School Board Update

Impending Changes to Governance under *Education Act*

Date: November 25, 2009

On November 17, 2009, Bill 177, the *Student Achievement and School Board Governance Act, 2009*, was reported as amended by the Standing Committee and was ordered for Third Reading. Debate on a Bill is limited at Third Reading and no amendments to its text may be moved at this stage. Therefore, it is likely that Bill 177 will pass into law in its present form. This *FTR Now* gives an overview of the Bill and its implications.

With Bill 177, the government has attempted to clarify and supplement the roles and responsibilities of school boards, trustees, chairs and directors of education.

Many of the main provisions found in the Bill at First Reading remain in place, including the following:

- School boards must:
    - promote student achievement and well-being;
    - develop a multi-year plan aimed at achieving identified goals;
    - ensure effective stewardship of resources;

- School boards may be required to adopt a Code of Conduct for trustees;
- Duties of the board chair are expressly set out;
- Duties of directors of education are increased.

A number of significant changes have been made to the first draft of Bill 177, several in response to concerns expressed by the Ontario Public School Boards' Association and the Ontario Catholic School Trustees' Association. Notable changes include the following:

- a board's responsibility for student achievement has been limited to the general promotion of "student achievement and well-being", with no further reference to particular outcomes to be specified by regulation;
- the original provision authorizing the Minister to use regulations to modify "the roles, responsibilities, powers and duties of boards, directors of education and board members, including chairs of boards" has been deleted;
- clarification that while a board may be required by the Minister to adopt a Code of Conduct for trustees dealing with certain issues, the precise content of the Code will be determined locally rather than by regulation;
- the provision authorizing the reduction of a trustee's honorarium as a possible sanction for a violation of a board's Code of Conduct has been deleted;
- trustees are now required to "uphold" the implementation of a board resolution once passed, rather than "support" such implementation as the Bill originally required;
- trustees are now required to "entrust" day-to-day management of the board's affairs to board staff "through the director", rather than "refrain from interfering" in such administration, as the Bill originally stated.

Finally, the following provisions have been added to Bill 177:

- enhanced procedural fairness has been afforded to a trustee should it be determined by a board that he or she has breached the board's Code of Conduct;
- trustees are expressly required to fulfill their responsibilities in a manner that "assists the board" in fulfilling its duties under the *Education Act*.

To view Bill 177 as it presently stands click here.

If you would like to discuss the implications of Bill 177, please contact Michael A. Hines (Toronto) at 416.864.7248 or Bushra Rehman (Toronto) at 416.864.7531, who have been following Bill 177 through the legislative process, or your regular Hicks Morley lawyer.

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