School Board Update

School Board Update – Bill 242 Carried at Third Reading

Date: April 27, 2010

On April 27, 2010, Bill 242 (the legislation associated with the Government's Early Learning Program, or "ELP") carried at Third Reading. It is expected to receive Royal Assent shortly, and will come into force on a date to be named by proclamation of the Lieutenant Governor.

Bill 242 was considered by the Standing Committee on Social Policy in late March and early April. The legislative process has not resulted in any particularly significant changes to the Bill as originally drafted and reported in our School Board Update of February 23, 2010. For the most part, the changes appear intended to clarify the responsibilities and roles of teachers as compared to designated early childhood educators ("DECEs"). The most significant amendments to the *Education Act* (the "Act") are as follows:

- Limitation of the new regulation-making power in subsection 11(1) 29.1 to provide for DECEs to work only in junior kindergarten, kindergarten or extended day programs, as compared to other programs within a school;
- Clarification in the new section 170(2.2) that a board must assign a teacher to each junior kindergarten and kindergarten class in each school of the board, rather than potentially leaving any such classes exclusively in the hands of a DECE;
- The new section 170.3 of the Act dealing with persons assigned to assist teachers and DECEs makes it clear that teachers are expected to provide "instruction" as contrasted to "the work of designated early childhood educators";
- Whereas the Bill, in dealing with the "extended day" portion of the ELP, used to refer to "extended day program classes", it now refers to "extended day program units";
- In a change that may provide some greater flexibility (and efficiencies) to boards, the amended section 260(2) now requires every board simply to appoint early childhood educators to positions designated within the ELP, as compared to "an early childhood educator to each position" within the ELP. This suggests that one DECE may be made responsible for more than one "position";
- The new section 264.1(2) clarifies that it is not part of a teacher's job to cooperate or coordinate with DECEs with respect to the extended day program aspect of the ELP; and
- The new sections 277.47 and 277.48 make it clear that teachers cannot be required to mentor DECEs or conduct or participate in performance appraisals of DECEs.

Bill 242 remains essentially silent with respect to such critical issues as DECE representation rights, DECE collective agreements and pay equity.

Should you have any questions regarding Bill 242, please feel free to contact Dolores Barbini (416.864.7303), Michael Hines (416.864.7248) or your regular Hicks Morley lawyer.

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