, s. 2 (6).
- (7) The Crown in right of Ontario may refer the proposal to any agency, board or commission of the Crown in right of Ontario. O. Reg. 444/98, s. 4 (7).
- (7.1) An indigenous organization to which a proposal is issued may refer the proposal to a band, a council of a band, an education authority, a corporation or organization wholly owned or controlled by one or more bands or councils of bands or a corporation that is a member of the Ontario Federation of Indigenous Friendship Centres. O. Reg. 115/16, s. 4 (18).
- (8) The Crown in right of Canada may refer the proposal to any agency, board or commission of the Crown in right of Canada. O. Reg. 444/98, s. 4 (8).

PROPOSALS FOR LEASE

5. A proposal for lease issued under section 3 or 4 must specify the term of the lease of the property. O. Reg. 444/98, s. 5.

EXPRESSIONS OF INTEREST AND OFFERS

6. (1) A body to which a board issued a proposal under section 3 or 4 or to which a proposal was referred under section 3 or 4 may submit to the board an expression of interest in response to the proposal before the expiration of 90 days after the day on which the board issued the proposal. O. Reg. 115/16, s. 5.
- (2) An expression of interest must be in writing, must be signed by a person authorized by the body to express interest on its behalf and must include,
 - (a) the description of the property that was included in the proposal;
 - (b) the name of the body expressing interest;
 - (c) the name of any body that referred the proposal to the body expressing interest; and
 - (d) the date of the expression of interest. O. Reg. 115/16, s. 5.
- (3) A body referred to in subsection (1) may submit an offer to the board in response to the proposal,
 - (a) along with its expression of interest; or
 - (b) after submitting its expression of interest but before the expiration of 180 days after the day on which the board issued the proposal. O. Reg. 115/16, s. 5.
7. Except as otherwise provided in section 8, an offer under section 6 must be for sale, lease or other disposition of the property at fair market value. O. Reg. 444/98, s. 7; O. Reg. 415/05, s. 3.
8. (1) This section applies to an offer under section 6 for the lease of property on which there is a building, or part of a building, that is used or was last used for providing pupil accommodation if the body that issued the proposal and the body making the offer are both district school boards and if the purpose of leasing the building is to provide pupil accommodation. O. Reg. 115/16, s. 5.
- (2) An offer to which this section applies shall offer, in return for the lease, an obligation to pay, in respect of each fiscal year in the lease period, an amount to be calculated as follows:
 1. Take the sum of,
 - i. the gross floor area of the building or part of a building that is to be leased multiplied by \$85.77, and
 - ii. either,
 - A. if the building or part of the building is used or was last used for providing pupil accommodation only for an elementary school program, the product of,
 1. the gross floor area of the building or part of a building that is to be leased,

2. the Weighted Average Benchmark Elementary School Renewal Cost per Metre Squared for the board that issued the proposal, as set out in Column 2 of Schedule 4, and
 3. the Geographic Adjustment Factor for the board that issued the proposal, as set out in Column 4 of Schedule 4, or
- B. if the building or part of the building is used or was last used for providing pupil accommodation for a program leading to a secondary school diploma, or for both an elementary school program and a program leading to a secondary school diploma, the product of,
1. the gross floor area of the building or part of a building that is to be leased,
 2. the Weighted Average Benchmark Secondary School Renewal Cost per Metre Squared for the board that issued the proposal, as set out in Column 3 of Schedule 4, and
 3. the Geographic Adjustment Factor for the board that issued the proposal, as set out in Column 4 of Schedule 4.
2. Divide the result obtained in paragraph 1 by the number of calendar days in the fiscal year.
 3. Multiply the result obtained in paragraph 2 by the number of calendar days in the fiscal year that are covered by the lease period. O. Reg. 115/16, s. 5.

(3) In subsection (2),

“gross floor area” means the gross floor area, expressed in square metres, within the meaning of Ontario Regulation 20/98 (Education Development Charges – General) made under the Act. O. Reg. 115/16, s. 5.

9. REVOKED: O. Reg. 415/05, s. 5.

ACCEPTANCE OF OFFERS

10. (1) A board shall not accept any offer to purchase, lease or otherwise acquire property in respect of which a proposal must be issued under section 3 or 4 before the expiration of 90 days after the day on which the board issued the proposal. O. Reg. 115/16, s. 5.

(2) After the expiration of the 90-day period referred to in subsection (1), the only offer that the board may accept, subject to subsections (3) to (8) is an offer that,

(a) complies with section 7 or 8, as the case may be; and

(b) is made by a body that,

(i) submitted an expression of interest in response to the proposal within the 90-day period referred to in subsection (1),

(ii) submitted its offer before the expiration of 180 days after the day on which the board issued the proposal, and

(iii) has, in accordance with subsection (9), the highest priority among the bodies that made expressions of interest in the 90-day period referred to in subsection (1). O. Reg. 115/16, s. 5.

(3) If the body that has the highest priority among the bodies that made expressions of interest withdraws its expression of interest, the board shall,

(a) consider or wait for an offer from the body with the next highest priority among the bodies that made expressions of interest if the 180-day period referred to in subclause (2) (b) (ii) has not expired; or

(b) consider an offer made by the body that has the next highest priority among the bodies that made offers if the 180-day period referred to in subclause (2) (b) (ii) has expired. O. Reg. 115/16, s. 5.

(4) If the body that has the highest priority among the bodies that made expressions of interest fails to submit an offer in the 180-day period referred to in subclause (2) (b) (ii), the board shall consider an offer made by the body that has the next highest priority among the bodies that made offers. O. Reg. 115/16, s. 5.

(5) If the body with the highest priority or, if applicable, the highest remaining priority and the board disagree on the fair market value of the property, they shall attempt, within 30 days of the beginning of negotiations, to negotiate the fair market value and the body shall amend its offer to reflect the agreed value. O. Reg. 115/16, s. 5.

(6) If the board and the body cannot agree under subsection (5) on the fair market value of the property, the body making the offer may, at or before the termination of the 30-day period referred to in subsection (5),

(a) withdraw its offer; or

(b) elect to have the fair market value determined through binding arbitration and amend its offer according to the fair market value determined by the arbitrator. O. Reg. 115/16, s. 5.

(7) If no price is agreed to at the termination of the 30-day period referred to in subsection (5) or if the body withdraws its offer or does not elect binding arbitration under subsection (6), the board shall,

- (a) consider or wait for an offer from the body with the next highest priority among the bodies that made expressions of interest if the 180-day period referred to in subclause (2) (b) (ii) has not expired; or
- (b) consider an offer made by the body that has the next highest priority among the bodies that made offers if the 180-day period referred to in subclause (2) (b) (ii) has expired. O. Reg. 115/16, s. 5.
- (8) Subsections (2) to (7) apply to each subsequent offer that the board considers. O. Reg. 115/16, s. 5.
- (9) For the purposes of this section, priorities shall be determined in accordance with the following rules:
 - 1. A body mentioned in a paragraph of subsection 3 (1), (2), (3) or (4) or 4 (1), (2), (3) or (4) has a higher priority than a body mentioned in a subsequent paragraph.
 - 2. If a body is mentioned in more than one paragraph in a subsection listed in paragraph 1, it shall have no priority other than its highest priority as determined under that paragraph.
 - 3. A body that receives a referral from a body under subsection 3 (5), (5.1), (6), (7), (7.1) or (8) or 4 (5), (5.1), (6), (7), (7.1) or (8) shall be deemed to have the same priority as the body that made the referral.
 - 4. If offers are made by two or more bodies that, under paragraph 3, have the same priority because they received a referral from the same body, priorities among those bodies may be determined by the body that made the referral or, if the body does not wish to determine priority, then the body that offers the highest price has priority over the others.
 - 5. Despite paragraph 4, if offers are made by two or more bodies whose highest priority comes from being an indigenous organization listed in subsection 2.1 (2), or from receiving a referral from such an organization, the body that offers the highest price has priority over the others.
 - 6. If offers are made by two or more bodies whose highest priority comes from being a facility, the facility that offers the highest price has priority over the others. O. Reg. 115/16, s. 5.

11. (1) An agreement for the lease of real property to which section 8 applies shall include a condition that the lease is terminated on a day specified in the agreement if the body making the offer does not use the property to provide accommodation for pupils eligible to be included in the calculation of legislative grants for new pupil places for any period of 12 consecutive months after the commencement of the lease. O. Reg. 115/16, s. 5.

- (2) The termination of a lease under subsection (1) is not a closing of the school. O. Reg. 115/16, s. 5.

DISPOSITION TO OTHERS AFTER PROPOSAL PROCESS

12. (1) Subject to subsections (2) and (3), a board may sell, lease or otherwise dispose of a property at fair market value to any body or person if,

- (a) it does not receive an expression of interest from a body to which a proposal is issued or referred under section 3 or 4 before the expiration of 90 days after the day on which the board issued the proposal;
- (b) it receives one or more expressions of interest referred to in clause (a) but does not receive an offer that meets the requirements of subsection 10 (2) before the expiration of 180 days after the day on which the board issued the proposal; or
- (c) it receives one or more expressions of interest referred to in clause (a) and one or more offers referred to in clause (b) before the expiration of 180 days after the day on which the board issued the proposal, but the 180-day period has ended and every offer the board received has expired or has been withdrawn. O. Reg. 115/16, s. 6 (1).

(2) If the proposal referred to in subsection (1) is only for the lease of property, the board that issued the proposal may, under subsection (1), lease but not sell or otherwise dispose of the property, and the lease shall be for the term specified in the proposal. O. Reg. 444/98, s. 12 (2).

(3) A board shall not sell, lease or otherwise dispose of property under subsection (1) unless it provides written evidence satisfactory to the Minister that,

- (a) it first issued a proposal of the sale or lease of the property to each body to which a proposal must be issued under section 3 or 4, as the case may be; and
- (b) no expression of interest referred to in clause (1) (a) was received, no offer referred to in clause (1) (b) was received or all of the offers the board received expired or were withdrawn, as applicable. O. Reg. 444/98, s. 12 (3); O. Reg. 415/05, s. 7 (2); O. Reg. 115/16, s. 6 (2).
- (4) REVOKED: O. Reg. 115/16, s. 6 (3).

MISCELLANEOUS

13. (1) If a board issues a proposal under section 3 or 4 but does not sell, lease or otherwise dispose of the real property in accordance with the terms set out in the proposal within three years of the expiry of the 180-day period referred to in subclause 10 (2) (b) (ii), the board shall not sell, lease or otherwise dispose of the property unless the board issues another proposal under section 3 or 4, as the case may be. O. Reg. 290/08, s. 4; O. Reg. 115/16, s. 7.

	as set out in paragraph 3.3 (b) of an Order made under section 25.2 of the <i>Municipal Act</i> on January 7, 1997 and published in <i>The Ontario Gazette</i> dated February 15, 1997	
10.	City of Kawartha Lakes, City of Peterborough, County of Haliburton and County of Peterborough	Kinark Child and Family Services
11.	City of Belleville, City of Quinte West, County of Hastings, County of Prince Edward	Children's Mental Health Services
12.	City of Brockville, Town of Smiths Falls, Town of Gananoque, Town of Prescott, United Counties of Leeds and Grenville, County of Lanark	Children's Mental Health of Leeds and Grenville
13.	City of Ottawa	Youth Services Bureau of Ottawa
14.	United Counties of Prescott and Russell	Valoris for Children and Adults of Prescott-Russell
15.	City of Pembroke, County of Renfrew	The Phoenix Centre for Children and Families
16.	City of Cornwall and United Counties of Stormont, Dundas and Glengarry	Cornwall Community Hospital
17.	Territorial District of Algoma	Algoma Family Services
18.	Territorial Districts of Kenora and Rainy River	FIREFLY – Physical, Emotional, Developmental and Community Services
19.	District Municipality of Muskoka, Territorial Districts of Nipissing and Parry Sound	Hands TheFamilyHelpNetwork.ca
20.	City of Greater Sudbury, Territorial Districts of Manitoulin and Sudbury	Child and Family Centre/Centre de l'enfant et de la famille/Ngodweangizwin Aaskaagewin
21.	Territorial District of Thunder Bay	Children's Centre Thunder Bay
22.	Territorial Districts of Cochrane and Timiskaming	Minister of Children and Youth Services
23.	City of Toronto	East Metro Youth Services
24.	City of Brantford, County of Brant	Woodview Mental Health and Autism Services
25.	Municipality of Chatham-Kent	Chatham Kent Children's Services
26.	City of St. Thomas, County of Elgin, County of Oxford	Oxford-Elgin Child & Youth Centre
27.	City of Windsor, County of Essex and Township of Pelee	Hôtel-Dieu Grace Healthcare - Regional Children's Centre
28.	Counties of Bruce and Grey	Keystone Child, Youth & Family Services
29.	Haldimand County and Norfolk County	Haldimand Norfolk Resource, Education and Counselling Help (H-N REACH)
30.	City of Hamilton	Lynwood Charlton Centre
31.	City of Stratford, Town of St. Marys, Counties of Huron and Perth	Huron Perth Centre for Children and Youth
32.	County of Lambton	St. Clair Child & Youth Services
33.	City of London and County of Middlesex	Madame Vanier Children's Services

O. Reg. 115/16, s. 10.

SCHEDULE 4
BOARD LEASES

Item	Column 1 Name of board	Column 2 Weighted Average Benchmark Elementary School Renewal Cost per Metre Squared (in dollars)	Column 3 Weighted Average Benchmark Secondary School Renewal Cost per Metre Squared (in dollars)	Column 4 Geographic Adjustment Factor
1.	Algoma District School Board	11.30	11.10	1.30
2.	Algonquin and Lakeshore Catholic District School Board	11.39	11.14	1.06
3.	Avon Maitland District School Board	11.51	11.83	1.05
4.	Bluewater District School Board	11.22	10.91	1.05
5.	Brant Haldimand Norfolk Catholic District School Board	10.39	10.62	1.03
6.	Bruce-Grey Catholic District School Board	11.83	11.83	1.05
7.	Catholic District School Board of Eastern Ontario	10.65	9.06	1.05
8.	Conseil des écoles publiques de l'Est de l'Ontario	9.87	9.89	1.04
9.	Conseil scolaire catholique Providence	10.16	10.94	1.04
10.	Conseil scolaire de district catholique Centre-Sud	11.25	8.80	1.02
11.	Conseil scolaire de district catholique de l'Est ontarien	10.87	11.49	1.04
12.	Conseil scolaire de district catholique des Aurores boréales	11.57	7.89	1.52
13.	Conseil scolaire de district catholique des Grandes Rivières	11.83	11.12	1.56

14.	Conseil scolaire de district catholique du Centre-Est de l'Ontario	9.91	10.52	1.03
15.	Conseil scolaire de district catholique du Nouvel-Ontario	11.63	10.67	1.26
16.	Conseil scolaire de district catholique Franco-Nord	10.12	9.69	1.21
17.	Conseil scolaire de district du Grand Nord de l'Ontario	10.56	11.16	1.30
18.	Conseil scolaire de district du Nord-Est de l'Ontario	9.35	8.49	1.42
19.	Conseil scolaire Viamonde	11.27	10.16	1.02
20.	District School Board of Niagara	11.54	11.83	1.03
21.	District School Board Ontario North East	10.96	11.39	1.54
22.	Dufferin-Peel Catholic District School Board	9.86	9.74	1.00
23.	Durham Catholic District School Board	10.22	10.55	1.00
24.	Durham District School Board	10.09	11.07	1.00
25.	Grand Erie District School Board	11.52	11.83	1.03
26.	Greater Essex County District School Board	11.02	11.71	1.05
27.	Halton Catholic District School Board	9.81	9.54	1.02
28.	Halton District School Board	10.39	11.19	1.02
29.	Hamilton-Wentworth Catholic District School Board	10.51	10.22	1.02
30.	Hamilton-Wentworth District School Board	10.75	11.24	1.02
31.	Hastings and Prince Edward District School Board	11.48	11.83	1.07
32.	Huron Perth Catholic District School Board	11.35	7.89	1.05
33.	Huron-Superior Catholic District School Board	11.31	11.83	1.30
34.	Kawartha Pine Ridge District School Board	10.78	11.56	1.04
35.	Keewatin-Patricia District School Board	10.27	10.56	1.63
36.	Kenora Catholic District School Board	9.88	7.89	1.62
37.	Lakehead District School Board	11.27	10.98	1.35
38.	Lambton Kent District School Board	11.62	11.83	1.05
39.	Limestone District School Board	11.31	11.83	1.06
40.	London District Catholic School Board	11.24	9.83	1.02
41.	Near North District School Board	11.33	11.52	1.19
42.	Niagara Catholic District School Board	11.19	10.91	1.03
43.	Nipissing-Parry Sound Catholic District School Board	10.94	11.83	1.19
44.	Northeastern Catholic District School Board	11.83	11.83	1.55
45.	Northwest Catholic District School Board	11.83	0	1.62
46.	Ottawa Catholic District School Board	10.89	10.54	1.03
47.	Ottawa-Carleton District School Board	11.10	11.54	1.03
48.	Peel District School Board	9.86	10.68	1.00
49.	Peterborough Victoria Northumberland and Clarington Catholic District School Board	10.74	8.63	1.04
50.	Rainbow District School Board	11.22	11.83	1.20
51.	Rainy River District School Board	10.19	11.83	1.62
52.	Renfrew County Catholic District School Board	11.52	11.83	1.11
53.	Renfrew County District School Board	11.20	11.51	1.12
54.	Simcoe County District School Board	10.55	11.05	1.04
55.	Simcoe Muskoka Catholic District School Board	9.95	8.68	1.04
56.	St. Clair Catholic District School Board	11.12	10.14	1.05
57.	Sudbury Catholic District School Board	11.31	10.95	1.17
58.	Superior North Catholic District School Board	11.06	0	1.58
59.	Superior-Greenstone District School Board	11.55	11.17	1.56
60.	Thames Valley District School Board	11.48	11.68	1.02
61.	Thunder Bay Catholic District School Board	11.29	11.83	1.30
62.	Toronto Catholic District School Board	11.29	10.92	1.03
63.	Toronto District School Board	11.63	11.72	1.03
64.	Trillium Lakelands District School Board	11.71	11.18	1.10
65.	Upper Canada District School Board	11.18	11.32	1.05
66.	Upper Grand District School Board	10.49	10.74	1.02
67.	Waterloo Catholic District School Board	10.78	10.05	1.00
68.	Waterloo Region District School Board	10.74	11.34	1.00
69.	Wellington Catholic District School Board	9.91	10.46	1.01
70.	Windsor-Essex Catholic District School Board	11.08	10.75	1.05
71.	York Catholic District School Board	9.88	10.09	1.00
72.	York Region District School Board	9.64	10.18	1.00

O. Reg. 115/16, s. 10.

