

## Point by Point: The “One Public School System for Ontario” Petition

The “One Public School System for Ontario” petition is a collaborative effort of several Ontario organizations and individual citizens. The petition is part of a growing province-wide campaign to promote the merger of Ontario’s public and separate school systems into a single public school system for each official language (English and French).

Ontario currently has four independent publicly-funded school systems. A move from four systems to two, one English and one French, would ensure better stewardship of the funding committed to the education of Ontario’s children and help to maximize the academic potential of every child.

There are no significant obstacles preventing the Ontario Government from initiating such a reform. As is explained later in greater detail, it all depends on political will and the commitment of the Ontario Government to education and to the equality of its citizens before and under the law.

This document was prepared to assist petition canvassers in explaining the petition and in answering questions in relation to it. It will also serve to educate the Ontario public on the dimensions and extent of the discrimination and wasteful use of resources in the Ontario school system.

### **“Whereas the Ontario Government discriminates against over seven million non-Catholic Ontarians in publicly-funded school choice and religious school funding;”**

There are three distinct facets to the religious discrimination in the Ontario school system. The first facet, the discrimination in publicly-funded school choice, affects millions – far more than the other two facets combined. The other two facets are the discrimination in religious school funding and the discrimination in employment in publicly-funded teaching positions.

Publicly-funded school choice: In Ontario, only Roman Catholics are guaranteed a choice of publicly-funded schools. Until grade 9, when “open access” is supposed to apply, separate school boards have an absolute right to reject non-Catholic applicants. That discrimination in publicly-funded school choice often ensures Catholic children a better education than their non-Catholic counterparts. Roman Catholic parents can choose the better of the publicly-funded alternatives available to them (public or separate school) by considering factors such as teaching staff, programs, standardized test scores, facilities, location, transportation, and overcrowding. Religion is seldom the determining factor in making that choice. Non-Catholic parents, on the other hand, often have no publicly-funded choice at all:

*“...at the elementary level, **only Roman Catholic parents or guardians have the right for their children to attend separate schools.** [Education Act, s. 33(3), (4)]. *The admission of others to Roman Catholic elementary schools is entirely at the discretion of the separate school board and by agreement with the parent or guardian concerned.*” (emphasis added).*

-- Dave Costen, Director, Legal Services Branch, Ontario Ministry of Education, July 2005.

Religious school funding: Roman Catholics are the only faith group in Ontario to receive government funding for their religious schools. Roman Catholic religious schools are 100% funded, whereas the schools of all other faith groups receive no funding. That discrimination was exacerbated in 2003, when the current government eliminated funding for **all but** Roman Catholic religious schools.

### **“Whereas one-third of the province’s publicly-funded teaching positions are effectively closed to non-Catholic applicants;”**

Employment opportunities: Separate school boards have an absolute right to discriminate against non-Catholic teachers in hiring and promotion at all grade levels. Section 136 of the Education Act was to have forbidden religious discrimination in hiring and promotion in publicly-funded separate schools, but it was struck down as unconstitutional in 1997 for offending denominational school rights. As a result, one third of the province’s publicly-funded teaching positions, those in the separate system, are now effectively closed to non-Catholic applicants. Ontario separate school boards uniformly require applicants for teaching positions to submit proof of Catholic practice in the form of a pastoral reference letter from a priest. Some separate boards also require applicants for teaching positions to submit a “faith portfolio” in addition to the pastoral reference letter. In contrast, teaching positions with public school boards are open to all Ontarians without discrimination. Public school boards are not even allowed to ask applicants about their religion.

**“Whereas all Ontarians pay equal taxes based on income, not faith, and deserve equal respect and consideration from a religiously neutral provincial government;”**

All Ontarians bear the same tax burden as determined by their income, not their faith. The declaration of school support is a bureaucratic sleight of hand that ultimately has no effect on the total funding received by either public or separate school boards. School board funding is now determined based on enrolment and other documented needs (ESL, special education, geographic circumstances). In essence, the money follows the student.

If all of the families using the schools of a particular separate board were to switch their support declaration to their local public board, the separate board would not see a penny less. In spite of this, separate school boards invest time and money every year advertising to ensure the “correct” support designation for political purposes. Today, the value of that declaration is in serving the carefully cultivated myth that those with separate school rights actually pay for their extra choice. The reality is that they pay no more than anyone else, but have options guaranteed to no one else. All taxpayers pay a duplication premium to give them that choice. Ultimately, that premium results in diminished opportunities in the classroom for all Ontario children.

Many parents have children enrolled in both public and separate schools simultaneously. In some neighbourhoods, the elementary school of one board is considered to be the better choice, while the secondary school of the other board is considered to be the better choice. For over seven million Ontarians, there is no guarantee they will have that choice before grade 9.

**“Whereas Canada was found in violation of its international human rights obligations by the UN Human Rights Committee in 1999 and again in 2005 by virtue of the discrimination in the funding of religious schools in Ontario;”**

In November 1999, the [UN Human Rights Committee](#) found Canada in violation of [Article 26](#) (equality rights) of the [International Covenant on Civil and Political Rights](#) by virtue of the discrimination in the funding of religious schools in Ontario. Canada ratified the Covenant in 1976 with the consent of all provinces – including Ontario. The [finding of violation](#) came after the Committee considered the complaint of an Ontario father who incurred great personal expense sending his children to non-Catholic religious schools. It was unfair, he argued, that Catholic religious schools received 100% funding while all other faiths received nothing. The Committee, not surprisingly, agreed with him. They ordered Canada to fund all religious schools equally or to fund none.

Since the Committee’s 1999 decision, Ontario has done nothing to fully and honestly address the discrimination in our school system. The Progressive Conservative government in power at the time introduced a tax credit for private religious and independent schools, but even when fully phased in, that credit would have seen non-Catholic families receive a far less generous subsidy than that provided for Catholic education. That credit also did nothing to address the religious discrimination in publicly-funded school choice and employment opportunities in publicly-funded separate schools. Ironically, the Conservatives dubbed their credit the “Equity” in Education Tax Credit. Whatever it delivered, it was not equity. The new Liberal government cancelled the credit upon taking office in 2003, eliminating support for **all but** Roman Catholic religious education.

The lack of an effective remedy prompted the Committee to restate their concerns in November 2005, on the occasion of Canada’s fifth periodic report on its implementation of the rights enumerated in the Covenant. Canada must submit such a report every five years. We can be sure that left uncorrected, the discrimination in Ontario schools will continue to garner the periodic condemnation of UN bodies. We must not let that happen. Canada’s violation of fundamental equality rights at home undermines our nation’s legitimacy and effectiveness as a critic of much more serious violations elsewhere. A case in point:

"I share the Prime Minister's hope that China will soon ratify the International Covenant on Civil and Political Rights. The Prime Minister raised these issues because they are important to all Canadians — and because the Government of Canada is responsible for the conduct of foreign policy at the state-to-state level. Respect for the basic rights of our citizens is something that is also very important to me and to my government."

- Dalton McGuinty, Premier of Ontario, in an [address to the Tsinghua University Law School, Beijing, China, 7 Nov 2005](#). Ironically, the Premier was suggesting that China should ratify the same human rights instrument that Ontario was censured for continuing to violate only five days before this address.

**“Whereas the UN Human Rights Committee is now considering a new complaint against Canada concerning the religious discrimination in employment in Ontario’s publicly-funded separate schools;”**

In September 2006, the discrimination complaint of two Ontario teachers, submitted to the UN Human Rights Committee through Civil Rights in Public Education, became public. The complaint concerned the widespread religious discrimination in hiring and promotion in publicly-funded separate schools in Ontario. Having passed the screening process, the complaint will now be investigated and Canada must provide an official response. What is different this time is that having stood in contempt of the Committee’s 1999 decision for nearly seven years, Canada may also be found in violation of other sections of the International Covenant on Civil and Political Rights.

**“Whereas the religious segregation of Ontario children undermines the development of truly neighbourhood schools;”**

The religious segregation in the Ontario school system divides Ontario communities. Children from the same street or neighbourhood attend different schools. Homes and business are solicited for support by multiple schools serving the same area. If schools are the focal points of communities that some suggest they are, then Ontario communities have as many as four (Ontario operates four independent school systems; two English and two French), with the population significantly divided amongst them. Ontarians largely miss out on the sense of community that a truly neighbourhood school can bring.

**“Whereas the religious segregation of Ontario children also results in de facto racial and ethnic segregation that further undermines the role of public schools in fostering tolerance and respect between Ontarians of different backgrounds;”**

Racial and ethnic segregation are an inevitable result of religious segregation. According to the 2001 Census (Statistics Canada - Cat. No. 97F0022XCB2001005), the members of many visible minority groups (Chinese, South Asian, Southeast Asian, West Asian, Arab, Black, Japanese) are far more likely to be non-Catholic than Catholic, while the members of other visible minority groups (Filipino, Latin American) are far more likely to be Catholic. Individual members of certain ethnic groups are also far more likely to be either Catholic or non-Catholic. The correlation between religion and race or ethnicity means that neither separate nor public school populations accurately reflect the diversity of Ontario’s population. Public schools are often far more diverse than their counterparts in the separate system, due in part to their disproportionately large share of visible minorities. This is especially true in some of Ontario’s larger centres, where the differences in public and separate school populations are all too apparent to the eye.

Compared to their coterminous board schools, English public board schools also have far higher rates of ESL/ELD students, students born outside of Canada, and students whose first language was other than English (source: EQAO School Board Reports, Toronto and Ottawa boards, 2005-2006, Contextual Information, Grade 3 and Grade 6 Assessments for Reading, Writing, and Mathematics, [www.eqao.com](http://www.eqao.com)). The challenge of integrating non-English speaking newcomers to Canada clearly falls disproportionately on Ontario’s public school boards. This segregation of higher needs students further undermines the role of public schools in fostering tolerance and likely hinders the integration of newcomers into Ontario society.

In refusing to provide any funding whatsoever for non-Catholic public school alternatives (private religious or secular schools), the current provincial government has often cited the role of public schools in fostering greater tolerance and respect between Ontarians of different backgrounds. It **can not** be argued that the widespread religious, racial, and ethnic segregation that results from publicly-funded separate schools does not undermine that role. It is time the Government acknowledged that and reconciled their stated beliefs with their practice.

**“Whereas the duplication in our school system has extensive financial ramifications that limit the potential of all public school children and contribute to school funding crises that seem to worsen every year;”**

The duplication of facilities and administrative structures in the Ontario school system entails a significant opportunity cost to all Ontario children. Money that should be spent in the classroom is spent on duplication instead.

The funding formula itself recognizes that the lower enrolment and more dispersed schools of English separate and French public school boards represent an inherent cost disadvantage that necessitates greater Administration and Governance, Geographic Circumstances, and Transportation grants to ensure a quality of service comparable to their larger counterparts. What it does not explicitly recognize, but is easily inferred, is that even those larger boards have lower enrolment and more dispersed schools than they would have under a single public system.

All boards suffer the inherent cost disadvantage brought on by duplication and all students pay the price in lost opportunities. With education budgets being squeezed like never before, it is time to do something about the inherent wastefulness of our system.

**“Whereas Quebec and Newfoundland eliminated constitutionally mandated denominational schools in the 1990s, after securing a constitutional amendment rescinding denominational school rights; and”**

**“Whereas Ontario could secure a similar amendment through a simple bilateral agreement with the Federal Government alone;”**

Members of the Ontario Legislature routinely cite a constitutional “obligation” in excusing the wasteful and discriminatory practice of funding a separate school system for the members of a single Ontario faith group. In reality, that constitutional “obligation” presents no real obstacle to reform.

[Section 43](#) of the [Constitution Act, 1982](#) permits the [Constitution Act, 1867](#) (BNA Act) to be amended through a simple bilateral agreement between the affected province(s) and the Federal Government alone when the amendment affects one or more, but not all provinces. Quebec and Newfoundland both sought and obtained section 43 amendments rescinding denominational school rights in the late 1990s. The [Newfoundland amendment](#) was proclaimed just four months after being requested by the provincial legislature. The [Quebec amendment](#) affected [section 93](#) of the Constitution Act, 1867; the same section granting denominational school rights in Ontario. In the process of authorizing the Quebec amendment, neither the Quebec nor the Federal Government could find a single constitutional expert who did not agree that section 43, the bilateral amendment mechanism, was appropriate in amending or eliminating section 93 rights. Ontario could easily follow the Quebec example.

Ontario Government Ministers have thus far been unable to put forward a compelling argument for the continuation of separate schools in Ontario. Quite frankly, there isn't one. The constitutional “obligation” so often cited is largely illusory, as it is within the Government's power to remove it very quickly. Some MPPs cite the precedent of history, which is to suggest that “since Ontario has a time-honoured tradition of discrimination and wastefulness in education, it should continue indefinitely.” More rubbish. Such thinking would have never abolished slavery or given women the vote. Ontario Catholics enjoy choices and opportunities unavailable to all other Ontarians because the Ontario Government **chooses** not to exercise its power to remedy those inequities.

**“We, the undersigned, respectfully petition the Ontario Legislature to establish the primacy of fundamental equality rights over non-fundamental denominational privilege by merging Ontario's public and separate school systems into a single public school system for each official language (English and French).”**

The organizers of this petition have as their common goal the merger of Ontario's public and separate school systems into two new public systems; one English and one French. We believe that such a merger is the only economically feasible means of **fully** addressing the discrimination and the costly duplication that characterize the present system.

Fundamental equality rights must enjoy primacy over non-fundamental denominational privilege. Section 93 of the Constitution Act, 1867, must be amended to reflect the fundamental equality of all Ontarians.

To ensure its religious neutrality, the Ontario Government must also get out of the business of directly funding sectarian religious education. We believe that religious indoctrination has no place in the public school system. The Ontario electorate can freely decide the issue of tax credits for private schools, religious or otherwise, in a provincial election.