

EDMONTON PUBLIC SCHOOLS

November 7, 2006

TO: Board of Trustees

FROM: Trustee K. Gibson, Conference Committee Chair

SUBJECT: Report #1 of the Conference Committee (From the Meeting Held October 31, 2006)

RECOMMENDATION

1. That report #1 of the Conference Committee from the meeting held October 31, 2006 be received and considered.

Aspen View Regional School Division Legal Challenge

2. That the board approve a \$5,000 contribution to Aspen View Regional School Division to support its legal challenge of the Minister of Education's right to determine an alternative method of separate school jurisdiction formation.

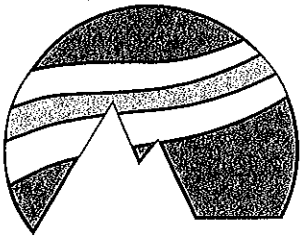
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Background - Aspen View Regional School Division Legal Challenge

Attached is a letter from Don Fleming, President Public School Boards' Association of Alberta, seeking financial assistance from public school jurisdictions for the Aspen View Regional School Division's legal challenge of the Minister of Education's right to determine an alternative method of separate school jurisdiction formation as well as background information regarding the legal challenge (Appendix I).

AS:mmf

APPENDIX I – Background Information re Aspen View Regional School Division Legal Challenge



## Public School Boards' Association of Alberta

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October 16<sup>th</sup>, 2006

Mrs. Bev Esslinger, Chair  
Board of Trustees  
Edmonton Public School District  
Centre for Education, One Kingsway  
Edmonton, AB T5H 4G9

Dear Bev:

As you may recall, in 2001, Learning Minister Lyle Oberg brought forward amendments to the School Act to create the so-called "alternative method" for separate school expansion. The amendments allowed the Minister to ignore existing constitutional requirements for establishing or expanding a separate school jurisdiction and gave him the power to establish or expand a separate school jurisdiction simply by signing a Ministerial Order. The Aspen View Regional School Division challenged the legality of the 2001 amendments and the matter is presently before the courts.

The challenge is expensive for Aspen View and they are looking to other public school jurisdictions for financial assistance with their legal costs. I am writing to request that your board consider providing that assistance to Aspen View.

This court case is likely to be of importance to every public school jurisdiction across the province. Its outcome will ultimately determine the power of a Minister to sidestep constitutional obligations and act unilaterally at his or her whim. The Government has not used the so-called alternate method since Aspen View initiated its challenge, and Minister Zwodzesky has said that he will not use the alternate method until the courts have made a decision about the issue.

When Dr. Oberg took the amendments through the Legislative Assembly, our Association and many of our members argued that the alternate method endangered the viability of rural public school jurisdictions. We argued that the amendments were wrong because they allowed expansion without the consultation and approval of the local members of the minority faith who may want to remain within the public school system. We argued that a Ministerial Order replacing one struggling public jurisdiction with two competing jurisdictions only serves to divide communities and diminish the quality of local educational offerings. We argued that sidestepping the constitutional requirement for significant input from local residents exceeds the power of the Minister.

I believe it is important for public school jurisdictions across the province to support the Aspen View initiative. Other rural jurisdictions could easily find themselves in the same situation as Aspen View. Urban jurisdictions should support Aspen View to limit the power of any Minister to step beyond the legal and constitutional requirements of his or her office.

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At the August meeting of the Public School Boards' Council, Representatives agreed that I should write to our member boards to request financial support for Aspen View. A suggested average contribution of \$5,000.00 from each public school jurisdiction in Alberta would be very helpful in Aspen View's efforts to conduct an effective challenge. Contributions can be sent to: Mr. Dave Dacyk, Chairman of the Board

Aspen View School Division  
3600 - 48<sup>th</sup> Avenue  
Athabasca, Alberta T9S 1M8

If you would like any additional information about the Aspen View case, please contact the Association office, or Aspen View.

Thank you for your consideration of this request.

Yours truly,

Public School Boards' Association of Alberta



Don Fleming, President

