



LEADERSHIP, ADVOCACY AND SERVICE FOR MANITOBA'S PUBLIC SCHOOL BOARDS

To: Standing Committee on Social and Economic Development
Legislative Assembly of Manitoba

From: Leah Klassen
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Re: Bill 38 – *The Public Schools Amendment and Manitoba School Boards Association Amendment Act*

Introduction

The Manitoba School Boards Association (MSBA) is pleased to appear before the Legislative Assembly of Manitoba in respect of Bill 38. This brief is submitted in strong support of the amendments to *The Manitoba School Boards Association Act* contained within Bill 38, which represent the culmination of longstanding advocacy by MSBA to advance equity, reconciliation, and true partnership in education across Manitoba.

Bill 38 reflects policy objectives and legislative changes that MSBA has advanced for many years. It advances MSBA's first written recommendation outlining this priority, from 2019.¹ This written recommendation followed many in-person meetings and our requests to every Minister and Deputy Minister of Education for such changes to be made, starting in 2017. The Bill therefore stands as an example of government listening, hearing, and acting upon the considered advice of the public education sector and also of Indigenous education partners.

Alignment with MSBA Advocacy

MSBA's longstanding advocacy has called for legislative amendments that enable First Nations and other Indigenous education organizations and systems to access MSBA membership, services, supports, and programs on a basis comparable to public school boards. Bill 38 also grants our association the ability to review membership requests from other educational organizations bearing the same aims and objects of promoting public education. These amendments acknowledge the continuation of strong services for Manitoba's public school boards, while welcoming important partners to the table where this might strengthen our legal mandate under *The MSBA Act*. Our recommendation for amendments recognizes that equity must extend beyond

¹ See Recommendation 25, pages 150-152 at: https://www.mbschoolboards.ca/wp-content/uploads/2022/02/MSBA_Submission.pdf

aspiration, and can be operationalized through structures, governance frameworks, and lawful access to shared resources.

The amendments to *The MSBA Act* contained in Bill 38 directly reflect this advocacy. Foremost, the amendments re-define long-standing, legally enshrined membership eligibility that, in effect, prevented meaningful engagement and participation by First Nations and potentially other Indigenous education authorities, despite shared objectives around student success, governance excellence, labour relations, risk management, and system sustainability.

MSBA therefore recognizes Bill 38 as an advancement of the cause of justice and equity in education. This Bill stands as confirmation that sustained, respectful advocacy can lead to concrete and positive change.

Equity, Access, and Reconciliation

The late Justice, retired Senator, and Chief Truth and Reconciliation Commissioner Murray Sinclair once remarked “we have described for you a mountain, we have shown you the path to the top. We call upon you to do the climbing.” In calling on Canadians to “do the climbing,” Justice Sinclair, and the Truth and Reconciliation Commission of Canada, have shown each and every one of us the mountain that must be ascended together. Equity and equality of access to educational resources across public and Indigenous school systems in Manitoba is a clear milestone towards that summit.

For over a century, MSBA has provided significant resources through the programs and services that we provide to our public school board members. Bill 38 will enable us to provide such advantages for Indigenous organizations sharing like mandates and values for advancing the good of education to our communities.

Bill 38 advances reconciliation not through symbolism, but through structure. By enabling parity of access to MSBA programs and services, with the additional guarantee of meaningful democratic representation on our Provincial Executive, along with delegate access to our annual Convention floor and other membership meetings, the amendments help ensure that First Nations and Indigenous education systems may, should they so choose, benefit from the same collective supports that underpin Manitoba’s public school system. This represents reconciliation in both theory and especially in practice—grounded in respect, partnership, and shared responsibility.

MSBA therefore wishes to express its sincere appreciation to the Government of Manitoba and to the Department of Education for advancing this important legislation. For demonstrating not only a willingness to listen, but to hear what MSBA and our partners have consistently brought forward. Passage of this Bill would represent a new era in K-12 education in Manitoba, one that we feel will provide mutual benefit to all who have an interest in the success of our school classrooms, as well as our governance boardrooms.

On this significant occasion, we also wish to acknowledge the critical leadership and advocacy of our partners at the Assembly of Manitoba Chiefs, the Manitoba First Nations Education Resource Centre (MFNERC) and the Manitoba First Nations School System (MFNSS). It is through collaboration and mutual respect that this legislative milestone has been made possible. As the largest First Nation organization in Canada, MFNERC provides such important and valuable support

to those First Nations schools who are members of the Centre. We are excited and enthusiastic with the prospect that either they or the MFNSS, will one day soon wish to become a full member of our Association.

Before his passing in 2019, the late Dr. Don Robertson, who was the founding Executive Director of MFNERC and who later served as Elder-in-Residence to our Association, said that “we will see things in our lifetime” that he “could only dream would one day be possible.” While it is not typical for a Bill to be dedicated to the life work of one person alone, it most certainly is the case that Don, through the many contributions he made across a lifetime of service to the people of Manitoba, directly laid the foundation for what is now being realized through these profound legislative amendments. In keeping with what Don would have wanted however, while we honour and recognize him on this occasion for all that he supported and achieved, these amendments are dedicated to future generations of Manitobans— unto the seventh generation and beyond. As an association, we hope that all of our children and all of our schools will reap the harvest of the seeds that Bill 38 plants here today.

Historical Context of The MSBA Act and Looking Forward

The MSBA Act was first enacted in 1943— being the then *Manitoba School Trustees Act*. The Act itself was entirely drafted and provided to the Minister of Education by the Manitoba School Trustees Association (or MSTa), MSBA’s predecessor organization.

Starting in 1922, the Association received annual grants from the Department of Education to support its operations and therefore a statutory framework was deemed necessary to establish accountability over this funding relationship. Accordingly, the Act was also designed to govern our overall structure. While those public operating grants were discontinued as of 1970, successive enactments of *The MSTa Act*, including our present *MSBA Act*, have remained.

Today, MSBA is by legal definition a non-profit corporate entity, albeit one established under a public corporate statute. The Act confers a clear statutory mandate upon our association, with aims and objects related to the public good of education, based on the original text that was defined and drafted by MSTa.

Well after the discontinuance of Government-invested operating grants and, given the exclusion of all other entities but public school boards from the membership of the Association as of 1965, MSBA’s independence, impartiality, autonomy, and member-driven governance have remained the defining features of the Association today.

For this present set of amendments to be brought forward with the time that has been required is noteworthy. The absence of express enabling authority on the part of our own Provincial Executive represented a significant barrier to MSBA’s ability to offer services and supports to First Nations and Indigenous education systems at a critical moment—namely when the Federal Government established MFNSS as the first, First Nations school system in Canada to be funded at parity with the public education system. That MSBA and its partners can now move forward—albeit many years after this important development was achieved—to explore how our programs, supports, and services may provide full advantage and benefit is most welcome, opening an important door for our future.

In future, when amendments to *The MSBA Act* are proposed by the Association, we therefore trust and encourage that our Government partners—regardless of the Government of the day—will fully recognize and respect the reality of our formal corporate standing and need for greater ease-of-adaptability.

Amendments to our Act are infrequent. The last set of amendments we requested occurred 36 years ago, with the passage of *The MSBA Act* in its current form, in 1990. We certainly have not and do not ever wish to be, a burden upon the Legislative Assembly's capacity or resources.

MSBA hopes that the Bill 38 experience will therefore remain instructive for the future. Should further amendments ever be required, we encourage future governments to again act as willing partners to shepherd necessary changes through the legislative process in a timely and respectful manner.

The significance of Bill 38 lies in the opportunity that it can bring. The opportunity of yielding substantial benefits for students, educators, and communities alike. Opportunity that establishes a framework that can and will support reconciliation, equity, and shared success well into the future. For MSBA and its members, this is an exciting moment in the history of education in Manitoba.

Note on the Omnibus Nature of Bill 38

Finally, MSBA acknowledges that Bill 38 is an omnibus bill that also includes many substantial amendments to *The Public Schools Act* (or PSA). While MSBA has chosen to confine the more substantial portion of this brief to the amendments affecting *The MSBA Act*, we trust that the Legislative Assembly will find the additional briefings submitted by our members to be informative and instructive. On behalf of all of our members, MSBA lends its further advocacy.

Any amendment that would fundamentally alter the standing legal relationship between democratically elected school boards and the Minister of Education must be avoided.

Under section 51.1(e) of the Bill, one of the powers, duties and functions of the superintendent would include the following:

acting as the liaison between the minister and the school board.

MSBA has already expressed its concerns and reservations regarding this draft function to the Department of Education. We greatly regret that at no time during the consultation phase leading to the tabling of Bill 38 was section 51.1(e) provided for our advance feedback or comment. From the perspective of our members and Executive, placing the word “the” before “liaison” requires amendment from “the” to “a”.

By amending section 51.1(e) in this manner, the democratically elected relationship between the Minister and all school boards can be protected and promoted. If this provision is not amended, a literal interpretation of the current wording will effectively limit and restrict direct communications and relationship between government and school boards.

We recognize that, under the current *Public Schools Act*, and many other statutes, there are references to a Minister as featured in various clauses that is intended to be interpreted in the figurative rather than literal sense. A prime example of this being existing PSA references to the duty

of school principals to notify “the Minister of Health” of emerging epidemics among pupils. Such provision has long been operationalized and interpreted in such manner as to mean the public health staff who are employed under the auspices of the Department of Health, and not the Minister of Health as such. According to such references, the office of the “Minister” is employed as the figurative legal entity representing the ensemble of operational units that fall within the government department or ministry that reports to that Minister.

While an analogous intention may be the impetus for section 51.1(e), insofar as the provision may be designed to authorize and empower superintendents to liaise with the operational and administrative branches and offices within the Department of Education, we would posit that vesting such relationship and communication duties to a single liaison does not respect, recognize or address the countless relationship and communication channels that equally exist between school boards and the personnel who are employed by the Department of Education.

There is a plurality of touchpoints between school boards, their staff, and the Minister and their staff. This reality should not be inadvertently revised by creating a singular duty on the part of the superintendent. Nor should that reality ever be subject to intentional revision in future if ever a literal interpretation were to be applied.

The fix to this is rather straightforward: 51.1(e) can be amended from “the liaison” to “a liaison”, thereby fully addressing the above concerns and impacts that would otherwise arise if the Bill were passed without amendment.

MSBA trusts that the Assembly will hear our concerns and the voices of our members. We ask that the Committee make the decisions, and necessary amendments, to protect and preserve the essential relationships that govern public education in Manitoba.

Conclusion

Bill 38 represents meaningful progress— progress that reflects years of advocacy, partnership, and principled dialogue. MSBA thanks the Legislative Assembly for the opportunity to provide this brief and urges Members to support the passage of Bill 38 as it relates to *The Manitoba School Boards Association Amendment Act*.

By removing structural barriers and enabling equitable access to shared resources, this legislation helps all of us continue the climb the mountain described by the late Murray Sinclair, toward greater reconciliation, equity, and excellence in education across Manitoba—for the benefit of our present but especially of our future generations.