



# **ETFO Submission to the Standing Committee on Finance and Economic Affairs**

***Bill 229, *Protect, Support and Recover  
from COVID-19 Act (Budget Measures),  
2020****

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**Elementary Teachers' Federation of Ontario  
Fédération des enseignantes et des enseignants  
de l'élémentaire de l'Ontario**

The union represents 83,000 elementary public school teachers, occasional teachers and education professionals across the province. Its Building Better Schools education agenda can be viewed at **[BuildingBetterSchools.ca](https://www.buildingbetterschools.ca)**.

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## INTRODUCTION

The Elementary Teachers' Federation of Ontario (ETFO) welcomes the opportunity to provide feedback to the Standing Committee on Finance and Economic Affairs on Bill 229, *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020*. ETFO represents 83,000 elementary public school teachers and education professionals across the province and is the largest teacher federation in Canada.

The ongoing COVID-19 pandemic has created incredible challenges for people across the province. Ontarians have mourned the loss of thousands of lives and have felt the devastating economic impact of the pandemic. While nobody has been left untouched by the ongoing public health crisis, the pandemic has had a disproportionate impact on marginalized communities, including racialized and low-income communities.

While educators have shown incredible resilience and commitment during these difficult times and are doing their best to continue to provide their students with high-quality public education, they feel abandoned by the provincial government.

Budget 2020 provided an opportunity for the government to provide much needed support to people across the province and to make the necessary investments in public education, public health care and other public services people rely on to get through the coming months.

Unfortunately, the government has chosen instead to focus on providing corporate tax relief for medium and large businesses and doubling down on its agenda of further deregulation and privatization.

## Government’s Response to the COVID-19 Pandemic

Like many other organizations, ETFO spent the summer doing everything possible to convince the government to implement measures that would ensure a safe reopening of schools. Parents, educators and many of Ontario’s top health experts consistently called for smaller classes to allow for physical distancing, appropriate ventilation in all classrooms and masking for all students. Despite these efforts, the government failed to implement these measures and has jeopardized the health and safety of students, educators and their families.

The Premier and the Minister of Education have repeatedly told Ontarians that the government’s plan to reopen schools was based on the advice of public health experts. However, the Auditor General’s report on the government’s pandemic response has revealed that in addition to ignoring educators, parents and public health experts, the government chose to outsource the creation of their school reopening plan to McKinsey & Company while sidelining public health officials at the Health Command Table.

The Auditor General found that “public health experts did not play a leading role in the Health Command Table and the provincial response”. She also concluded that the government “...does not have effective systems and procedures to identify, learn and respond to the COVID-19 pandemic on an organized and timely basis”.<sup>1</sup>

People across the province are now dealing with the results of the government’s failed strategy to control the pandemic. Ontario is now in the middle of a second wave, with the number of daily cases rising above 1,800 and more than 670 schools currently dealing with COVID-19 cases;

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<sup>1</sup> Ontario Auditor General (2020). *Summary: Special Report on Emergency Management in Ontario—Pandemic Response*. [auditor.on.ca/en/content/news/specials\\_newsreleases/summary\\_COVID-19\\_ch2outbreakplanning.pdf](https://auditor.on.ca/en/content/news/specials_newsreleases/summary_COVID-19_ch2outbreakplanning.pdf)

representing 14 per cent of Ontario’s schools. And yet, the government continues to downplay the role that schools might be playing in the spread of the virus.

According to Dr. David Fisman, Professor of Epidemiology at the University of Toronto, Ontario does not have the appropriate data to determine how schools are contributing to the spread of COVID-19 and there is a significant lack of systematic, school-based surveillance. “It is my opinion that we do have COVID-19 amplification in schools,”<sup>2</sup> he says. “We have seen dramatic increases in per cent positivity of COVID-19 tests in both young children and teens since schools opened. With approximately 60 per cent of new COVID-19 cases in Ontario currently having no known epidemiological link, it is certainly not correct to state with certainty that infections in teachers, staff and students are not acquired in schools.”

The government has recently announced some limited surveillance testing in schools located in communities with high rates of COVID-19 community transmission. These testing initiatives should be expanded to ensure appropriate school-based surveillance in all regions experiencing significant community transmission.

Elementary classes in some of Ontario’s hotspots are as big as 32 students. Making physical distancing impossible. Unlike the two metres of distance that everyone is asked to keep between themselves and others in public spaces, the government decided to implement a lower threshold of one metre of distance between students, simply to save money. But even this lower threshold is impossible to maintain in many of Ontario’s classrooms.

As a result of the government’s failure to adequately plan for a safe reopening of schools, many parents chose to enroll their children in virtual learning. There are significant equity gaps that

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<sup>2</sup> Hammond, S. to Hon. Doug Ford and Hon. Stephen Lecce. November 23, 2020. *Letter to the Premier re: need for research on COVID in schools*. [etfo.ca/DefendingWorkingConditions/ETFOTakesAction/Documents/Ford\\_Lecce.pdf](https://etfo.ca/DefendingWorkingConditions/ETFOTakesAction/Documents/Ford_Lecce.pdf)

impact how students are experiencing virtual learning. Many students still do not have access to appropriate devices, have unreliable and/or inconsistent internet connectivity or face other barriers to meaningfully engage in online platforms. In some school boards, virtual class sizes have increased dramatically and have resulted in students not having sufficient access to their teacher, and teachers struggling with unsustainable workloads.

The lack of funding from the provincial government has also resulted in some school boards opting for simultaneous in-person and virtual learning. This requires teachers to teach both in-person and virtually at the same time. Teachers in these situations can either focus on the students in front of them, or those online, but it is impossible for them to do both. The government is directly responsible for these situations and it must remedy them immediately.

The impact on students with special education needs has also been disproportionate during the pandemic. Many students with special needs, who opted for virtual learning, do not have access to the supports they require to meaningfully engage in online learning platforms. For children with high needs, the lack of support has often resulted in parents, guardians or caregivers having to accompany them during the entire instructional day, creating additional pressures for those families. The government simply did not have a plan to support students with special needs during these extraordinary circumstances.

The continued refusal by this government to invest in public education, is reflected in this budget. The government allocated no additional funding to improve the safety of our schools during the remainder of the current school year or to help meet the increasing needs of students engaged in virtual learning.

According to a report by the Financial Accountability Office (FAO) released in October 2020, the provincial government still had \$9.3 billion of unallocated contingency funds for the pandemic

response. ETFO is recommending that the government allocate the necessary funding from these contingency funds to reduce class sizes so that appropriate physical distancing can be achieved, make necessary improvements to ventilation in classrooms, provide additional resources to support students engaged in virtual learning and that the government make masks mandatory for all students attending school.

### **Recommendations**

1. That funding be immediately made available to public school boards to reduce class sizes in Kindergarten to grade 8 to ensure two metres of physical distancing.
2. That mandatory caps on class size for Kindergarten to grade 8 be established to ensure that two metres of physical distancing can be maintained.
3. That funding be immediately made available to school boards to make necessary improvements to ventilation and air filtration in classrooms.
4. That masks be made mandatory for all students attending school in person, from Kindergarten to grade 12.
5. That additional funding be provided to school boards to increase support for students engaged in virtual learning; including access to appropriate devices, internet connectivity and other supports.
6. That additional funding be provided to school boards to increase support for students with special education needs.
7. That school-based testing be expanded to all regions experiencing significant community transmission of COVID-19.

### **Schedule 33 – Changes to *Ontario College of Teachers Act, 1996***

Granting self-regulation to a profession acknowledges that the members of the profession have the specialized knowledge to carry out the delegated regulatory functions through the establishment of governing bodies that are accountable to members, the government and the public interest.

The establishment of the Ontario College of Teachers as a professional self-regulatory body for teachers was recommended by Ontario's Royal Commission on Learning in 1994, which



recognized then that the “teaching profession in Ontario must now be considered equal to other established professions”.<sup>3</sup> The Royal Commission’s recommendation included the following:

“...the College should be responsible for determining professional standards, certification, and accreditation of teacher education programs. *Professional educators should form a majority of the membership of the College, with substantial representation of non-educators from the community at large [emphasis added].*”

With the passage of the *Ontario College of Teachers Act, 1996*, the Ontario College of Teachers was established as the professional regulatory body that licences teachers, accredits teacher education programs, sets and maintains professional and ethical standards for the profession and provides for the enforcement of those standards through investigation, disciplinary, and fitness to practice processes. A key element of self-regulation in the education sector is public accountability. The College—like other professional regulatory bodies—has a statutory duty to serve and protect the public interest.<sup>4</sup>

The governing body of the College is Council, which is composed of elected members of the College and appointees of the government. Prior to 2019, the composition of Council, including the proportion of members of the profession to government appointees on Council, was set out in the Act.<sup>5</sup> With the adoption of Bill 48, *Safe and Supportive Classrooms Act, 2019*, in April 2019, the current government provided itself the authority to determine the composition of Council by dictating the number of elected members and the number government appointees. ETFO opposed the changes to the governance structure of the College that were contained in Bill 48.

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<sup>3</sup> Ontario. Royal Commission on Learning. *For the Love of Learning: Report of the Royal Commission on Learning*. Vol. 3: *The Educators*. Toronto: Queen’s Printer for Ontario, 1994.

<sup>4</sup> *Ontario College of Teachers Act, 1996*. S.O. 1996, c. 12, s. 3(2).

<sup>5</sup> *Ontario College of Teachers Act, 1996*. S.O. 1996, c. 12, s. 4.

The changes to the governance structure of the Ontario College of Teachers contained in Schedule 33 of Bill 229 represent further interference by the government in the College and would effectively end self-regulation of the teaching profession.

Council is currently composed of 23 members of the College who are elected by their peers, and 14 persons appointed by the government. Under the new structure, there would no longer be elected members of the College on Council, instead the Council would be composed of nine government appointees who are not members of the College and nine members of the College who are appointed by Council.

In addition, if adopted in its current form, Schedule 33 would dissolve the Council, and put a single person chosen by the government in charge of all the decisions of the College until the new Council is formed. This person would also appoint nine members of the College to the new Council to join the nine non-members appointed by the government.

The adoption of Schedule 33 would also result in adjudicative bodies and panels of the College to no longer be comprised of a majority of members of the college. This means that members whose cases come before the College will not have their cases heard by a panel consisting of a majority of their peers.

Simply put, Schedule 33 means the government would be taking full control of the Ontario College of Teachers. This would result in a lack of confidence in the College from teachers and the public at large. Future decisions made by the College would surely be perceived as politically motivated and indiscernible from the direction of the government of the day.

ETFO calls on the government to withdraw Schedule 33.

## Recommendations

8. That Schedule 33 be withdrawn.
9. That the existing governance structure of the Ontario College of Teachers including the current composition of Council be maintained.

## **Retroactive Revocation of Teacher/Early Childhood Educator Certificates**

While the incidence of sexual misconduct or sexual abuse perpetrated by educators is extremely low, any incident is exceptionally serious. ETFO is committed to eradicating sexual misconduct and sexual abuse of students and children and acknowledges the important responsibility of the regulatory bodies overseeing the teaching and early childhood educator professions in investigating and addressing these serious allegations of professional misconduct.

The discipline committees of the Ontario College of Teachers and College of Early Childhood Educators already have the power to revoke the certificates of members who engage in sexual abuse, sexual misconduct or any other form of professional misconduct. In recent years, the enabling legislation of the Colleges was amended to require the revocation of the certificate of members who engaged in certain acts of “sexual abuse,” which is defined broadly in the legislation. The amendments were not challenged as there could be little dispute that revocation was appropriate where members had engaged in such conduct.

With the adoption of Bill 48, in April 2019, mandatory revocation of certificates was further expanded and additional restrictions were placed on the discretion of the disciplinary committees of the Colleges. The changes removed the committees’ discretion to consider the specific circumstances of each case, the public interest and the well-being of individuals who are survivors of abuse. At the time those changes were proposed, ETFO expressed concerns that broadening the scope of mandatory revocations and limiting the discretion of the discipline committees’ power

would inhibit the Colleges' ability to tailor decisions and consequences to the specific facts of each case.

It has been ETFO's experience that both Colleges take all allegations of professional misconduct very seriously and have, when appropriate, utilized their powers to revoke certificates, particularly in cases involving sexual abuse and sexual misconduct. These cases are difficult particularly for survivors and are often resolved through negotiations and plea agreements. At all times, but particularly in these negotiations, the Colleges are required to give due consideration to the public interest, while at the same time being sensitive to the needs and the interests of the abuse survivor and ensuring that the resolution is tailored to the specific circumstances. Discipline committee decisions, regardless of how they are reached, are transparent and publicly recorded. Educators who are found guilty of such misconduct are branded with such public decisions for life regardless of whether their teaching certificate is revoked.

ETFO is committed to ensuring that its members are treated fairly. This means upholding the presumption of innocence; ensuring that all investigations and hearings meet the highest standards of fairness and justice; ensuring that decisions are made with a full understanding of the facts and surrounding circumstances; and ensuring that the interests of students and teachers are both considered when decisions are rendered.

There is a general presumption that legislation should not apply retroactively to conduct that pre-dates the legislative changes. ETFO is not aware of any evidence to support the government's assertion that retroactive revocation of certificates is necessary to protect the public interest. Furthermore, ETFO submits that the measures currently in place adequately protect the public interest.

With regards to the prohibition to apply for reinstatement of a certificate, while the current provisions allow for such an application, such applications are not automatically approved. In fact, the College currently has the necessary authority to reject such applications when it deems it appropriate to do so.

ETFO is concerned that the changes proposed in Schedule 9 and Schedule 33 to implement retroactive revocation of members' certificates and the prohibition to apply for reinstatement, do not achieve the appropriate balance, are not in the best interest of survivors of sexual abuse and are not in the public interest. These measures are neither necessary nor appropriate. ETFO calls on the government to withdraw Schedules 9 and 33.

### **Recommendation:**

10. That Schedule 9 be withdrawn.

### **Schedule 6 – Amendments to the *Conservation Authorities Act***

If adopted, Schedule 6 of Bill 229 would make significant and troubling amendments to the *Conservation Authority Act*. It would remove citizen participation in conservation authorities by mandating that all members of a conservation authority be current municipal councillors, thus depriving many conservation authorities of valuable sources of specialized expert advice and decreasing public participation in important discussions related to responsible development and use of land.

Schedule 6 would allow developers to completely bypass the local development approval process and provides the government with unprecedented power to directly interfere in decisions made by conservation authorities or even to take over their operations.

The adoption of Schedule 6 would undermine conservation efforts and remove important safeguards meant to ensure responsible land development in municipalities across the province. ETFO joins the growing list of organizations, municipalities, conservation authorities and environmental advocates that are calling for the withdrawal of Schedule 6.

### Recommendation

11. That Schedule 6 be withdrawn.

## CONCLUSION

While Ontarians continue to feel the impact of the ongoing COVID-19 pandemic, investments in public education, public health care and other public services are desperately needed.

Unfortunately, Bill 229 shows that even amidst an unprecedented public health crisis the government is more interested in providing tax relief to large corporations than investing in the public services Ontarians rely on.

Ontario's economic recovery in the coming months and years will depend on the strength of its public services, including public education. While the government has accepted that running a deficit at this time is necessary, the budget's medium-term projections suggest not only a lack of public investment but in fact an agenda of future cuts to public services.

The scathing report from the Auditor General should give this government pause. One of the most damning conclusions from the report is that Ontario lacked the capacity to respond effectively to the COVID-19 emergency. There is a direct link between funding cuts to public health and public education and some of the difficulties Ontario has faced in responding to the pandemic.

ETFO calls on the government to take this opportunity to change course, start listening to public health experts and make the necessary investments to keep students, educators, their families and all our communities safe.

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## RECOMMENDATIONS

1. That funding be immediately made available to public school boards to reduce class sizes in Kindergarten to grade 8 to ensure two metres of physical distancing.
2. That mandatory caps on class size for Kindergarten to grade 8 be established to ensure that two metres of physical distancing can be maintained.
3. That funding be immediately made available to school boards to make necessary improvements to ventilation and air filtration in classrooms.
4. That masks be made mandatory for all students attending school in person, from Kindergarten to grade 12.
5. That additional funding be provided to school boards to increase support for students engaged in virtual learning; including access to appropriate devices, internet connectivity and other supports.
6. That additional funding be provided to school boards to increase support for students with special education needs.
7. That school-based surveillance testing be expanded to all regions experiencing significant community transmission of COVID-19.
8. That Schedule 33 be withdrawn.
9. That the existing governance structure of the Ontario College of Teachers including the current composition of Council be maintained.
10. That Schedule 9 be withdrawn.
11. That Schedule 6 be withdrawn.



## SELECTED SOURCES

Ontario Auditor General (2020). 2020 *Summary: Special Report on Emergency Management in Ontario—Pandemic Response*

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*Ontario College of Teachers Act*, 1996. S.O. 1996, c. 12, s. 3(2), s. 4.



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