

# Expanding Choice

## in Ontario's Public Schools

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## Executive summary

Providing families with greater opportunities to choose between schools has emerged as a powerful way to improve education. In addition to enhancing student achievement, school choice stimulates innovation, encourages efficiencies, promotes diversity, and typically leads to increased satisfaction among parents and the public. For these and related reasons, more than two-thirds of OECD countries have adopted policies increasing the school choices available to their families.

With the exception of Ontario, Canada's larger provinces have been part of this trend, each offering funding to non-public independent schools that make them more affordable to interested parents. Ontario does not do this: Commitment to a strong public system, polarized views on Ontario's Roman Catholic separate schools, and opposition to funding independent faith-based schools have helped keep this way of encouraging school choice off the Ontario policy agenda.

But school choice does not depend entirely on providing government support for independent schools. As demonstrated in many OECD countries and several Canadian provinces, choices within the public system are a possibility. This paper explores how this may be achieved in Ontario by addressing the question, "could school choice be expanded in Ontario's public schools?"

The paper considers three kinds of school choices currently available within Ontario's public school system. The most numerous are the Catholic separate and Francophone schools operated by their own school boards, but only available to eligible families. French immersion schools provide a form of choice open to all where available. Additional choices, provided locally, are offered through various alternative and specialized schools operated by some school boards.

School choice in Ontario can be extended to more families by expanding locally provided options through two complementary initiatives: (1) open enrolment and (2) school diversity. Open enrolment would give parents the right to enrol their children in any public school they are qualified to attend, replacing school assignment by postal code with realistic

school choice. Policies establishing open enrolment in other Canadian provinces such as British Columbia have demonstrated the real world benefits of open enrolment and can provide a framework for reform in Ontario.

Choice is pointless without meaningful options. Meaningful school choices within Ontario's public system will necessarily be created at the local level by individual school boards. To this end, legislative changes are recommended to empower and encourage boards to establish a wide range of alternative schools and programs in response to requests from parent and community groups. Adoption of a broad definition of alternative schools similar to that in place in Alberta would allow boards to establish schools using a specific teaching philosophy or emphasizing a particular language, culture, subject-matter, or religion. Any religiously oriented alternative school would necessarily be required to conform to Ontario regulations and jurisprudence.

In such cases and all others, the key point is that the nature of alternative schools would be decided by elected school boards through discussions with parent and community groups. Schools could feature art, music, hockey, or some other activity, emphasize a particular language, embrace Montessori, traditional or progressive educational approaches, be infused with Aboriginal or other cultural values, emphasize math, science, or literature, or take some other acceptable form, subject to provincial curricular and operational requirements.

A rich diversity of such schools would introduce a measure of increased competition into the public system which could be expected to have a positive effect on academic achievement and parental and public satisfaction. Education professionals, especially teachers, could also benefit from opportunities to join more motivating work environments.

## Introduction

Over the past half-century many modern industrial democracies have adopted reforms allowing parents and their children greater freedom to choose between schools. Providing accessible alternatives to the government directed and managed common school to which parents are typically required to send their children introduces competition which, in turn, stimulates innovation, encourages efficiencies, promotes diversity and, as discussed by Walberg (2007), increases parental and public satisfaction. More diversified, decentralized, and distributed approaches to the management and delivery of education which promote choice are also associated with performance gains across the socio-economic spectrum. As Woessmann, Luedemann, Schuetz, and West (2009) concluded from their analysis of PISA test results from over a quarter of a million students in 37 countries, “rather than harming disadvantaged students, accountability, autonomy, and choice appear to be tides that lift all boats” (p. xi).

Five Canadian provinces representing fully half of national K-12 enrolment encourage school choice by providing grants that make non-government private schools more financially accessible to parents. Ontario does not. Thirty years ago the Shapiro Commission recommended measures that would have widened school choice in the province if they had not been overtaken by events. Since then, a quartet of restrictive court decisions (Dickinson and Dolmage, 1996), two general elections in which school choice was among the rejected issues (Pennings, Van Pelt, and Van Pelt, 2007), and a public that has become increasingly satisfied with its public schools (Hart, 2012: table 1.4) have effectively removed school choice from Ontario’s political discourse. The situation is exacerbated by the public’s polarized views on Ontario’s Roman Catholic separate schools and broad opposition to providing similar public funding for independent faith-based schools. While 36 percent of respondents to a 2012 opinion survey supported continuation of publicly funded Catholic separate schools and 18 percent were in favour of publicly funding all independent (private) schools, a scant six percent supported extending funding to only religious independent-private schools (Hunt, 2012: table 2.4).

In addition to Ontario, Alberta and Saskatchewan also have separate school systems. In all three provinces these publicly funded and governed systems provide religious schools for children of Catholic families and small handfuls of Protestants.<sup>1</sup> Both Prairie provinces also provide limited and conditional funding for schools outside their public systems (i.e., independent-private schools). Ontario's failure to provide similar funding for its private schools gives its Catholic parents a degree of publicly financed school choice denied to other families. In practical terms this choice is largely limited to choosing between Catholic or secular neighbourhood elementary schools, both of which are subject to similar curriculum, staffing, and operational requirements. Yet parents of around a million non-Catholic Ontario students are denied this choice.<sup>2</sup>

As Egerton Ryerson, the architect of Ontario's public schools, declared in his 1853 Annual Report, "The law [establishing separate schools] has to do with individuals and individual rights, not with religious persuasions or ecclesiastical authorities" (Walker, 1955: 144). Then and now the religious identity of Ontario's separate schools dominates their reality. Yet it was the right to choose that brought them into being, sustained their existence, and which, through their survival, they have preserved for all unto modern times. That this right has remained shackled to a specific religion should not blind us to its essence. The key issue is not religion, but choice: the capacity to freely choose educational opportunities from readily accessible options, be they religious or otherwise.

This paper considers how more parents and students may come to benefit from expanded choice within Ontario's public school systems. Ideally, the discussion would consider how parents and students could be empowered to choose any school satisfying appropriate standards, whether operated publicly or privately. This paper with its narrower focus on the question of whether increased choice is possible within the existing public systems does not preclude further investigation of how choice is arranged, and might be more extensively delivered, outside of the public systems in Ontario.

The paper is organized into three main sections. The first provides basic information on school choice including how choice is delivered in both public and private settings. For background, it also presents a brief

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<sup>1</sup> There are currently two Protestant separate schools, the JK-8 Burkevale Protestant Separate School in Penetanguishene, Ontario, enrolling 230 or so students, and the K-12 Englefeld Protestant Separate School in Saskatchewan enrolling slightly fewer than 100 students.

<sup>2</sup> There were in the order of 1.38 million students attending non-Catholic public schools in Ontario in 2012-13, some 922,000 of whom were enrolled in elementary schools (Ontario Ministry of Education, 2014b).



discussion of how private education is compatible with public education. The second section gives readers an overview of public education and school choice in Ontario as presently constituted with some discussion of the situation elsewhere in Canada and internationally. The final section offers suggestions on how best to expand school choice within Ontario's public system.

# 1. School Choice Basics

School choice policies can be divided into two broad categories: those that increase choice within public education systems and those that assist parents to choose options outside public systems. In the first case, reforms promote diversification among public schools and the programs they provide, and encourage selection among the options created. In the second, financial assistance is provided to help families choose private schools or other forms of acceptable instruction such as on-line learning or home schooling. Hybrid options are obviously possible and could include part-time participation in a selected public school augmented by instruction through one or more non-public options. In any and all of these cases, a child's educational opportunities no longer depend on the environments in the local public school which he or she would otherwise be required to attend. And by eliminating the largely guaranteed enrolment of neighbourhood children and the tied government funding they bring with them, all public schools and their governing school boards are encouraged to improve by having to compete for students and funding.

Specific policies enabling school choice can vary greatly in the degree and form of the choices created, the extent to which they are targeted at defined populations, the level of compliance imposed by the enabling legislation or regulatory agencies, and the form and level of support provided from public funds.

## Choice within public education

Within the public system, choices include entitlement-based options such as Ontario's provincially mandated separate and French language schools, school board provided options such as French (and other language) immersion programs, alternative schools, magnet schools, and charter schools. Open enrolment reforms enable parents and pupils to choose from the options created by eliminating or increasing the permeability of attendance boundaries. Eliminating the requirement to attend designated local schools stimulates competition between public schools. This encour-

ages diversification, creating a menu of choices within the public system from which parents and students can choose.

Charter schools are part of public education systems by definition: they operate under the terms of binding contracts (charters) entered into by an authorized state agency on behalf of the public, are usually fully government financed, are usually prohibited from charging tuition fees, and are open to all. They can offer attractive choices for parents by being able to focus on a distinctive mission while remaining less encumbered by the full range of bureaucratic procedures and constraints limiting conventional public schools. They are often allowed to operate independently of provisions in local collective bargaining agreements, providing greater flexibility in staffing, compensation, and scheduling. This enables many charter schools to adopt alternate teaching schedules, provide after school tutoring, or experiment with other pedagogic innovations. They are often subject to reporting requirements and other accountability measures exceeding those used to assess the performance of conventional public schools, making charter schools more answerable for their public funding in this important sense. Charter schools are currently available in only a single Canadian province (Alberta<sup>3</sup>), but in no fewer than 42 US states (NAPCS,<sup>4</sup> 2015). Twelve other OECD countries have adopted reforms that include “the creation of new autonomous public schools to offer new options from which parents can choose” (OECD, 2010: table D5.6<sup>5</sup>). These reforms in other OECD nations may not have created schools fully conforming to the North American image of charter schools, but the concept of autonomous public school nicely captures the essence of this approach to enhancing choice within public systems.

The National Centre for Education Statistics [NCES] reports that as of 2013, 23 US states had adopted policies requiring open attendance within school board districts and 21 had mandated open attendance

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<sup>3</sup> Where the enabling legislation caps the total number of such schools allowed at 15. The 13 reported in operation in 2014 were spread over 23 buildings, mainly in Edmonton and Calgary (Allison, 2015: 290).

<sup>4</sup> The National Alliance for Public Charter Schools. This data source reported 6,440 charter schools in 42 US States and the District of Columbia enrolling 2,513,634 students in 2013-14. NAPCS data show that charter schools account for 7.2 percent of all US public schools and enrol 5.4 percent of public school students. The net annual growth rate from 1999-00 to 2013-14 is reported as being in the 6 to 7 percent range.

<sup>5</sup> The count is for either or both elementary and lower secondary (junior high) schools. Note table D5.6 is not included in either the print or download (PDF) versions of *Education at a Glance 2010*, but is available on line at [dx.doi.org/10.1787/888932310548](https://dx.doi.org/10.1787/888932310548). This is an XLS file which includes all tables and graphics from chapter 5, including those only available online (tables D.5 to D.12).

across districts (2015: table 4.2). Excluding the United States, 21 of 29 (91%) OECD countries allow students free choice of public schools when places are available, subject to some restrictions and, in most cases, proper application (OECD, 2010: table D5.1, p. 421-22). British Columbia<sup>6</sup> and Manitoba have legislated province-wide open attendance policies as a key part of their school choice strategies. Various school boards elsewhere in Canada have adopted open boundary policies for their schools, but the practice does not appear to be widespread (Allison, 2015: 294).

## Choices outside public education

Policies enabling parents to choose education options outside of public systems are themselves of two general kinds: grants paid directly to non-public schools which allow them to reduce their fees, and voucher and related schemes that transfer funds earmarked for education to households. Support for non-public schools varies considerably across jurisdictions.

The OECD distinguishes between government-dependent private education institutions, defined as those receiving more than 50 percent of their core funding<sup>7</sup> from government agencies, and independent private institutions receiving less than 50 percent of core funding from government sources. Specific funding arrangements are complex, but 23 of 30 OECD nations (77%) reported the presence of dependent private schools in 2008 which, by definition, receive more than half of their operating costs from public funds (OECD, 2010: table D5.7<sup>8</sup>). US private schools qualify for various limited and proportionally quite small levels of financial support under federal legislation such as the *No Child Left Behind Act* (Nonpublic Education, 2008). Five Canadian provinces (Alberta, British Columbia, Manitoba, Saskatchewan, and Quebec), accounting for slightly more than half (51.4%) of national K-12 enrolments, currently provide grants to non-government operated schools with the majority of the supported schools in each province being eligible for 50 percent or more of

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<sup>6</sup> For additional information on the results of British Columbia's open enrolment reforms, see Friesen et al., 2015.

<sup>7</sup> "Core funding' refers to the funds that support the basic educational services of the institutions. It does not include funds provided specifically for research projects, payments for services purchased or contracted by private organisations, or fees and subsidies received for ancillary services, such as lodging and meals." Schools in which the teaching staff is paid directly or indirectly by a government agency are classified as government dependent. Ownership of facilities is not considered. The classification does not necessarily refer to the level of state regulation (OECD, 2015).

<sup>8</sup> Table D5.7 is only available online. See footnote 5.

the per-pupil operating funding provided to public schools (Allison, 2015: 294; Van Pelt, Clemens, Brown, and Palacios, 2015).

Because of constitutional limitations on funding religious schools in the United States, non-public school choice initiatives have focused on school vouchers and similar plans. As popularized by Nobel laureate Milton Friedman (1955), vouchers would become the sole source of public funding for all schools, private and public. Chile and Sweden have implemented national voucher-based choice schemes which approach such universality, but the voucher plans currently in place in the US and other OECD countries are more akin to state-funded scholarships for designated student populations, usually from lower income households. Variants of these include education savings accounts and tax credits which, depending on the terms of specific plans, may be used to pay tuition fees or meet the costs of other education options, such as homeschooling. Tax-credit scholarship plans provide deductions for taxpayers making contributions to independent scholarship programs. In June 2015, Nevada became the third US state to provide an education savings account program. Under this program, 90 percent of the funds that would otherwise be allocated to public schools can be deposited into accounts controlled by parents, who can use the money to purchase a customized education for their children. Unused funds can be rolled over to the following year, generating the potential for reducing education costs (Burke, 2015).

The Friedman Foundation (2015) identifies 22 distinct voucher programs in operation in 15 US states, as well as 18 tax-credit scholarship programs in 14 states, with seven states offering education tax credits and two providing education savings accounts.

No Canadian provinces fund voucher programs,<sup>9</sup> but Ontario did provide a modest tuition tax credit program, the Education Equity Tax Credit, for a short time (Van Pelt, 2015). Excluding the US, 10 of 29 OECD countries (35%) were reported as operating voucher-like scholarship programs in 2008. Eight of these programs were targeted at students

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<sup>9</sup> Canada's separate schools have been treated by some as examples of voucher plans (e.g., Card, Dooley, and Payne, 2008b). This interpretation overlooks how the funds designated for the defined beneficiaries are disbursed to legislatively created and constitutionally protected school boards, rather than households. As discussed in more detail later, qualified families are able to choose between schools operated by two different legislatively established school boards, but in Ontario and Saskatchewan they will usually be required to send their children to the neighbourhood schools designated by the boards' attendance zones, contrary to the principle of school choice which voucher schemes are expected to advance. Alberta's choice-favourable attendance legislation further complicates the situation in that province, but this legislation, together with the less restrictive admission policies of Alberta separate boards, does move this situation closer to voucher principles.

from lower socio-economic backgrounds (OECD, 2010: table 5.12). Funds made available through all of these programs could be redeemed at public schools as well as dependent private schools, but only three countries (France, New Zealand, and Poland) were reported as allowing vouchers to be redeemed at independent private schools as previously defined.

## School choice versus public education?

School choice has been portrayed as hostile to public education. An illustrative example is provided by the Elementary Teachers' Federation of Ontario [ETFO] 2000 publication, *A Promise to Ontario's Children: Public Education Is Not for Sale*. The document decries school choice as a threat to public education, explicitly declaring ETFO's opposition "to vouchers, charter schools, and providing public money for the operation of private schools" (p. 1). Yet there is nothing inherently inimical or contrary to public education in either the idea of school choice or the ways in which it has been implemented in so many countries. Indeed, as illustrated in the preceding paragraphs, school choice has become an integral feature of many public education systems around the world. Publicly funded or supported scholarship programs, publicly chartered schools offering innovative programs, and grants to publicly regulated but privately operated schools that make them affordable for many more families are simply alternate ways of providing government regulated education for the public and the public good. By failing to recognize or accept that the purposes of public education can be achieved in multiple ways, attempts to paint school choice as an inherent threat to established approaches confuse ends with means. In doing so, such restricted views perpetuate a distorted and privileged view of public education that misrepresents the benefits of school choice. Moreover, attacks on school choice typically obfuscate or minimize both the educational gains and economic savings that characteristically flow from increased competition between schools, as recently summarized by Clemens, Palacios, Loyer, and Fathers (2014). Critics often contend that school choice benefits only children from privileged homes, but as the quotation from the massive Woessmann et al. (2009) study given in the introduction illustrates, the advantages of school choice are a rising tide that benefit children from all walks and stations in life.

## 2. School Choice in Ontario

School choice in Ontario has steadily increased over recent decades through the extension of options within the public system: Francophones have gained their own school boards and increasing numbers of publicly supported schools; French immersion programs have expanded substantially; Catholic high schools are open to all students; high school programs have diversified; various public and separate boards have opened new alternative schools and programs. In addition, private school enrolments have continued to increase despite the continued absence of government funding. Increasing participation in all of these alternatives signals potential demand for increased school choice in both the public system and private sector.

The time is long overdue for a serious conversation about the merits of enhanced school choice in Ontario. The discussion offered below contributes to this conversation by considering how education choice could be further increased within Ontario's public schools.

With a total enrolment slightly in excess of two million, Ontario has the largest public school system in Canada, representing 53 percent of the combined public system enrolments of all other English-speaking provinces.<sup>10</sup> It also has the largest school board districts, with average enrolments of 28,198.<sup>11</sup> Curriculum is centrally prescribed by the Ministry of Education, although teachers and schools have variable levels of pedagogic discretion. School autonomy is nonetheless constrained by local board policies, administrative procedures, and staffing and working conditions specified in collective agreements.

As table 1 shows, four different kinds of elected school boards operate the almost 5,000 public schools in Ontario, with varying levels of enrolment. Overall, the 35 public (secular) boards enrol 68.3 percent of

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<sup>10</sup> Including bilingual New Brunswick (enrolment 101,079). Headcount enrolment data from Van Pelt, Clemens, Brown, and Palacios (2015).

<sup>11</sup> Calculated from Ontario public schools enrolment 2012-13 database (Ontario Open Data, 2014) after excluding four very small, mainly northern school boards (see Table 1, ftn 1). Total average enrolment is lowered by the relatively small enrolments of French language boards. Average enrolment for the 60 English language district boards is 32,192.

**Table 1: Public schooling in Ontario**

		Public (Secular) <sup>1</sup>		Separate (Catholic)		Totals	
		Number	Percentage	Number	Percentage	Number	Percentage
English Language	Boards	31		29		60	
	Schools	3,108	63.4	1,360	27.8	4,468	91.2
	Students	1,361,134	67	571,132	28.1	1,932,266	95.1
French Language	Boards	4		8		12	
	Schools	130	2.7	301	6.1	431	8.8
	Students	26,740	1.3	71,957	3.5	98,697	4.9
Totals <sup>2</sup>	Boards	35		37		72	
	Schools	3,238	66.1	1,661	33.9	4,906	100
	Students	1,387,874	68.3	643,089	31.7	2,031,195	100

Notes:

Percentages are for the table as a whole.

1 Excludes Penetanguishene Protestant Separate School Board (1 school, 232 students) and three small, isolated northern boards enrolling a total of about 730 students.

2 Excludes 120,198 students enrolled in private (independent) schools and 5,680 registered as home schooled.

Sources: Board and school data from *Ontario public schools enrolment 2012-13* database as modified October 9, 2014; student data from Van Pelt, Clemens, Brown, and Palacios, 2015.

students, the 37 separate (Catholic) boards a little less than a third. French language boards enrol 1.3 percent and 3.5 percent of secular and Catholic students respectively.

Both official and conventional nomenclature can be misleading. While officially designated as Roman Catholic separate boards, these 37 districts and their 1,600 plus schools are fully part of the public system: they are funded under the same regulations as are the non-religious public Anglophone and Francophone boards and, except for a few significant differences, are equally subject to the *Education Act*, regulations, and Ministry of Education requirements, including the provincial curriculum. As such it is more meaningful to refer to these two kinds of boards as “public-secular” and “public-separate,” as will be done below.

There are an additional 120,000 or so students—almost six percent of the total in the public system and 20 percent more than the French language total—attending non-public independent schools, which are



officially designated private schools. Unlike Quebec and the four western provinces, Ontario does not provide financial support for its non-public schools, nor does it offer financial assistance to help parents choose private schools. Indeed, Ontario's private schools appear to be more tolerated than celebrated by the educational establishment (Allison, 2013). There is nonetheless a relatively wide range of limited school choices available within the public system. These are discussed below under the headings of structural, sponsored, and local choice.

## Structural choice

As table 1 shows, Ontario offers school choice to eligible families who qualify on religious and linguistic grounds. Catholic and Protestant minorities first acquired school choice rights before either Ontario or Canada came into official being, the first separate schools having been authorized in 1841.<sup>12</sup> After much argument, the 1863 *Separate School Act*—known as the Scott Act—codified the rights of the denominational minorities to establish, govern, operate, and receive public funding for separate schools in Ontario. These rights were subsequently protected by section 93(1) of the *Constitution Act 1867* (originally the BNA Act) which prohibits provincial legislatures from enacting laws that would “prejudicially affect” the rights to denominational education granted by law at Confederation. Similar rights protecting separate schools were extended to Alberta and Saskatchewan when they entered Confederation in 1905.

Protected rights include the authority of denominational boards to limit admission to elementary schools on the basis of religion. In practice, separate school administrators in Ontario have discretion to admit children from non-Catholic families in accord with the policy established by their school board. Ontario separate boards usually require pupils or parents to be baptized Catholics, participants in a pre-baptismal program, or members of a recognized Christian church. If exceptions are made, parents are required to agree to their children's participation in all instructional activities, including religion classes.

Religious restrictions on admittance only apply at the elementary level (JK-8). Section 42 of the Ontario *Education Act* authorizes open access to English speaking secondary schools, granting non-Catholics the legal right to attend Catholic high schools. Section 42 also exempts non-Catholic students who are attending a Catholic high school from participating in religious education courses or programs when the request

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<sup>12</sup> This authorization came about through the Common School Act, passed by the United Legislature of Canada East and Canada West.

is made in writing, as recently confirmed in *Erazo et al. v. Dufferin-Peel Catholic District School Board* (Coulman, 2014). Even so, non-Catholics are normally expected to participate in religious education classes and the spiritual life of the school unless so excused.

Section 52 of the *Education Act* authorizes Roman Catholic boards to “establish and maintain programs and courses of study in religious education.” Separate schools also infuse the spirit of Catholicism into their teaching and everyday life. Even so, the K-8 Religious Education curriculum document authorized by the Assembly of Catholic Bishops of Ontario (2012), stresses the importance of developing critical thinking and research skills (pp. 48-54), and draws attention to the mandated requirement for all school boards to adopt policies consistent with *Ontario's Equity and Inclusive Education Strategy* (Ontario Ministry of Education, 2009a). “The religious education program in Catholic schools,” the curriculum document explains, “directly addresses issues of equity and inclusivity” by helping promote a climate “where all members of the school community feel safe, welcomed and accepted” (p. 59).

Ontario's French language school boards were created in 1997 to implement the minority language educational rights recognized in s.23 of the *Canadian Charter of Rights and Freedoms*. These rights guarantee access to publicly funded, Francophone governed and managed French language schools for eligible students where numbers warrant.<sup>13</sup> Section 293 of the *Education Act* authorizes French language boards to admit students who are not s.23 rights-holders on the recommendation of a school admissions committee. Current policy encourages enrolment of non-rights holders considered to have sufficient proficiency and interest to succeed in a French language instructional environment (Ontario Ministry of Education, 2009b).

Ontario parents are normally required to send their children to a designated school on the basis of attendance zones established by school boards. Boards may permit enrolment in out-of-zone schools on request, but policies vary, some allowing more permeable boundaries than others. The constitutionally guaranteed rights of Catholic and Francophone parents nevertheless allow them to choose between schools operated by

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<sup>13</sup> The extent of this right and especially the interpretation of the minimum number of students required to trigger provision of a minority language school was clarified in two landmark rulings by the Supreme Court of Canada, *Mahe v. Alberta* in 1990 and *Arsenault-Cameron v. Prince Edward Island* in 2000. In *Arsenault-Cameron* the court ruled that 49 students were sufficient to require the construction of a new French language school on the assumption that a new facility could be expected to attract additional students.

different boards:<sup>14</sup> Catholic parents can choose to send their children to either their designated separate or secular elementary schools; eligible Francophone parents can choose between English and French first language schools or, if they are also Catholic, between elementary schools operated by any of Ontario's four kinds of school boards. In all cases, the schools chosen (English public, French public, English separate and French separate) are part of the public system, fully financed from the provincial treasury, governed by elected school boards, and administered by provincial and local officials.

It needs to be noted that parents willing and able to pay the necessary fees have the additional option of sending their children to a private Catholic, Francophone, or bilingual school. Perhaps surprisingly, there are at least 14 private Roman Catholic schools in Ontario.<sup>15</sup> As discussed by Michael Coren (2013: 184), these schools were founded to meet parental preference for an education adhering more closely to Catholic teachings than that provided in the public separate schools.

## Elementary school choice and competition

Due to the declining school-aged population, overall Ontario public system enrolments declined 4.6 percent in the decade from 2003-04 to 2012-13 (Clemens, Van Pelt, and Emes, 2015: table 2), increasing competition for students, each of which represents a guaranteed income unit for school boards. At the elementary level, choice is primarily limited to Catholic and Francophone pupils. Not all eligible parents exercise the choice options available to them. Nonetheless, Card, Dooley, and Payne (2008a) found that when new Catholic elementary schools opened in rapidly growing residential areas of Ontario with high proportions of Catholics, there was an almost ten percent decline in public-secular school enrolments (p. 4). Catholic parents were also found to switch from public-separate to newly opened public-secular schools, but at a less pronounced rate, separate

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<sup>14</sup> Catholic and Francophone parents in Alberta and Saskatchewan have similar rights, but they are not as universally available due to geographical limitations in the areas served by Catholic and Francophone boards. Francophone parents in all other English-speaking provinces also have access to French language schools where available, as do English-speaking parents in Quebec, although access is limited under Quebec legislation.

<sup>15</sup> There were 14 schools identified as having a Roman Catholic affiliation on the Ministry of Education's 2015 list of private schools. Given that not all of the schools on the list have declared an affiliation, there may be more than 14 Catholic private schools in Ontario.

school enrolments declining by an average of four percent. Non-Catholic parents, of course, do not have the same options unless granted permission to enrol their children in a separate school. Media reports suggest separate schools have been accepting increasing numbers of non-Catholics in recent years (e.g., Brown, 2014), but no data are publicly available. Even so, the numbers of pupils involved under current policies will necessarily be small given the limited size of the pool of potentially admissible non-Catholics—who will have to belong to an acceptable Christian denomination.<sup>16</sup>

Competition for students can be expected to prompt schools to be more responsive to parent and student needs and expectations. The Card, Dooley, and Payne study reported evidence of just this. No statistically significant differences in test scores were found between secular and separate schools overall, but differences were found in the areas where school switching was most prevalent. In those areas, both secular and separate schools had significantly greater gains between grade 3 and grade 6 provincial test scores (2008b: table 7). It appears that Ontario Catholic parents are not only willing to exercise the school choice options available to them, but the increased competition for students that results is associated with improvements in test scores in *both* separate and secular public schools competing for students. On the basis of their findings, Card, Dooley, and Payne (2008b) concluded that “extending choice to all students in the province would lead to gains in 6th grade reading and mathematics scores on the order of 0.06-0.08 of a standard deviation, with larger effects in fast-growing areas” (p. 33).

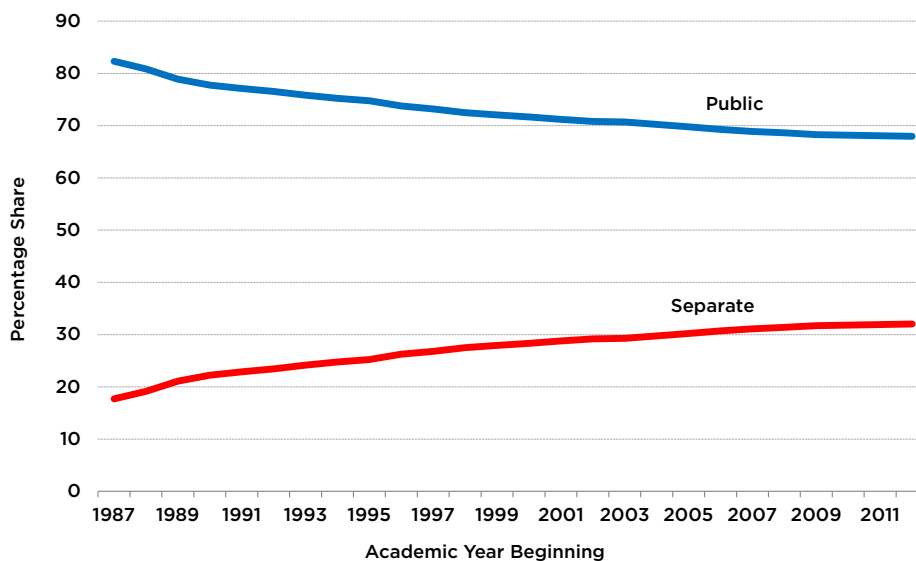
## Secondary school choice and competition

Open access to Catholic secondary schools was introduced in the political negotiations following Ontario's 1984 decision to extend full public funding to separate high schools (Dixon, 2003: 252-61). Prior to this change, grades 11-13 in Catholic high schools functioned as private schools. Extension of funding effectively resulted in the transfer of some 25,000 students from private to public schools, which was probably the largest such movement in modern North American history. Since then, separate

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<sup>16</sup> While Roman Catholics comprised Ontario's largest declared denomination (3.9 million) in Statistics Canada's 2011 National Household Survey—exceeding even the 2.9 million declaring no religious affiliation—they were nonetheless a slight minority (48.4%) of all declared Christians (8.2 million). Yet it is by no means evident which members of the many different forms of Christianity would wish to have their children attend a Roman Catholic school, or which would be considered admissible by separate boards and their officials (see Statistics Canada, 2013).

**Figure 1: Public-secular and public-separate secondary school enrolments, 1985-86 – 2012-13**



Sources:

Data from 1985-1991: Ontario Ministry of Education (n.d.). Table 3. Enrolment in elementary and secondary schools, 1978, 1980, 1985-91. *1990-91 Key Statistics: Elementary and secondary education in Ontario*.

Data for 1992-2012: Ontario Ministry of Education (various). *Quick Facts: Ontario schools (various dates)*. Queen's Printer.

Notes:

Enrolments include all publicly funded secondary school students from grades 9 to 13/OAC or grade 12, as applicable. Grades 9 & 10 were funded at elementary levels until 1985. Funding for grade 11 began September 1985, and was extended to grades 12 and 13/OAC sequentially over the following two years (see Dixon, 2003: 261-263).

The data are simple percentages of the total to show smoothed shares of total enrolment.

schools have continued to increase their share of secondary level enrolment as shown in figure 1: while the number of students attending secular secondary schools declined 13 percent over the two decades from 1993-94 to 2012-13, enrolment in Catholic schools increased by 28 percent. This elevated the provincial share of secondary students attending Catholic high schools from 24.8 percent to 32 percent, which approximates the 31.6 percent of Catholics in the 15-24 age cohort (Statistics Canada, 2013). This suggests the increase in separate high school enrolment may have been largely driven by Catholic rather than non-Catholic enrolments. The data are lacking to investigate this possibility, but there is no lack of anecdotal

evidence pointing to an influx of non-Catholics as part of the increase. In addition to enjoying a good academic reputation, Catholic schools are widely seen as having clearer, more tightly focused missions and as placing a greater emphasis on discipline than are at least some public-secular high schools. Their academic reputation is supported by good results on comparative analyses of academic achievement from both the CD Howe and Fraser institutes. In his 2008 analysis for the former institute, Johnson places 11 Catholic boards among the 13 best performing Ontario boards.

Catholic boards recently gained a more mundane but powerful recruitment advantage when they were able to continue offering extra-curricular activities after these were shut down by a labour dispute in secular boards (Alphonso and Hammer, 2013). This provides an interesting example of district school systems rather than individual schools taking advantage of a marketing opportunity. Still, accounting for the explosion of enrolments in Catholic secondary schools is less important than the fact itself: whatever specific reasons individuals have for choosing a public Catholic over a public-secular high school, the availability of this choice within the broader public system gives substantial numbers of students and families options they would otherwise be denied.

Leonard's (2013) study of student attendance patterns in the Greater Toronto Area (GTA) during 1999-2004 offers some insight into student mobility between high schools within boards. Seven of the eight boards studied initially assigned secondary students to a designated school, but would accept requests to attend an out-of-zone school when space was available. In contrast, the Toronto Catholic District Board [TCDB] with 91,000 students has long had an open attendance policy offering direct access to any of its secondary schools with available space. Leonard found that an average of 41 percent of students attended other than their designated secondary school, whereas no fewer than 71 percent of students in the TCDB attended a secondary school other than the one closest to their residence. In the three smaller boards where choice was further restricted by fewer schools, out-of-zone attendance was less than 23 percent. Interestingly, Leonard's data showed very few students—less than one percent of the sample—crossing school board boundaries (p. 18), further implying that the numbers of non-Catholics attending separate high schools may be less than often thought, at least in the 1999-2004 period.

Leonard found students with higher grade 6 reading and math scores were most likely to attend schools outside of their neighbourhoods, implying they were attracted by the academic reputation or programs at their school of choice. We cannot know the full range of attractions for students that preferred to seek out a school not immediately to hand, but it nonetheless appears that the TCDB's open enrolment policy both allowed and

encouraged more students to choose schools they considered better suited to their needs. This further implies that the schools themselves were offering attractive choices, an assumption that is upheld by the rich variety of secondary school programs described on the TCDB website, as discussed further below.

## Sponsored choice

Following passage of the *Official Languages Act* in 1969, the federal government embarked on a program to promote second language instruction. Under the 2014-18 agreement negotiated with Ontario (Ontario Ministry of Education, 2014a), the province has committed to spend \$95.3 million annually on French as a Second Language [FSL] instruction in elementary and secondary schools, slightly less than a quarter of which (\$21.8 million) will come from federal transfers (p. 5). Almost two-thirds (64.3%) of the total is budgeted for optional immersion and extended<sup>17</sup> French programs. French immersion (FI) programs, in which French is the language of instruction for half or more of each school day, have become increasingly popular in recent years, especially at the elementary level. In 2012-13, Ontario enrolments reached 150,687, a 53 percent increase over the preceding decade (Ontario Ministry of Education, 2007 and 2014b). Due to their increasing popularity, demand has outstripped capacity in many urban and suburban areas. The large Peel District board south of Toronto (154,000 students), for example, recently capped immersion entries at 25 percent of grade 1 enrolment, with selection by lottery (Belgrave, 2014). Other Ontario boards, such as York Region north of Toronto (116,000 students) and the TDSB (256,000 students) have also instituted wait lists and lotteries to manage demand.

Parents appear attracted to French immersion programs for more than the obvious prospect of bilingual fluency which, it appears, may be more elusive than real. Willms' (2008) study of FI programs in New Brunswick found they attract parents of higher socio-economic status, echoing a finding from an early study by Olson and Burns (1983) that documented significantly higher family incomes for immersion students in a northern Ontario community. Compared to many other public schools, FI classrooms tend to have fewer children on special education plans or with

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<sup>17</sup> In extended French programs, French is taught as a subject and used as the language of instruction for at least one other subject. These programs attracted less than one-fifth (18.3%) of total Ontario French immersion enrolments in 2012-13. Enrolment also remained essentially stable over the 2002-03 to 2012-13 period (-0.4% change) (Ontario Ministry of Education, 2007 and 2014b).

behavioral issues (Willms, 2008: 92). Reporter Margaret Wentz (2013) recently characterized the attraction of French immersion schools by observing, “French immersion is... a way to get the benefits of a top public school even if you can’t afford to live near one.” Or, as she put it more candidly, “The main allure of French immersion is that it provides all the benefits of a private school without the tuition costs (or so parents hope).”<sup>18</sup>

French immersion schools are obviously not private schools, but they do provide what is by far the largest school choice option for non-Catholic parents in Ontario. By way of comparison, FI elementary and secondary enrolments stood at almost 175,000 in 2012-13, which is a third more than total private school enrolments (Ontario Ministry of Education, 2014b). Immersion enrolments have also grown much more rapidly than private school enrolment. Unlike the constitutionally protected structural choices reviewed earlier, FI programs are available to all parents in English language secular and separate boards offering immersion programs, which almost all do. The continuing popularity of FI programs can be sensibly interpreted as a strong indicator of parental interest in school choice.

A more recently established set of sponsored choices available in Ontario’s secondary schools builds on the Ministry of Education’s (2005) Student Success Initiative. The program relies on individual boards and schools to design and implement a range of optional programs intended to retain students in school and assist them to gain the course credits required to graduate. The Specialist High Skills Majors [SHSM] component is a particularly notable option that allows schools to provide pathways leading to employment or post-secondary study through bundled courses and supervised experiences grounded in 19 different economic sectors, including agriculture, business, construction, and manufacturing (Ontario Ministry of Education, 2015). Schools elect to concentrate on selected sectors, allowing them to build on their strengths and develop locally appealing options. These programs have been rapidly adopted by schools across the province and appear to have become very popular (Benedict, 2014). Initially established in 2006, there were over 1,000 SHSM programs operating in more than 530 schools by 2010, enrolling more than 25,000 students (Ontario Ministry of Education, 2010).

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<sup>18</sup> Eminent Canadian education scholar Mark Holmes (2008) offered a similar assessment, observing that “French immersion usually requires travel out of zone, and it is seen by many as a private education without tuition...” (p. 200).



## Local board-provided choice

One well publicized example of school choice provided by a local board is TDSB's Africentric program, which opened in 2009 after considerable controversy. Commenting on the expansion of the program in 2011, then Education Minister Laurel Broten said, "We give our boards the responsibility to determine how they are going to ensure that their students are successful" (Jenkins, 2011). Different boards have discharged this responsibility in different ways. Some, such as the TDSB, develop a rich range of alternative and specialized education choices; others very few, if any.

At the secondary level, hundreds of public-secular and separate secondary schools across the province offer Advanced Placement [AP] or International Baccalaureate [IB] programs in addition to the Ontario Secondary School Diploma [OSSD]: 13 public (and five private) schools offer both AP and IB programs. Administered by the US College Board, the AP program is a two or four year university preparation program. Candidates doing well on final exams are eligible for first year course credits at participating universities. The AP website lists 237 accredited schools from 52 of Ontario's 72 (72%) public boards (<https://apstudent.collegeboard.org>). There were 5,307 AP examination candidates from Ontario in 2013, representing approximately 2.5 percent of public system Grade 12 enrolment. The IB Diploma program is an enriched, two year, comprehensive academic program with demanding expectations. The program is taught in almost 2,500 accredited schools around the world, of which 66 are in Ontario, 55 in public boards (<http://www.ibo.org>). Both the AP and IB programs complement and enrich official Ministry of Education courses, allowing students to graduate with an OSSD as well as the additional qualification. Admission is competitive and fees are usually charged to cover course related costs and examinations.

Other local choice options give access to different instructional approaches and specializations at various grade levels. Some are housed in stand-alone schools, others as schools within schools, and others as distinct programs within schools. The TDSB offers a particularly rich menu of choices, reflecting not just its massive size but a long tradition of accommodating community requests for alternative education opportunities. At the heart of the choices offered in the TDSB is its optional attendance policy, which commits the board to providing opportunities for students to enrol in schools and programs outside their assigned attendance area when space is available. The TDSB website lists 19 elementary and 21 secondary schools dedicated to alternative approaches and philosophies, such as the Hall-Dennis inspired progressivism of the Alpha school, its student-directed Alpha II sister high school, the OASIS secondary school

which houses the Triangle LGBT program, and the Waldorf inspired da Vinci elementary school (<http://www.tdsb.on.ca>). Many of these schools have been in operation for decades after being established through grass-roots initiatives by groups of parents. The TDSB website also lists an additional 13 specialized elementary academies, some of which have multiple campuses. These have been recently established by the board to enrich educational choices. They include boys' and girls' leadership academies, arts schools, and specialized programs for high performance athletes, as well as schools offering the primary and/or middle years IB programs (also offered by four other boards, including three French language boards). In addition to the AP, IB Diploma and SHSM options noted above, the TDSB website lists more than 30 other specialist secondary level programs including arts focus schools, an entrepreneurial academy (which capitalizes on SHSM course packages), and math, science, and technology programs.

The Toronto Catholic board also offers a wide range of locally developed choices, including St. Michael's Choir School for boys as well as nine other gender specific schools, and specialized arts and STEM (science, technology, engineering and mathematics) programs. Other boards have also established arts schools and programs as well as other specialized learning packages such as Peel District's International Business and Technology and Scitech programs.

In the absence of a comprehensive catalogue or detailed survey, the full range and extent of locally initiated school and program choices currently available in Ontario's public systems cannot be known. From the sampling offered above it nonetheless appears that a more than minimal range of choices is available in and around Toronto, and probably in other larger urban centres, with some boards offering richer choices, particularly the TDSB. It also appears that available choices have been increasing in recent years, presumably at least partly as a result of the increased competition produced by declining enrolments.

## Summary

When considered sequentially as in the previous pages, the structural, sponsored, and local choice options available within Ontario's public education system appear relatively substantial. Yet, as table 1 starkly demonstrates, the structurally derived choices granted to Catholic families dominate. In contrast, the most generous estimate of students enrolled in all the other public system choice options would not amount to half of the total separate school enrolments. The constitutionally protected options granted to Catholics are nonetheless binary options, essentially consisting of a choice between a designated school operated by the local separate

board, or a school operated by a secular board, both teaching substantially the same curriculum. Choosing French immersion rather than the standard program at the designated school distils to a similar binary choice: enrol in the assigned school or escape to the sole alternative. The comparatively fewer locally developed school and program choices offer much wider and far richer alternatives.

### 3. Beyond Separate Schools: Enriching School Choice in Ontario

A major goal of educational improvement in Ontario must be to promote greater choice for all parents, pupils, and education professionals. The overview given above of local choices in the two Toronto boards offers a sense of what is possible. Achieving this across the province will require policies encouraging greater diversity among schools on one hand, and freedom for parents and students to choose between them on the other. These two requirements are obviously mutually dependent: freedom to choose is meaningless if no competing choices are available. Freedom to choose is nonetheless a logical precursor to increased diversity, for once choice is possible, boards, schools and, at the secondary level, school and department leaders, can respond by offering alternatives to parents, pupils, and their education professionals. In essence, this is what has been happening in the secular and separate schools studied by Card, Dooley, and Payne (2008a; 2008b) as reported earlier, and through the proliferation of AP, IB and SHSM options in the province's secondary schools, through parental preference for French immersion programs, and in the local choice options developed by Toronto boards and others. The challenge is to encourage and sustain more grass-rooted choices of this kind.

#### 1) Open enrolment

The key that will open the door to enriched public school choice is to eliminate or greatly relax school assignment by residence: to replace education by postal code with education by choice. Ideally, parents and older pupils should be free to choose any academically suitable publicly funded and managed school they are entitled to attend, where entitlement is understood as eligibility to enrol in secular, separate, or French language schools.<sup>19</sup> This ideal is necessarily constrained by practical issues concern-

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<sup>19</sup> A fully ideal situation would empower parents and pupils to choose any school that satisfies government standards, with appropriate financial support being provided to assist financially challenged households to meet at least the bulk of fair fees charged by privately managed options.

ing accommodation and transportation: some schools will be unable to accommodate all those seeking admission, while more students than is currently the case will likely need reliable transportation if they are to attend their school of choice.

Such problems are routinely addressed in the more than 90 percent of US states and other OECD countries which have already adopted open enrolment policies, as well as in the relatively few Canadian provinces and school boards that have done so. The accommodation problem is typically addressed by giving initial precedence to local residents or, in the case of highly popular specialized schools, through a lottery, with waiting lists providing prioritized access after the initial enrolment period. Such measures are already used by Ontario boards to manage access to French immersion and some alternative schools.

The transportation problem can pose more complex challenges—but also offers opportunities for innovation. The usual practice is for parents to assume responsibility for transporting their children to and from their school of choice, unless busing can be provided within the established rules, as is the case now for many families choosing French immersion programs. School-specific transportation pools organized by parents or a private agency can offer a more convenient and efficient alternative in some cases, and it may be preferable to subsidize such options rather than relying on regular school bus services. Consideration could also be given to introducing modest busing fees, perhaps scaled to household income.<sup>20</sup> Regardless, neither the accommodation or transportation challenges are unique to Ontario. Both have been effectively addressed in many other jurisdictions and it can confidently be assumed they will be satisfactorily addressed in Ontario.

### *Intra and interdistrict choice*

Should the goal be open enrolment within the boundaries of individual school boards (intradistrict enrolment) as in Quebec, or should the policy also allow enrolment across school board boundaries (interdistrict enrolment), as in British Columbia and Manitoba?<sup>21</sup> Little would be gained by not instituting a province-wide policy of both intra and inter district enrolment, especially given the large geographical size of Ontario's district

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<sup>20</sup> The Drummond Commission (2012) on public finances in Ontario recommended consideration of modest transportation user fees for school buses (p. 221), as Alberta has already done.

<sup>21</sup> Alberta also has open enrolment but this is not spelled out as clearly in the pertinent legislation as is the case in BC and MB.

boards. Yet low population density and scattered settlement patterns limit opportunities for school diversity, limitations exacerbated by the continuing trend to larger schools. Existing school board boundaries are nevertheless compromises between the interplay of geo-historical and political influences that serve essentially administrative rather than educational ends. Moreover, the objective is to provide parents, pupils, and professionals with more meaningful *school* choices rather than protect the integrity of administrative boundaries. As such, the key issue is not so much protecting rural boards and their schools from the assumedly greater allure of larger, better equipped, just-over-the-boundary suburban schools, as it is providing boards and their schools with the flexibility to build on their potential to retain and attract clients. This will require even-handedness in government policies to avoid unreasonably tilting the competitive playing field one way or another. Government funding which, for example, encourages boards to create larger schools benefits boards serving more densely populated areas while imposing an unfair disadvantage on adjacent, less densely settled boards, placing their close-to-boundary schools at a potential disadvantage. Care needs to be taken to avoid introducing distortions of this kind when implementing a new interdistrict enrolment policy. It would be preferable to provide boards and their schools with equalized, cost-balanced funding and operational flexibility, allowing them to decide how best to respond to local needs.

The rules currently governing admission to Ontario's public schools are a legislative maze made more complex by outdated provisions for fees to compensate boards for now obsolete property tax imbalances generated by boundary-crossing students. Adoption of a new, province-wide open enrolment policy would have the added benefit of allowing much of the current byzantine maze of enrolment and attendance legislation to be repealed.

### ***Canadian models***

Those drafting Ontario's new open attendance policy can draw on the experiences of other Canadian jurisdictions as well as Ontario school boards which have implemented open boundary policies. In recommendations 38 and 39 of the *Commission on Private Schools in Ontario*, Commissioner Shapiro gave his rationale for an amendment to the *Education Act* that would have implemented open enrolment in Ontario 30 years ago (Shapiro, 1985: 61). The pertinent provisions in British Columbia's *School Act* and *The Public School Act of Manitoba* provide more modern guidance.

The heart of the British Columbia policy is Section 2(2) of the *School Act*, which declares "a person may enrol in an educational program

provided by a board of a school district and attend any school in British Columbia,” provided the person is of school age, resides in the province, and the board determines space and facilities are available. This sweeping entitlement is limited by additional rules prioritizing eligibility for admission in Section 74.1. Boards are required to define attendance zones for each school—called a “catchment area” in the legislation—and establish application deadlines for each school year. Pupils who were enrolled in the previous year and their siblings are accorded the highest priority in each admission cycle, including previously admitted out-of-catchment pupils. New applicants residing within the catchment area have secondary right of admittance as long as space remains available, followed by in-district, out-of-catchment area residents, followed by out-of-district residents. This approach retains attendance areas but they are, in Brown’s words, “made permeable” by these provisions (2004: 19). Section 74.1(2) provides that “A board must enrol all persons who exercise their entitlement to enrol in an educational program under section 2(1).” Exceptions are made for students who have been suspended or are 16 and over and deemed inadmissible on disciplinary grounds, but schools must admit all applicants that can be accommodated and cannot impose their own selective admittance criteria.

Manitoba’s approach is similar but has the advantage of explicitly recognizing choice of school as a parental right. Under the heading of “Rights of parents,” section 58.6 of the Manitoba Act states, “a person who is resident in Manitoba is entitled to enrol his or her child in a program in any school in Manitoba.” The Act establishes a hierarchy of admission priorities similar to that in BC, but also identifies more extensive grounds on which a principal may refuse admission. Ontario’s new open enrolment policy will need to ensure a proper balance between legitimate grounds on which out-of-area applicants may be refused admission and obstructing the goal of providing a truly open admissions policy.

A recently published study of British Columbia’s open admissions policy by Friesen, Cerf Harris, and Woodcock (2015) shows that parents are taking advantage of the educational opportunities created in the Lower Mainland. Their graphical analysis of enrolment trends shows out-of-catchment kindergarten enrolments increasing at a markedly steeper rate than French immersion or independent (private) school enrolments after the introduction of the open enrolment policy in 2002 (figure 1: 4).<sup>22</sup> As they concluded, “the fact that many more parents succeeded in enrolling their children in out-of-catchment schools demonstrates that the policy had a meaningful impact in the public-school choice opportunities avail-

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<sup>22</sup> Over the decade from 1996 to 2006, in-catchment kindergarten enrolments are shown as falling 13 percentage points as parents opted for French immersion, independent, and, after 2002, the new out-of-catchment choices.

able to many families” (p. 10). They also found modest academic gains on 4th grade tests, with stronger gains in more densely populated areas. They estimated that the increases in reading and mathematics scores in more densely populated areas were equivalent to the gains to be expected from reducing class sizes by two to three students, an option that would be considerably more expensive (p. 5). Finally, other analyses led them to conclude that “open enrolment did little to either segregate or integrate Lower Mainland students according to their cultural and ethnic backgrounds” (p. 10).

## 2) Encouraging school diversity

Ontario’s school boards could be an engine driving enriched public school choice in the province. The two Toronto district boards have demonstrated what can be achieved under current conditions. The belated implementation of three recommendations from the Shapiro Commission would validate the path to greater diversity those district boards have blazed and encourage others to follow.

### *Shapiro’s recommendations*

Commissioner Shapiro observed that while his consultations had shown general support for diversity within Ontario’s public school systems, school diversity was not at the time “sufficient to the even wider interests and values of the potential public school constituencies” (1985: 59). He considered “this could be due partially to a lack of recognition of alternative schools and programmes in the *Education Act* and regulations” (p. 59). His recommendation 36 was aimed at rectifying this by recognizing “alternative schools within school boards as legitimate educational enterprises” (p. 59). To this end, he called for explicit reference to alternative schools to be included in the *Education Act* and appropriate regulations. A straightforward way to implement this recommendation would be to amend the powers of school boards under section 171 of the Act to include the establishment and operation of alternative schools. As illustrated earlier by the quotation from Laurel Broten regarding Toronto’s Africentric school, this would, in essence, acknowledge already established expectations, but for the reasons Shapiro recognized it would be far preferable to write this into legislation. Recommendation 38 also proposed requiring each board to develop a policy regarding alternative schools and publish annual lists of those they operate. It concluded by urging the inclusion of a grant weighting factor for students enrolled in any alternative school during its first three years of operation. These would be modest



but welcome steps, the efficacy of which could be improved by adopting a broad definition of alternative schools and a mechanism for community groups to petition boards as discussed later.

Shapiro continued by expressing his belief that “increased educational diversity (and, therefore, choice) would be facilitated by some degree of decentralization of authority to the level of both the school board and the individual school” (1985: 60). To this end his recommendation 37 called for “strategies and programmes to provide greater autonomy to school boards and schools to enable them to better respond to local needs” (p. 60). This is a strategically crucial issue that has become more pressing with the recentralization of Ontario education policy and the increased presence of teacher unions in both provincial and board policymaking since Shapiro presented his report. Indeed, developments since that time have arguably served to counteract the intent of at least six of his ten specific recommendations for increasing local autonomy. One notable exception is his encouragement of greater program variation through course packages developed by individual secondary schools, prime examples of which are seen in the expansion of the AP and SHSM options discussed earlier. Those developments, as well as the proliferation of alternative programs in the Toronto area, demonstrate how progress to greater diversity is possible within the status quo, although the larger size and history of the Toronto boards has arguably had the effect of according them a level of independence denied to smaller, more dependent boards. Yet the crucial relationship is not so much that between the ministry and boards, but as that between the boards and their schools, specifically the extent to which board policy and administrative philosophy distributes leadership to and within schools. To this end, Shapiro’s recommended adoption of school based budgeting retains its potency.

Shapiro’s recommendation 35 urged amendment of the *Education Act* to allow schools to use a language of instruction other than English or French in the same way as is currently permitted for instruction in the second official language. This would allow boards to operate immersion and extended language programs in, for example, Italian, Chinese, Cantonese, Spanish, or Punjabi, these being the most frequently spoken mother tongues in Ontario in the 2011 census, accounting for some eight percent of the Ontario population.<sup>23</sup> As Shapiro observed, “in the complex cultural

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<sup>23</sup> Defined by Statistics Canada as “first language learned at home in childhood and still understood by the individual at the time of the census.” Definition and data from Statistics Canada (2012). Chinese includes all who gave this answer to the census question and may include persons with Mandarin, Cantonese, Hakka or some other language as their mother tongue. Cantonese represents all who gave this specific response to the census question.

mosaic of Ontario, a third language is often regarded as a community priority” and enabling instruction in a language other than the two official languages for part of the school day would “avoid the marginalization of minority cultures” (1985: 59). Ontario has long funded optional heritage language programs with the same intent. Originally introduced in 1977, these programs—renamed the International Languages Program (Elementary) in 1997—operate as part of a board’s continuing education offerings, and are thus not part of the regular elementary school curriculum. This contrasts with the policy of allowing languages other than English and French to be studied for secondary school credit.

Implementation of Shapiro’s recommendation 35 would allow third language programs to develop that would be similar to current French immersion programs, and could reasonably be expected to appeal to parents in a similar fashion. Alberta and Manitoba have gone a step further by adopting comprehensive language learning policies that allow instruction in a wide range of languages. Adoption of a similar policy in Ontario would provide opportunity for even greater linguistic and cultural diversification by enabling schools to offer subject-based instruction in languages in local demand. Such a move would not displace existing International Languages Programs offered outside of regular school hours. To the contrary, in-school instruction and out-of-school programs could be designed and delivered to complement one another, providing boards and schools with additional opportunities for designing attractive instructional packages, allowing more program choice.

### *Range of choice*

Freedom for parents and pupils to choose a public school and the complementary freedom of boards and schools to develop and offer a variety of diverse learning opportunities within the regulatory limits set by the province will open up a wide range of possibilities. As noted previously, the wide range of options provided by the alternative schools operated by the two Toronto boards illustrates what is possible. Yet, on a choices-per-pupil comparison, the multi-spectrum options made available by some Alberta school boards present an even richer vision of the extent to which public school systems can accommodate and thrive on school choice.

The legislation driving the extensive choice options available in Alberta’s public schools is section 21 of the *School Act* (Alberta, 2000), which authorizes boards to offer alternate programs in response to local demand. An alternate program is defined as “an education program that (a) emphasizes a particular language, culture, religion or subject-matter, or (b) uses a particular teaching philosophy,” but is not a special education program,

a program for s.23 French language rights holders, or a religious education program in a separate school. Inclusion of similar wording in Ontario legislation would empower boards and motivate parents by throwing wide open the doors to varied public school choice.

Some will balk at adopting the full scope of the Alberta definition, especially the inclusion of religion. In this respect and more generally, it is crucial to realize that school boards would retain the discretion to approve or deny any alternative program as they see fit. Adoption of Shapiro's recommendation 38 as urged earlier would simply recognize the power of Ontario school boards to establish alternative programs and schools, while adoption of the Alberta definition would clarify the form they can take. Neither would require an Ontario school board to open and operate any particular program. But a board would be unequivocally empowered to do so, while parents and community members would be given both a view of what would be possible, and grounds on which to petition boards for their preferred schools of choice. Further, boards would retain the discretion to establish their own policies and procedures for approving alternative schools, as recommended earlier. Moreover, any alternative school would remain fully subject to the curriculum and operational requirements imposed by the province. Pupils in an Aboriginal, Montessori, music, or Muslim alternative school would still study the subjects and content specified in the Ontario curriculum, just as do pupils currently enrolled in existing alternative schools, and they would take provincial Educational Quality and Accountability Office (EQAO) tests along with other students. Alternative schools and programs are just that—alternatives rather than replacements—alternatives that offer different contexts within which to study and learn the socially approved knowledge and skills comprising the official program of studies.

If accepted, approved, and adopted by a school board, any religiously oriented alternative school would necessarily be required to conform to Ontario law and jurisprudence in much the same ways as do Catholic separate schools. Freedom of religion and conscience are protected by the Charter, while the long tradition of public financial support for private religious schools in Quebec, Saskatchewan, and, in more recent decades, Alberta, British Columbia, and Manitoba, establish both rights and precedents for government support of religious schools. Alternative religious schools would, of course, be public and not private, as are Catholic separate schools. Ontario courts established limitations on religious exercises and instruction in public-secular schools in *Zylberberg et al. v. Sudbury Board of Education* (1988), *Elgin County (Canadian Civil Liberties Association) v. Ontario [Minister of Education]* (1990), and *Bal v. Ontario* (1994) respectively. These rulings have effectively secularized Ontario's public

schools but do not completely exclude religion. Regulation 298 under the *Education Act* lays down specific requirements for optional programs of education about religion, requiring that such programs are to promote respect for freedom of conscience and religion, provide for the study of different religious beliefs (giving primacy to none), and are not to exceed one hour a week. Under section 29(3) boards may also allow “a person to conduct religious exercises or to provide instruction that includes indoctrination in a particular religion or religious belief in a school provided this is not done under the auspices of the board, no one is required to attend, and the activities take place outside of the school’s instructional program.”

Whether parent groups interested in petitioning a board to establish an alternative school defined by their religion would be willing to accept such requirements would be a matter for negotiation between the group and the board, bearing in mind that enrolment in any such school would be voluntary. Media reports such as those by Natasha Fatah (2012) and Emma Teitel (2011) have highlighted how a Toronto public-secular school accommodated requests from the local Muslim community for congregational prayer sessions in the school cafeteria during Ramadan. The activities as described by Fatah appear to be within what is permitted under Regulation 298. More to the present point, establishment of an Islam-focused alternative school or program would presumably provide a more preferable option for all parties.

Given the importance of their religion to many parents, many community constituencies across the province would welcome boards including religiously oriented choices among their menus of alternative schools and programs. When authorized by boards, Christian, Muslim, Hindu, and other alternative religious schools would provide a desirable balance to the preference long given to Catholicism through separate schools. In that specific sense, broadly defined legislation encouraging alternative public schools would indeed move Ontario beyond the status quo of public-secular and Catholic separate schools. But, to recover a key point from the introduction, concerns about religion should not distract from the larger goal of enriched school choice, choice that, to draw on the Alberta definition, would also embrace education emphasizing different languages, cultures, subjects, and philosophies.

Concerns will also be raised about the potential additional costs of alternative programs. In this respect, Ontario could adopt the provision in the Alberta Act that authorizes boards to charge fees for students enrolled in alternative programs to defray the additional costs generated by the program (s.21(4)). An FAQ section on the Alberta Education (2010) website identifies examples of eligible costs, including specific program related resources such as Montessori materials for a Montessori alterna-

tive program, or Bible study materials for a Christian alternative program, professional development for staff specific to the alternative program, specialized instructors such as a hockey coach for a hockey alternative program, or a rabbi for a Jewish alternative program, and so forth.

### *Bureaucratic and governance reforms*

Adoption of the alternative school policies outlined above would provide a range of opportunities for interest groups of many kinds to discuss desired educational options, formulate proposals for new alternative schools and programs, and petition boards to adopt them. These activities would establish new standards by which constituents could potentially hold trustees politically accountable.

For these and other reasons clear and open procedures for how boards consider and decide on proposals for alternative schools will need to be established. Alberta delegates the development of such policies to individual boards. Ontario should likely do the same, but it could be advantageous to legislate common requirements supplemented by recommended guidelines. While it can be sensibly left to boards to develop the process for submitting requests, there should be standard expectations for proposals for new alternative schools or programs to include statements of school philosophy, rationale, statements of support, committed numbers of students, and the need for or desirability of any specialized teacher qualifications. There should also be a legislated expectation that boards will accept, consider, and decide on all properly submitted requests with appropriate provisions for public hearings. All board decisions on requests for alternative programs should be supported by written reasons released within a reasonable time period. Given the potential complexity of preparing a complete proposal, boards should also be required to provide counselling or active assistance to groups preparing requests. Boards should obviously be able to initiate internal considerations of possible alternative educational offerings and should be open to proposals emanating from their professional staff.

Developments in both Alberta and British Columbia imply that at least some Ontario boards will resist the introduction of the alternative school policies outlined above. To assist in overcoming systemic resistance, consideration should be given to providing avenues for appeal of what are arguably unjustified rejections of requests for new alternate programs. One possibility could be an appeal to the Minister of Education for charter school status similar to that which is possible under Alberta legislation. This would obviously require additional enabling legislation, which could be politically challenging. There are nonetheless many dif-

ferent models for establishing other forms of autonomous public schools, some of which are better suited to circumstances in Ontario. One option would be for boards to enter into contracts with community groups to establish board-chartered schools operating at arm's length, but under the board's supervision, similar to Boston's pilot schools (Center for Collaborative Education, 2006). Still, the most straightforward option could be to allow denied requests for alternative schools to be submitted to the other English or French language boards serving the area. If a public-secular board denied a reasonable request for an alternative school or program, the coterminus separate board might be willing to approve the request, and vice-versa. This would provide a legitimate way for separate boards to accept non-Catholic students, which would further help balance the effects of declining enrolments.

## Cost implications

Inflation-adjusted public spending on K-12 education in Canada has continued to increase over the past decade despite a 4.9 percent reduction in national enrolment (Clemens, Van Pelt, and Emes, 2015). This has had substantial and significant fiscal consequences. Clemens et al. estimate, for example, that Ontario's 2013-14 budget deficit would have been reduced by two-thirds if expenditures on its public schools had matched inflation and enrolment over the previous decade (2015: table 6).

Increased competition would encourage the adoption of innovations and internal efficiencies within schools and boards. As Van Pelt, Emes, and Clemens (2015) show, employee compensation<sup>24</sup> accounts for three quarters of Ontario's expenditures on public schools. The opportunities for direct savings in compensation costs through increased competition are meagre given the centralized determination of salary scales and staffing levels through provincial level collective bargaining and regulation respectively. Even so, the reforms advocated above would give boards and schools new incentives to find and implement efficiencies that would increase their ability to better respond to community requests for new programs and schools which, if successful, would attract more students, and thus more per-pupil funding. One potentially powerful approach would be for boards to negotiate greater flexibility in the interpretation and application of collective agreements in new alternative schools under Ontario's

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<sup>24</sup> Includes wages, benefits, and employer pension contributions for teaching and non-teaching staff. See Van Pelt, Emes, and Clemens (2015: 4). Ontario's expenditures for compensation amounted to 75.1 percent of total public school spending in 2012-13 (2015: table A6).

new, two-level collective bargaining process. Greater operational flexibility would further encourage teachers and school administrators to pioneer innovations which could yield further savings.

In this time of declining enrolments, providing a range of new, often smaller, alternative programs in response to local demand would also provide potentially more efficient and satisfactory ways of managing student accommodation problems than could ever be achieved through central planning at either the provincial or board levels. Savings gained through the more efficient use of existing school buildings assume greater importance when viewed in the context of the 73.7 percent growth in Ontario's capital spending over the recent decade of 2003/04 to 2012/13 (Van Pelt, Emes, and Clemens, 2015: table A6).

Together, enhanced operational efficiencies and a wider range of education opportunities that better meet parent and student expectations can reasonably be expected to deliver modest productivity gains as measured by higher test scores and improved retention and graduation rates.

Even so, the reforms advocated here would require some small additional expenditures to fund the recommended incentives for new alternative schools, and could generate additional costs by encouraging students enrolled in the province's unfunded private schools to choose newly competitive options within the public system. Still, education spending in public schools in Ontario increased by \$8.3 billion between 2003/04 and 2012/13 despite a decline in enrolment (see Van Pelt, Emes, and Clemens, 2015: table A6). While the proposal to expand diversity and choice with the public system could result in higher costs, these increases could be accommodated within existing spending if greater restraint were imposed and efficiencies secured.

## Conclusion

There are clear and tangible benefits to be gained from providing greater choices for parents and enhanced competition between schools. Like all economic actors, Ontario and its school boards must make spending choices that have consequences both within the immediate fiscal framework of their budgets and the social fabric of the province and its communities. The record from around the world and within Canada shows that policy and spending decisions that encourage greater diversity and choice in the education opportunities available to all parents, pupils, and professionals will constitute a preferred course of action. As found in the landmark study of more than a quarter of a million students in 37 countries quoted in the introduction, school choice, autonomy, and accountability benefit students and families from all backgrounds (Woessmann, et al., 2009).

To best capitalize on the educational and economic benefits of greater school choice, Ontario could legislate 1) an open enrolment policy that would allow all students to study at a public school of choice for which they are academically qualified, provided space is available, and 2) adopt complementary legislation encouraging school boards to establish alternative schools and programs in response to requests from parent and community groups. These developments would introduce a modicum of increased competition into the public system which, according to theory and pertinent research, can reasonably be expected to have a positive effect on academic achievement and lead to increased satisfaction among the public and school participants.

The proposed reforms are modest and eminently achievable and would provide substantial numbers of families with choices currently only available to Catholics, Francophones, those fortunate enough to enrol in French immersion programs, and the limited numbers of alternative schools that some boards have made available.



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