

EDMONTON PUBLIC SCHOOLS

April 30, 2002

TO: Board of Trustees

FROM: Trustee D. Fleming, ASBA Issues and Resolutions Committee
Trustee S. Hansen, ASBA Issues and Resolutions Committee
Trustee L. Odynski, ASBA Issues and Resolutions Committee

SUBJECT: Issues for the 2002 ASBA Fall General Meeting

RESOURCE
STAFF: Jim Davies, Faye Parker, Anne Sherwood

RECOMMENDATION

That the following items, as detailed in Appendix I, for submission to the ASBA for policy development and consideration at the 2002 Fall General Meeting, be approved:

1. That current ASBA policy 6.L.02 which reads:

The Alberta School Boards Association believes that the formulae used to determine capacity and space utilization of schools and educational facilities must be adaptable to take into consideration changing conditions and variable local needs.

Be amended to read:

The Alberta School Boards Association believes that the province's formulae used to determine capacity and space utilization of schools and educational facilities must:

- be adaptable to take into consideration changing conditions and variable local needs.
- exempt from capacity those uses of space that are education-related and complement the K-12 education mandate, including:
 - day care and before and after school child care services including both for-profit and not-for-profit groups

- pre-school education classes and services such as early education, early intervention, early headstart program space needs
- government-supported program initiatives such as Student Health Initiative Partnerships and the small class size project
- adult learning classes
- recognize the legitimate role of schools in providing community services in public buildings by exempting from capacity:
 - community service uses
 - public services and space shared with federal, provincial and municipal departments and agencies such as Child and Family Services, Capital Health, Police Services, etc.

2. That the province be asked to make a provision in the *School Act*, analogous to section 6 of the *Municipal Government Act* which states “a municipality has natural person powers, except to the extent that they are limited by this or any other enactment”, which would grant school boards natural person powers.

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In response to the ASBA’s call for the identification of policy issues, the administration and trustees were asked to submit suggested issues and review the existing ASBA policy statements. The above two policy issues were submitted and considered by the board’s ASBA Issues and Resolutions Committee. If approved, these issues will be forwarded to ASBA Zone 23 for consideration. Zone 23 can submit up to six issues to the ASBA Policy Development Advisory Committee to draft policy positions. The resulting policy positions will be circulated back to the zones for review and response in the Fall. Based on input received at the zones, final wording of the policy positions will be presented for consideration at the Fall General Meeting in November.

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APPENDIX I – Background material supporting recommended amendment and policy issue.

Policy 6.L.02

The Alberta School Boards Association believes that the formulae used to determine capacity and space utilization of schools and educational facilities must be adaptable to take into consideration changing conditions and variable local needs.

Recommendation: AMEND

The Alberta School Boards Association believes that the province's formulae used to determine capacity and space utilization of schools and educational facilities must:

- be adaptable to take into consideration changing conditions and variable local needs.
- *exempt from capacity those uses of space that are education-related and complement the K-12 education mandate, including:*
 - *day care and before and after school child care services including both for-profit and not-for-profit groups*
 - *pre-school education classes and services such as early education, early intervention, early headstart program space needs*
 - *government-supported program initiatives such as Student Health Initiative Partnerships and the small class size project*
 - *adult learning classes*
- *recognize the legitimate role of schools in providing community services in public buildings by exempting from capacity:*
 - *community service uses*
 - *public services and space shared with federal, provincial and municipal departments and agencies such as Child and Family Services, Capital Health, Police Services, etc.*

Alberta Infrastructure's new formula for determining the utilization of schools is based on a rating of square meters per student, which is a change from the former reference to rated classrooms. It exempts space leased to non-profit organizations, including daycares, as well as some government-sponsored initiatives such as ESHIP. It does not exempt private leases, even those such as private daycares that are education related.

There have been a number of government program announcements that can impact the use of school space. The district is accommodating a number of these initiatives in its schools, and believes that these uses should also be exempt. In addition, community use of space and school board partnerships with health care and social services providers should be considered as legitimate uses of space and exempted from capacity. The government has made positive steps in some of these areas and should continue in this direction.

The legitimate role of schools in providing community services in public buildings is currently not acknowledged nor accounted for in the calculations that are used when the province determines school capital funding issues.

Natural Person Powers

The *Municipal Government Act* was rewritten in 1994 and contained a provision which the *School Act* should emulate:

“Section 6 – A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.”

Before the enactment of this provision, municipalities were in the same situation as school boards – they had only those powers that were expressly granted to them in the enactment that created them, together with those powers that could reasonably be implied by reference to the express powers. This gave rise to a significant body of law that rather narrowly defined the powers of school boards and municipalities.

For school boards, lacking natural person powers means that before taxpayers’ dollars can be expended on any initiative, one must find either express or implied power in the *School Act* for the initiative. If it isn’t there, then it is illegal to proceed, and a taxpayer could commence action against the trustees who approved the undertaking. The Court could hold the trustees to be personally liable for any debts incurred.

A provision in the *School Act* analogous to section 6 of the *Municipal Government Act* would free school boards of many of these concerns. Natural person powers would mean that a board could undertake any initiative unless there was a prohibition against it in the *School Act*. This would provide school boards with a significant amount of liberty that they do not have at present, and make trusteeship less hazardous.