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Delivered

Minister of Education
228 Legislature Building
10800 – 97 Avenue
Edmonton, AB
T5K 2B6

Attention: The Honourable David Eggen, Minister of Education

Dear Minister Eggen:

Re: Inquiry / Section 16.1 *School Act*
Independent Baptist Christian Education Society

Pursuant to the Letter of Appointment dated September 23, 2016, the following sets out the Inquiry report into the practices and intent of the two private schools, Meadows Baptist Academy ("Meadows") and Harvest Baptist Academy ("Harvest"), operated by the Independent Baptist Christian Education Society (the "Society") to provide a welcoming, caring, respectful and safe learning environment for Lesbian, Gay, Bisexual, Transgender and Queer ("LGBTQ") students.

A. Summary of Findings and Recommendations

The legislative framework for private schools has a fundamental gap in terms of the legal obligation to provide a welcoming, caring, respectful and safe learning environment for LGBTQ students.

Section 45.1 of the *School Act*, RSA 2000, c. S-3 (the "Act") requires schools to provide a welcoming, caring, respectful and safe learning environment for all students, including LGBTQ students. Section 16.1 of the Act (specific to GSAs and other clubs/activities) is then a mechanism to further the foundational objectives of section 45.1 of the Act.

However, section 45.1 of the Act does not actually apply to private schools. Private schools, such as the Meadows and Harvest schools, are only required to comply with section 16.1 of the Act.

Therefore, the findings and recommendations of this inquiry need to be considered in the context of what the legislation does, and does not, legally require.

Meadows is an accredited private school in Southeast Edmonton. It has approximately 71 students from Kindergarten ("K") to grade 7, with majority of students being in grades K – 3. Meadows appears to provide students with a good academic education provided in small class sizes by Alberta accredited teachers. Meadows does not operate a home school program. Meadows is physically located in the same complex as the Meadowlands Baptist Church, but the church and school do not appear to be directly affiliated

Harvest is an accredited private school located northwest of Edmonton (Parkland County). Harvest has only 14 regular students who attend the school from grades K – 12, but it also services an estimated 1200 home schooled students across Alberta in grades K – 12. The Harvest school is physically located in the same building as the New Testament Baptist Church, and appears to be directly affiliated with the church (e.g. the church website offers schooling "with our Harvest Baptist Academy").

In 2014 and 2015, Alberta Education commended both Meadows and Harvest for having created "school environments that are welcoming, safe and respectful of others", and commended the Society for the results of its "Accountability Pillar Overall Summary" in the areas of "Safe and Caring Schools, Citizenship and School Improvement".[1]

Both schools emphasize a Christian educational setting that is provided in conjunction with "Christian values" that are learned and taught at church and in the home. Students are admitted to attendance in the schools after an admission and interview process with their parents, and after acknowledging the Christian nature of the school and educational setting.

The schools do not teach about marriage or sexuality as part of the curriculum, and leave those topics for the church and / or parents to address. Parents of students at both schools uniformly elect to opt out of the Alberta sex education curriculum, which would otherwise begin in Grade 4.

As far as the schools are aware, there are no LGBTQ students currently enrolled at either school, and no LGBTQ student has knowingly been denied enrollment in the schools. There have not been any requests for a "gay-straight alliance" ("GSA") from any student under section 16.1 of the Act.

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[1] See Alberta Education letters sent to the Society dated March 28, 2014, May 28, 2014, and March 25, 2015. Bill 10, which included section 16.1 of the Act, received Royal Assent on March 19, 2015.

The Society does not consider the schools to be in breach of section 16.1 of the Act because no request for a GSA has (yet) been made or denied. The Society has not enacted a GSA policy for either the Meadows or Harvest schools.

Students at both schools are not actually provided with a copy of the Society's Statement of Faith (discussed below), and students do not appear to be made aware of its contents by either Meadows or Harvest schools. The Society's official position on marriage or "homosexuality", which is hostile to at least LGB persons, does not appear to be provided or made known to the students themselves. This contrasts with, for example, older students at institutions such as Trinity Western University who are required to read and sign confirming statements on issues such as the University's definition of marriage.

The schools are adamant they would protect any LGBTQ students who might actually attend from any bullying – to the point of expelling the bullying student if needed – and would not actively discriminate against LGBTQ students (or any other student).

The Meadows school, as distinct from the Society, is best described as neutral to LGBTQ students[2], although that is not the same as actively providing a welcoming, caring, respectful and safe learning environment for LGBTQ students.

The Harvest school cannot objectively be considered "welcoming" to LGBTQ students given the overall context of what students or parents of students are potentially learning at New Testament Baptist Church, and the direct affiliation and connection between the Society, the Harvest school, the New Testament Baptist Church

In terms of "intent", the Society has confirmed – both in its written submissions to the Minister's office and during the inquiry – that it is opposed to GSAs under section 16.1 of the Act. The Society considers the legislated imposition of GSAs to be an infringement on religious beliefs and freedoms under section 2(a) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"), and also on parental rights in terms of a child's education.

The Society's Statement of Faith (found in its Bylaws) and its March 23, 2016 written submissions to the Minister are not remotely welcoming or respectful of persons who identify as LGBTQ.

[2] Meadows does not have any LGBTQ students of which it is aware – and the young ages of most of its students (K-3) may support that statement at least for LGB students – which makes an assessment of how Meadows would actually approach an LGTBQ student a somewhat speculative exercise. However, interviewees from Meadows did seem sincere in their view that every student, regardless of background or personal characteristics, is entitled to love, compassion, and respect.

Regardless of whether the Society is technically in breach of s. 16.1 of the Act because no student has yet requested a GSA, the position of the Society on GSAs will have a significant chilling effect on any student, especially at the Harvest school, who might want to make a request for a GSA in the future.

The Society has submitted an anti-bullying policy to the Minister in lieu of a GSA policy. Based on school survey results, the anti-bullying policy appears to be effective as a stand-alone policy, although it does not specifically address potential bullying on the basis of gender, gender identity, or sexuality.

Both schools were clear that they consider the policy to be effective, and appeared sincere that the schools would take definitive steps to stop any bullying of any student on the basis of gender, gender identity, or sexuality, and would consider expelling any student who continued to bully another student.

The Society's anti-bullying policy does have a "clubs, groups and activities" section, but it does not deal with GSAs in any manner. The policy also states that if the values of a parent or a student become incompatible with those of the Society or schools, then the student will be assisted in enrolling at another school the following year.

The Society's position on GSAs is notionally complicated because Alberta Education has yet to approve any GSA policy for private or other religious schools (e.g. Catholic Schools, Jewish schools, Islamic schools, etc.). The Society is therefore opposed to a policy standard that has not yet been defined in terms of religious schools.

However, the Society has expressed its opposition to any form of GSAs and has clearly stated its intention not to comply with section 16.1 of the Act or to provide an actual GSA policy as the Minister has requested of all schools.

In terms of recommendations:

- The Minister should make an order under section 41(5) of the Act directing the Society to submit a legitimate GSA policy and also confirm that both schools will comply with section 16.1 of the Act (in the event a GSA request is made under the Act). These steps should be required to be done by a set deadline.

- A deadline of January 9, 2017 would correspond with the first school day of 2017 and would allow the Society and the schools time to consult with Alberta Education on what can constitute a legitimate GSA policy for a private religious school.[3]

[3] The Minister may want to ensure that Alberta Education has completed its assessment and review of GSA policies submitted by other religious schools – including "private" schools that are not otherwise subject to section the requirements of section 45.1 of the Act – so that Alberta Education can give the Society and schools proper guidance on this issue (assuming the Society and schools will comply).

- Alternatively, the Minister could set a deadline after Alberta Education has completed its ongoing assessment of GSA policies submitted by other religious-schools, including Catholic schools, to ensure that examples of legislatively compliant GSA policies for religious schools are available to guide – and to assess – any policy development for the Meadows and Harvest schools.

- If the Society refuses to comply with the Minister's order by whatever deadline is imposed, then the Minister should consider appointing an trustee[4] to conduct the affairs of the Society – at least in respect to ensuring compliance with section 16.1 of the Act and the implementation of a legitimate GSA policy for both schools.[5]

- If the schools refuse to comply or cooperate with the official trustee in respect of compliance with section 16.1 of the Act and the implementation of a legitimate GSA policy, then the Minister should consider revoking the accreditation and registration of one or both of the schools at the end of the 2016 / 2017 school year.

- Based on the facts as found in this Inquiry, I do not recommend any immediate cancellation of the accreditation and funding for the Meadows and Harvest schools. The preamble of the Act states:

> WHEREAS the best educational interests of the student are the paramount considerations in the exercise of any authority under this Act.

If that statement of intent is correct, then the Minister needs to balance the requirements of the legislation with the rights and needs of the students who are currently enrolled at the schools (and by implication the teachers employed by the schools). The students are innocent parties in this dispute, and they are apparently receiving an education that otherwise meets Alberta Education requirements – including, until at least March 2015, a safe and caring school environment in respect of the existing student population. Cancelling the accreditation of the schools, and thereby shutting down the schools, would be seriously disruptive to the students in the middle of the school year. It would also result in the loss of employment for up to 13 teachers and other related staff.

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[4] It is unclear whether the "official trustee" provisions of section 42 of the Act necessarily apply to private schools, but section 41(5) of the Act should allow the Minister to make an order appointing a trustee (if needed), and allow any order to be specifically tailored to address the issue at hand.

[5] Alberta Education also needs to assess and make recommendations on what, if anything, may constitute an effective GSA policy for home schooled students. The majority of the students falling under the Society's governance are homeschooled via the Harvest school, and this issue needs to be assessed in terms of how – or if – the Society can actually meet the requirements of section 16.1 of the Act in those circumstances given the logistical problems with trying to implement a GSA in a homeschool setting.

If the Minister considers it necessary to revoke accreditation and the associated funding for either or both schools, and if that can be done under the Act on the basis of the prospective non-compliance with section 16.1 and the failure to provide a GSA policy as directed[6], then that step should only be taken at the end of the current 2016/2017 school year to allow for a proper transition period for the affected students going into the 2017/2018 school year.

- Finally, the Minister needs to consider whether accredited private schools should be brought within the provisions of section 45.1 of the *School Act*. There is a significant gap in the legislative framework in terms of requiring schools to provide all students with a welcoming, caring, respectful and safe learning environment (which is mandated by section 45.1, but not section 16.1. of the Act). As it now stands, accredited private schools are only subject to the GSA requirements of section 16.1 of the Act, but are not subject to the broader foundational requirements of section 45.1 that form the necessary context for GSAs to be effective. This gap poses an obvious problem in the legislative structure if the intention is to provide all students – regardless of religion, cultural background, sexual orientation or gender identity – with a welcoming, caring, respectful and safe learning environment at all schools including private schools.

B. Inquiry Process

During the Inquiry process, I reviewed the following records and materials:

- March 23, 2016 Society submissions to the Minister (received March 31, 2016);
- Profile of the School Authority from the Society;
- Foundation Statement from the Society;
- Society By-Laws including Statement of Faith;
- Sample Employment Contract for teachers employed by the Society;
- Specific Outcome (annual review of safe and healthy learning environments) from the Society;
- Meadows Baptist Academy Parent-Student Handbook 2016/2017;
- Meadows Baptist Academy Staff Handbook 2016/2017;

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[6] I have assumed that the Act allows the Minister to cancel accreditation and withdraw funding of an accredited private school for prospective non-compliance with section 16.1 of the Act and the refusal to provide a GSA policy – however, the Act itself is not entirely clear on this point (see, for example, section 28(3) of the Act). Further, if the Minister intends to revoke accreditation based on non-compliance with section 16.1, and if that non-compliance is based on honestly held religious beliefs, then the Minister will need to assess the impact any decision to cancel accreditation will have on the rights of the Society and the students under section 2(a) of the *Charter*, balanced against the broader objectives of the Act and the rights of any LGBTQ students who may be attending the schools. The issue of accreditation for private schools, and any rights engaged under section 2(a) of the *Charter*, are outside the scope of this inquiry, but I raise this as a question / issue for the Minister to consider.

- Harvest Baptist Academy Parent-Student Handbook 2015/2016 (unchanged for 2016/2017);
- Harvest Baptist Academy Home Education Program brochure;
- The Society's "Anti-bullying Policy and Guidelines for student clubs, groups, and activities and Harvest Baptist Academy and Meadows Baptist Academy";
- Harvest Baptist Academy "Sexual Education Permission Form";
- Harvest Baptist Academy "Sexual Education Exemption Form";
- Hand-written student letters (12) from Harvest Baptist Academy;
- Letters (7) from parents of students at Harvest Baptist Academy;
- Letters (9) from parents of students at Meadows Baptist Academy;
- Letters (4) from Alberta Education to the Society between January 22, 2014 and March 25, 2015 regarding on-site monitoring, annual education results, and the three-year education plan;
- Alberta Teachers' Association "GSAs and QSAs in Alberta Schools: A Guide for Teachers";
- Alberta Education / Alberta Government 2016 publication "Guidelines for Best Practices: Creating Learning Environments that Respect Diverse Sexual Orientations, Gender Identities and Gender Expressions";
- The websites for Meadows Baptist Academy, Harvest Baptist Academy, the Meadowlands Baptist Church, and New Testament Baptist Church;
- Website for A Beka Book publications;
- Various online media reports (CBC, Edmonton Journal, Metro News, Edmonton Sun) regarding background information Trinity Western University case updates;
- Background information from Alberta Education regarding GSA policy requests, assessment and status of policy submissions by other schools, 2015 amendments to the *School Act*, materials on creating welcoming, caring, respectful and safe learning environments and GSAs, and other related background information;
- The *School Act*, RSA 2000, c. S-3;
- *Private Schools Regulation*, Alta. Reg. 190/2000; and
- Various cases including the various *Trinity Western University* decisions (British Columbia, Ontario, Nova Scotia, and the 2001 Supreme Court of Canada decision), and *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12.

I formally interviewed the following people from the Society and the two (2) schools:

I also informally met or saw a number of students at both Meadows and Harvest, along with several other teachers and administrative personnel.

I have also spoken and met with a representative from Alberta Education to obtain background information and context on GSA policies, section 16.1 and section 45.1 of the Act, and related issues that helped inform the factual context of the inquiry.

C. Facts

i) Meadows Baptist Academy

Meadows is an accredited private school located in what is now a newer suburb community in southeast Edmonton near 23 avenue and 17 street, close to the Meadows Community Recreation Centre. The school is part of the building complex that also houses the Meadowlands Baptist Church, and is a fairly new and very well maintained school facility.

Meadows currently provides schooling for grades K-7, and there are currently 71 students enrolled at Meadows. Meadows has had higher grades in the past, but current enrollment is limited to K-7. The majority of students (53) are enrolled in grades K-3. Class sizes are relatively small, with the largest class being 19 students. There are currently only 3 Grade 6 students and 2 Grade 7 students enrolled at Meadows.

The students are reported to be receiving a strong academic education on core subjects, in part because of the comparatively small class sizes (the largest class size is 19 students) and the quality of the teaching staff at Meadows.

In March 2014, Alberta Education undertook a site visit of Meadows and then wrote to the Society confirming that Meadows was "meeting regulatory requirements", and that the principal and staff at Meadows had created a school environment that was "welcoming, safe and respectful of others".[7]

The student body has a significant mix of ethnic and cultural backgrounds;

The students (on surprise classroom visits by the writer) all appeared to be well adjusted, polite, welcoming, and generally happy children. The overall feel and look of the school seemed positive and welcoming.

The Society employs 5 full-time Alberta-certified teachers , 1 part-time support staff, and 1 part-time janitorial staff who work at Meadows.

Meadows teaches the approved Alberta curriculum on all core subjects, but does not teach sexual education because parents elect to opt out of the Alberta curriculum for that subject which is normally taught beginning in Grade 4.

Meadows views the education process as being composed of 3 key pillars: the home, the church, and then the school. Topics such as sexuality and marriage are primarily dealt with in the home by the parents or in the Church setting.

Meadows does not actively discuss or otherwise address LGBTQ topics or issues, and teachers refer student inquiries back to parents and / or the church. If a student asks questions about marriage outside of one-man / one-woman, the Meadows staff will refer that question back to the parents for discussion.

Students may learn about "Adam and Eve" during bible class or chapel at Meadows. However, teachings about creation, marriage and the Biblical definition of marriage normally come from the church (Sunday School classes in particular) and not the school.

Meadows does emphasize to its students that all human beings are "created in the image of God" and by God, and all human beings are deserving of respect and compassion.

[7] See Alberta Education letter to the Society dated March 28, 2014

The teachings provided via bible class or during chapel at Meadows are aimed to be age appropriate for the students and focus on broader "Christian" principles (such as love all people, love thy neighbour, be respectful to your parents and elders, etc.). The teachings do not deal with issues of sexuality given the ages of the children at the school and the school's preference to let parents and the church address those issues if they arise.

The Society's "Statement of Faith" document, including specifically "Section 17 – Marriage, Sexuality & Family", is available for review but is not normally provided to parents or students at Meadows unless it is specifically requested, although Meadows clearly represents itself as providing a "strong Bible-based education" for students.

Meadows does not advertise for students, and parents who wish to enroll their child at Meadows seek out and contact Meadows about enrollment opportunities.

Parents who wish to enroll their student(s) apply for admission to the school, and both the parents and the student are interviewed. Parents are asked why they want to enroll their child at Meadows, and the answers are most often that the school reflects the values of the parents including the Bible-based / Christian educational setting. A small number of parents are not necessarily "Christian", but still enroll their child at Meadows because they support the broader educational approach (including small class sizes) of the school.

The definition of how the school treats issues of "marriage" (i.e. as per the Biblical definition of one-man and one-woman) "rarely comes up" in the applicant interviews, and most parents are generally just seeking assurance that Meadows is a "Christian school".

Meadows does not have any GSAs, and has not been asked to form a GSA by any student. Meadows does not currently have any clubs or extra-curricular organizations or groups.

Meadows does not have any LGBTQ students currently enrolled (or at least none of which it is aware, although the young ages of most current students would tend to support that assumption in terms of LGB orientation[8]).

Meadows has not, to the best of its knowledge, ever received an application to enroll an LGBTQ student, and therefore, has not knowingly denied enrollment to an LGBTQ student.

Meadows is not opposed to LGBTQ students being enrolled at the school. If an LGBTQ student were to apply for enrollment, the application would be assessed on a case-by-case basis as with any other enrollment application. If the student were willing to comply with the general school policies, then enrollment of an LGBTQ student would certainly be considered. In this sense, Meadows views potential LGBTQ students the same as if a

[8] For example, the Alberta Teachers' Association GSA "Guide for Teachers" suggests that the average age for "self-identification" as a LGB person is likely age 15 or 16, although it can occur earlier (see pages 15 and 43 of the ATA Guide).

student of another religious group (e.g. Muslim, Jewish, Sikh, etc.) were to apply to attend the school. Each student would be assessed on a case-by-case basis, and if the parents (and student) were actually agreeable to the student attending and being taught at a "Christian school" with the beliefs of most students being informed by their church and values expressed at home, then the student would be considered for admission.

The default was the school anti-bullying policy discussed below, but that policy deals with reactive steps to address bullying / harassment as opposed to pro-active steps by the school that could be taken to welcome potential LGBTQ students.

Meadows confirmed that it effectively has a zero tolerance policy for sexual contact or sexual relations between any of its students, regardless of sexual orientation. The Biblical doctrine applied at Meadows considers "fornication" (regardless of the gender(s) involved) as "immoral" and a sin outside of marriage, and is grounds for severe discipline and possibly expulsion from the school.

The primary age groups currently enrolled at Meadows (i.e. grades K – 3) makes the issue of sexual contact or sexual relations unlikely to arise, although "immorality" is listed as a very serious offence that can lead to expulsion (along with "Tobacco products, pornography or lewd materials . . . Stealing, and Alcohol or substance abuse") in the Parent-Student Handbook 2016/2017.

Meadows does have an anti-bullying policy (drafted by the Society) that it says applies to any verbal, physical, or emotional abuse of any student or any other human being for any reason.

A student who is bullying another student would be disciplined and made to apologize to the other student. The bullying student would also be counseled on treating others with love, compassion, kindness, and respect. If the student persisted in the bullying behavior, the student would be suspended or potentially expelled.

Specific to a GSA policy under section 16.1 of the School Act, Meadows does not currently have such a policy. The anti-bullying policy does have a "clubs, groups and activities" section, but it does not deal with GSAs in any manner. The policy (drafted by the Society) also states that if the values of a parent or a student become incompatible with those of the Society or school, then the student will be assisted in enrolling at another school the following year.

Meadows falls under the Society's governance, and the Society considers GSAs mandated by section 16.1 of the Act to be non-neutral and in fact anti-Christian and contrary to the Society's Statement of Faith (and in particular, the terms of Section 17 – Marriage, Sexuality & Family).

The Society is also highly supportive of parental choice in terms of education for children. If a child were to request the formation of a GSA, the Society would mandate that the school advise the parents of the request in addition to advising the parents of any child who intended to join a GSA. Alberta Education does not recommend this approach as a "best practice" for GSAs[9], but it is not actually prohibited the Act.

Meadows expressed a strong desire to find some kind of workable solution to the GSA question, and its obligations under section 16.1 of the Act, that would address the needs and rights of any potential LGBTQ students and also the religious rights and beliefs of students at Meadows (and the parents who enroll their children at Meadows).

ii) Harvest Baptist Academy

Harvest is also an accredited private school, and is located northwest of Edmonton in Parkland County, just north of Highway 16 near Spruce Grove, Alberta.

The school is comparatively small, consisting of two (2) small classrooms and associated support rooms (e.g. lunch room, administration, storage), and is part of the same one-story building as the New Testament Baptist Church. The building consists of a common entrance with a bulletin board and washrooms, with school related rooms on the left side of the building, and the church on the right side of the building.

[9] See the 2016 publication "Guidelines for Best Practices: Creating Learning Environments that Respect Diverse Sexual Orientations, Gender Identities and Gender Expressions" by Alberta Education / Alberta Government.

The New Testament Baptist Church refers to Harvest as being the church's school, stating on the church's website:

> "Our Christian day school, Harvest Baptist Academy, offers education for students from kindergarten to grade 12. Classes start at 8:30 AM and end at 4:00 PM. Our programs cover traditional course materials in math, science and other subjects along with Christian education."

The school and church are both located on a larger plot of land, with a gravel road and older portable trailers situated on the land that are intended to be used for a school expansion if the need arises.

Harvest only has 14 regular students in grades K – 12, with approximately 5 of those students in the grades 6 – 12 category. However, Harvest oversees the education of approximately 1200 home schooled students across the Province of Alberta. The home schooled students fall into 3 categories:

- Fully Aligned / Distance learning students. Teaching is a combination of teaching by parents and also via Skype, online modules, etc. Harvest estimates only a "handful" of its students fall into this category.

- Blended learning students. Some Alberta curriculum subjects are taught by a teacher employed by Harvest, and other subjects are taught by the parent(s). Harvest estimates 25 – 30 students fall into this category.

- Home education. Teaching is "parent directed" and the students are entirely home schooled, with a two visits per school year to the home by an accredited teacher employed by the Society. Harvest estimates that the vast majority (i.e. 90 – 95 percent) of the 1200 home school students fall into this category.

The 14 students who regularly attend Harvest are a mix of ethnic and cultural backgrounds. In the brief interaction I had with the students, they all appeared to be polite, welcoming, and generally happy children. The hand-written letters submitted by the students were all very positive about Harvest.

Similar to Meadows, in March 2014, Alberta Education undertook a site visit of Harvest and then wrote to the Society (see letter to the Society dated March 28, 2014) confirming that Harvest was "meeting regulatory requirements", and that the principal and staff at had created a school environment that was "welcoming, safe and respectful of others".

Harvest does not have any LGBTQ students currently enrolled as far as it is aware. Harvest has not, to the best of its knowledge, ever received an application to enroll an LGBTQ student, and therefore, has not knowingly denied enrollment to an LGBTQ student.[10]

The Society employs 2 Alberta-certified teachers and a teachers' aide for the students enrolled at and attending Harvest

The Society also employs 7 other Alberta-certified teachers who oversee the home school program.

Harvest teaches the approved Alberta curriculum on all core subjects. Similar to Meadows, Harvest does not teach sexual education because parents elect to opt out of the Alberta Education curriculum for that subject which is normally taught beginning in Grade 4.

According to the teachers, nothing in the curriculum requires the school to teach about marriage or sexuality, including topics relevant to LGBTQ issues, and the parents all opt out of the Alberta Education curriculum for sex education.

Grade 11 students at Harvest take a "CALM" course as per Alberta Education requirements, but the course is taught through a Christian education book ("Life Management under God") that is published by the A Beka Book publishing group. In reviewing the subjects in the book, it does not appear to deal with sexuality or marriage or LGBTQ topics. The school does not use or teach the A Beka Book publication authored by Dr. Pyle entitled "Sex, Love, and Romance" that is available on the A Beka Book product website[11].

According to Harvest, Alberta Education reviews and approves the Harvest lesson plans and curriculum to ensure it aligns with Provincial standards, and the school has apparently met or exceeded those standards during the reviews.

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[10] The Society has been operating the Harvest school since 1997. It is statistically likely that at least some LGBTQ students have been enrolled at some point between 1997 and 2016. For example, given the number of home schooled students (1200 est.), there are likely to be at least some LGBTQ students currently being taught via the school in some capacity. However, on the actual information available, no openly LGBTQ students are known to be enrolled or wishing to be enrolled at the school.

[11] The A Beka Book website summarizes the publication entitled "Sex, Love, and Romance" as discussing "the sins of adultery, fornication, and homosexuality as they are presented in the Bible and explains their results". As noted above, Harvest does not actually use this text in its instruction of the students.

Similar to Meadows, but perhaps more applicable given the older age of some students, Harvest confirmed that it has a zero tolerance policy for sexual contact or sexual relations between any of its students, regardless of sexual orientation.

Harvest considers "fornication" (regardless of the gender(s) involved) as "immoral" and a sin outside of marriage, and is grounds for severe discipline and possibly expulsion from the school.

Harvest has the same anti-bullying policy as Meadows that it says applies to any verbal, physical, or emotional abuse of any student or any other human being for any reason.

A student who was bullying another student would be disciplined and made to apologize to the other student. The bullying student would also be counseled on treating others with love, compassion, kindness, and respect. If the student persisted in the bullying behavior, the student would be suspended or potentially expelled.

Specific to a GSA policy under section 16.1 of the School Act, Harvest does not currently have such a policy. Harvest falls under the Society's governance, and the Society considers GSAs mandated by section 16.1 of the Act to be non-neutral and in fact anti-Christian and contrary to the Society's Statement of Faith (and in particular, the terms of Section 17 – Marriage, Sexuality & Family).

As with Meadows, the anti-bullying policy (drafted by the Society) does have a "clubs, groups and activities" section, but it does not deal with GSAs in any manner. The policy states that if the values of a parent or a student become incompatible with those of the Society or school, then the student will be assisted in enrolling at another school the following year.

Many of the students at Harvest, and a number of parents, have submitted very positive and supportive letters regarding the school learning environment.

The Society is also highly supportive of parental choice in terms of education for children, and if a child at Harvest were to request the formation of a GSA, the Society would mandate that the school advise the parents of the request in addition to advising the parents of any child who intended to join a GSA.

iii) The Society

The Society is ultimately responsible for the governance and operation of both schools and was formed in 1997.

In 2014 and 2015, Alberta Education wrote to the Society and commended it for Meadows and Harvest having created "school environments that are welcoming, safe and respectful of others". Alberta Education also commended the Society for the results of its "Accountability Pillar Overall Summary" in the areas of "Safe and Caring Schools, Citizenship and School Improvement".[12] In terms of context, the 2015 comments by Alberta Education were made around the time section 16.1 of the Act came into effect[13].

Further, the Society Bylaws include a Statement of Faith, which includes at section 17 the Society's official position on "Marriage, Sexuality & Family". Section 17 clearly defines marriage as being between "one man and one woman" joined together for life, the purpose of marriage is for bearing and raising children. It states that sexual relations are only lawful between a husband and wife in the bonds of marriage, and therefore "adultery, homosexuality, and fornication are sinful". People who have sinned can only find deliverance through repentance and faith in Jesus Christ, and (under section 13 of the Bylaws) those who reject Jesus Christ will suffer everlasting punishment.

The Society is opposed to GSAs on the basis that GSAs are "anti-Christian". It considers GSAs to be non-neutral, and that GSAs attempt to impose "anti-Christian" values on students at the schools.

The Society considers GSAs and section 16.1 of the Act to be an attack and infringement upon the religious freedoms and beliefs of the Society, its members, and the students (following the Society's interpretation of *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, and section 2(a) of the *Charter*), and has stated its intention not to allow GSAs in either school.

The Society confirmed during the inquiry process that its position remains as set out in its submissions to the Minister: it will not comply with section 16.1 of the Act and will not submit a GSA policy as directed by the Minister in early 2016.

D. Issues raised under Terms of Reference

The Minister has made certain inquiries in the Terms of Reference that are addressed below.

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[12] See Alberta Education letters sent to the Society dated March 28, 2014 and March 25, 2015.

[13] Bill 10 was passed by the Legislature on March 10, 2015, and received Royal Assent on March 19, 2015.

i) Review the development and content of the Society's March 31, 2016 policy submission to the Minister of Education.

The March 31, 2016 submission (actually dated March 23, 2016; received by the Minister's office March 31, 2016) is clearly opposed to GSAs under section 16.1 of the Act.

The Society's submissions to the Minister, take the position that GSAs are an attack on the Society's Statement of Faith, including but not limited to its definition of marriage and what conduct the Society considers to be a "sin", and that section 16.1 is an unwarranted infringement of religious freedoms and rights under section 2(a) of the Charter.

There is a distinction between the Society and the two schools – and Meadows in particular – in terms of how the schools actually operate compared to the submissions of the Society.

For example, the Society has stated in its submissions that students need to be "in agreement" with the Society's Statement of Faith to attend either of the schools. However, the information from both Meadows and Harvest is that students who attend those schools are not actually given a copy of the Statement of Faith – which is found in the Society's By-laws that were drafted in 1997 – and the parents are also unlikely to actually review a copy of the Statement of Faith in the normal course.

Unlike some other situations (e.g. Trinity Western University), there is no requirement that students sign or otherwise acknowledge their own agreement with the Statement of Faith –

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[14] During the interviews, the Society drew a distinction between someone who identifies as "homosexual" but does not engage in sexual activity versus someone who engages in a "homosexual lifestyle". In the Society's view, it is the act that is sinful rather than the being. Suffice to say, this distinction is not universally accepted, and it was explicitly rejected by the Ontario Divisional Court (citing the SCC's decision in *Saskatchewan (Human Rights Commission v. Whatcott*, 2013 SCC 11) in *Trinity Western University v. The Law Society of Upper Canada*, 2015 ONSC 4250 at para. 113.

or that they are even aware of its contents. Given the ages of many students at Meadows in particular, being primarily ages 5 to 8 (grades K – 3), this is not surprising.

The schools do not teach about sexuality as the parents of students opt out of the regular Alberta sex education curriculum, and to the extent the students are learning about topics such as sexuality, marriage, or gender, the parents and / or the church are providing the education on those topics.

This distinction is relevant because the Society's Statement of Faith is not welcoming or respectful of at least LGB students (it is silent on issues of gender identity), and in fact, is hostile to "homosexuality" which it views, along with fornication and adultery, as being a sin that could lead to eternal damnation.

However, the Society's Statement of Faith does not appear to make its way into the curriculum at either school, and the students are not made aware of what it actually says. The Society's Statement of Faith appears to remain unknown to at least the students.

Further, the Society's March 31, 2016 submissions to the Minister do not appear to have been published or otherwise been made known to any students at the schools.[16]

This is not to suggest the schools provide "welcoming, caring, respectful and safe" learning environments specific to LGBTQ students. While the Meadows school is best described as neutral to LGBTQ students – assuming any are actually enrolled or would wish to become enrolled – that neutrality needs to be considered in the context of the religious teachings from at least the church that likely inform the broader views of the students.

For example, if the students are learning from their church, or their parent(s), or both, that marriage is only defined as one-man / one-woman – or that "homosexuality" is sinful – and the schools are silent on those issues, then that will presumably reflect the way students would view and interact with at least any openly LGB student at the schools.

Further, the close association between the New Testament Baptist Church and the Harvest School, and the Society's Statement of Faith and its March 31, 2016 submissions to the Minister, create an environment at the Harvest school that would objectively be considered unwelcoming to potential LGBTQ students or any student who might think about requesting a GSA.

In any event, the Society's March 31, 2016 submissions do not indicate any intention to create a "welcoming, caring, respectful and safe learning environment" for LGBTQ students.

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[16] It is unknown whether any students at either school know of public statements in the media about GSAs promoting "anti-Christian lifestyles". It is possible some older students may be aware of the dispute, but many younger students (at Meadows for example) are likely unaware of the issue.

Rather, the Society's March 31, 2016 submissions create the exact opposite impression, and the Society did not withdraw or otherwise modify its position during the inquiry.

ii) Review of the evidence that demonstrates how the Society through its two schools, Harvest and Meadows, has implemented the policy submission or the readiness to enact the policy submission.

As indicated above, the Society has not submitted a GSA policy as requested by the Minister, and it is opposed to GSAs and section 16.1 of the Act based on the principles of religious freedom.

The Society's anti-bullying policy, which appears to be otherwise effective[17] and reasonably drafted, does have a "clubs, groups and activities" section, but it does not deal with GSAs in any manner.

Therefore, there is no policy submission to be enacted and the Society is not ready to enact a GSA policy (or comply with section 16.1 of the Act if a request for a GSA is actually made by a student).

iii) Consider the extent to which the society has access to supports such as training and advice to enable it to understand its legal obligations.

The Society has made it clear that it opposes GSAs as a concept.

The Society is not sure what the Minister (via Alberta Education) would actually want in terms of a compliant GSA policy, but the Society does not have any policy at this time given its underlying opposition to GSAs.

iv) Determine the access by teachers to professional learning to support the implementation of section 16.1 of the School Act.

The Society has indicated it opposes section 16.1 of the Act, and there are currently no professional learning supports in place to implement a GSA under section 16.1.

The teachers presumably have online access to the various publicly available Alberta Education publications regarding GSAs specifically, and also the Alberta Government

publication "Guidelines for Best Practices: Creating Learning Environments that Respect Diverse Sexual Orientations, Gender Identities and Gender Expressions".

The Alberta Teachers' Association also has a publication entitled "GSAs and QSAs in Alberta Schools: A guide for teachers" that is publicly available online.

However, there are no specific supports in place to assist the teachers at either school given the Society's stated intent not to comply with section 16.1 of the Act.

E. Legislative Gap – section 45.1 of Act

Along with section 3 of the *School Act*, section 45.1 of the Act is the foundational basis for promoting diversity in schools. Section 45.1 states in part as follows:

> 45.1(1) A board has the responsibility to ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided with a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging.
>
> (2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1) to provide a welcoming, caring, respectful and safe learning environment that includes the establishment of a code of conduct for students that addresses bullying behaviour.

Section 45.1(3) then addresses the specific requirements for the code of conduct referenced in section 45.1(2) of the Act.

Section 16.1 of the Act is a student-initiated mechanism designed to further the objectives of section 45.1 of the Act. Section 16.1 allows students to request, among other things, the school's assistance in forming a "gay-straight alliance" or similar group. It states (in part):

> 16.1(1) If one or more students attending a school operated by a board request a staff member employed by the board for support to establish a voluntary student organization, or to lead an activity intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging, the principal of the school shall
>
> > (a) permit the establishment of the student organization or the holding of the activity at the school, and
> >
> > (b) designate a staff member to serve as the staff liaison to facilitate the establishment, and the ongoing operation, of the student organization or to assist in organizing the activity.

> (2) For the purposes of subsection (1), an organization or activity includes an organization or activity that promotes equality and non-discrimination with respect to, without limitation, race, religious belief, colour, gender, gender identity, gender expression, physical disability, mental disability, family status or sexual orientation, including but not limited to organizations such as gay-straight alliances, diversity clubs, anti-racism clubs and anti-bullying clubs.
>
> (3) The students may select a respectful and inclusive name for the organization, including the name "gay-straight alliance" or "queer-straight alliance", after consulting with the principal.

The GSA requirements under section 16.1 need to be read in the broader context of what the legislature is trying to achieve via section 45.1 of the Act – i.e. providing all students with a welcoming, caring, respectful and safe learning environment. The GSA option, which is entirely student initiated, is a mechanism that is intended to further the broader purpose of section 45.1 of the Act.

However, and critical to the scope of this inquiry and any recommendations flowing from the inquiry, is this issue: private schools such as Meadows and Harvest are not subject to section 45.1 of the Act.

Alberta Education has confirmed that section 28(7) of the Act, which applies to private schools such as Meadows and Harvest, only mandates compliance with section 16.1 of the Act for private schools. Section 28(7) of the Act states:

> Sections 16.1, 50.1 and 50.2 and section 123, in respect of appeals referred to in section 50.2, apply to a private school and its operation, and a reference in those provisions to a board is deemed to include a reference to the operator of a private school.

In other words, the Harvest and Meadows schools do not currently have a legislated requirement under section 45.1 of the Act to actually provide a "welcoming, caring, respectful and safe learning environment" for LGBTQ students – or any other student for that matter (e.g. students who are Muslim, Jewish, Sikh, etc. by religion).

If the Minister is wanting to ensure that all students – including but not limited to LGBTQ students – at all schools are able to have a "welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging", then the Minister needs to consider whether the provisions of section 45.1 of the Act should be extended to private schools.

F. Recommendations

The recommendations that follow are made in the context of the refusal of the Society to comply with the Minister's request for a GSA policy under section 16.1 of the Act, and its stated refusal to actually comply with section 16.1 of the Act in the event a student actually makes a request for a GSA. The recommendations are not made under the broader provisions of section 45.1 of the Act that do not currently apply to accredited private schools such as Meadows and Harvest.

In light of the Inquiry factual findings and the current legislative provisions of the Act, I make the following recommendations:

- The Minister should make an order under section 41(5) of the Act directing the Society to submit a legitimate GSA policy and also confirm that both schools will comply with section 16.1 of the Act (in the event a GSA request is made under the Act). These steps should be required to be done by a set deadline.

- A deadline of January 9, 2017 would correspond with the first school day of 2017 and would allow the Society and the schools time to consult with Alberta Education on what can constitute a legitimate GSA policy for a private religious school.[18]

- Alternatively, the Minister could set a deadline after Alberta Education has completed its ongoing assessment of GSA policies submitted by other religious-schools, including Catholic schools, to ensure that examples of legislatively compliant GSA policies for religious schools are available to guide – and to assess – any policy development for the Meadows and Harvest schools.

- If the Society refuses to comply with the Minister's order by whatever deadline is imposed, then the Minister should consider appointing an trustee[19] to conduct the affairs of the Society – at least in respect to ensuring compliance with section 16.1 of the Act and the implementation of a legitimate GSA policy for both schools.[20]

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[18] The Minister may want to ensure that Alberta Education has completed its assessment and review of GSA policies submitted by other religious schools – including "private" schools that are not otherwise subject to section the requirements of section 45.1 of the Act – so that Alberta Education can give the Society and schools proper guidance on this issue (assuming the Society and schools will comply).

[19] It is unclear whether the "official trustee" provisions of section 42 of the Act necessarily apply to private schools, but section 41(5) of the Act should allow the Minister to make an order appointing a trustee (if needed), and allow any order to be specifically tailored to address the issue at hand.

[20] Alberta Education also needs to assess and make recommendations on what, if anything, may constitute an effective GSA policy for home schooled students. The majority of the students falling under the Society's governance are homeschooled via the Harvest school, and this issue needs to be assessed in terms of how – or if – the Society can actually meet the requirements of section 16.1 of the

- If the schools refuse to comply or cooperate with the official trustee in respect of compliance with section 16.1 of the Act and the implementation of a legitimate GSA policy, then the Minister should consider revoking the accreditation and registration of one or both of the schools at the end of the 2016 / 2017 school year.

- Based on the facts as found in this Inquiry, I do not recommend any immediate cancellation of the accreditation and funding for the Meadows and Harvest schools. The preamble of the Act states:

> WHEREAS the best educational interests of the student are the paramount considerations in the exercise of any authority under this Act.

If that statement of intent is correct, then the Minister needs to balance the requirements of the legislation with the rights and needs of the students who are currently enrolled at the schools (and by implication the teachers employed by the schools). The students are innocent parties in this dispute, and they are apparently receiving an education that otherwise meets Alberta Education requirements – including, until at least March 2015, a safe and caring school environment in respect of the existing student population. Cancelling the accreditation of the schools, and thereby shutting down the schools, would be seriously disruptive to the students in the middle of the school year. As noted, it would also result in the loss of employment for up to 13 teachers and other related staff.

If the Minister considers it necessary to revoke accreditation and the associated funding for either or both schools, and can do so under the Act on the basis of the prospective non-compliance with section 16.1 and the failure to provide a GSA policy as directed[21], then that step should only be taken at the end of the current 2016/2017 school year to allow for a proper transition period for the affected students going into the 2017/2018 school year.

Act in those circumstances given the logistical problems with trying to implement a GSA in a homeschool setting.

[21] As noted, I have assumed that the Act allows the Minister to cancel accreditation and withdraw funding of an accredited private school for prospective non-compliance with section 16.1 of the Act and the refusal to provide a GSA policy – however, the Act itself is not entirely clear on this point (see, for example, section 28(3) of the Act). Further, if the Minister intends to revoke accreditation based on non-compliance with section 16.1, and if that non-compliance is based on honestly held religious beliefs, then the Minister will need to assess the impact any decision to cancel accreditation will have on the rights of the Society and the students under section 2(a) of the *Charter*, balanced against the broader objectives of the Act and the rights of any LGBTQ students who may be attending the schools. The issue of accreditation for private schools, and any rights engaged under section 2(a) of the *Charter*, are outside the scope of this inquiry, but I raise this as a question / issue for the Minister to consider.

- Finally, the Minister needs to consider whether accredited private schools should be brought within the provisions of section 45.1 of the *School Act*. There is a significant gap in the legislative framework in terms of requiring schools to provide all students with a welcoming, caring, respectful and safe learning environment.

  As it now stands, accredited private schools are only subject to the GSA requirements of section 16.1 of the Act, but are not subject to the broader foundational requirements of section 45.1 that form the necessary context for GSAs to be effective. This gap poses an obvious problem in the legislative structure if the intention is to provide all students – regardless of religion, cultural background, sexual orientation or gender identity – with a welcoming, caring, respectful and safe learning environment at all schools including private schools.

I trust that this report will assist you in considering next steps, and please do not hesitate to contact me if I can be of further assistance in this matter.

Yours truly,

SEVENY SCOTT

Per:

Dan Scott

Appendix A: *School Act* – Preamble, sections 3, 16.1, 28, 41, 42, and 45.1

Appendix B: Alberta Education letters to the Society dated March 28, 2014, May 28, 2014, and March 25, 2015

APPENDIX A

School Act, RSA 2000, c. S-3

Preamble, sections 3, 16.1, 28, 41, 42, and 45.1

Province of Alberta

SCHOOL ACT

Revised Statutes of Alberta 2000
Chapter S-3

Current as of June 1, 2015

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Part 11
Transitional

281 Continuation re boards, trustees, etc.

Preamble

WHEREAS the best educational interests of the student are the paramount considerations in the exercise of any authority under this Act;

WHEREAS parents have a right and a responsibility to make decisions respecting the education of their children;

WHEREAS students are entitled to welcoming, caring, respectful and safe learning environments that respect diversity and nurture a sense of belonging and a positive sense of self;

WHEREAS there is one publicly funded system of education in Alberta whose primary mandate is to provide education programs to students through its two dimensions, the public schools and the separate schools, in such a way that the rights guaranteed under the Constitution of Canada of separate school electors are preserved and maintained; and

WHEREAS the education community in making decisions should consider the diverse nature and heritage of society in Alberta within the context of its common values and beliefs; and

WHEREAS the Regional authority of a Francophone Education Region has a unique responsibility and the authority to ensure that both minority language educational rights and the rights and privileges with respect to separate schools guaranteed under the Constitution of Canada are protected in the Region, such that the principles of francophone educational governance are distinct from, not transferrable to nor a precedent for, the English educational system; and

WHEREAS the Government of Alberta affirms its commitment to the preservation and continuation of its one publicly funded system of education through its two dimensions: the public schools and the separate schools;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

(a) "Attendance Board" means an Attendance Board appointed under section 129;

(b) "board" means a board of trustees of a district or division;

(d) notwithstanding clauses (a) to (c), the Minister of Justice and Solicitor General if the student is in custody under the *Corrections Act*, the *Corrections and Conditional Release Act* (Canada), the *Young Offenders Act* or the *Young Offenders Act* (Canada).

(2.1) The authority of a guardian to act under this Act is subject to any limitation imposed by law on the authority of the guardian, and where a person claims to be a parent or guardian or claims the existence of any limitation on the authority of a parent or guardian, the onus is on that person to provide proof of the claim.

(3) An independent student is entitled to exercise all the rights and powers and receive all the benefits and is subject to all the obligations under this Act that the student's parent is entitled to exercise or receive or is subject to, and the student's parent shall not exercise those rights, receive those benefits or be subject to those obligations.

RSA 2000 cS-3 s1;RSA 2000 c32(Supp) s3;2001 c27 s3;
AR 49/2002 s9;2002 c30 s29;2003 cF-4.5 s124;
2003 c16 s117;2003 c41 s4(29);2007 c36 s5;
2010 c16 s1(49);2013 c10 s34;2015 c1 s3

Limitations

2 The exercise of any right or the receipt of any benefit under this Act is subject to those limitations that are reasonable in each circumstance under which the right is being exercised or the benefit is being received.

1988 cS-3.1 s2

Diversity in shared values

3(1) All education programs offered and instructional materials used in schools must reflect the diverse nature and heritage of society in Alberta, promote understanding and respect for others and honour and respect the common values and beliefs of Albertans.

(2) For greater certainty, education programs and instructional materials referred to in subsection (1) must not promote or foster doctrines of racial or ethnic superiority or persecution, religious intolerance or persecution, social change through violent action or disobedience of laws.

1999 c28 s3

Application to Francophone Education Regions

4(1) The following apply to a Francophone Education Region and its Regional authority, if any, as if the Region were a district and the Regional authority were a board:

sections 1 to 4;
Part 1;

(a) of one student, the student and the student's parent are jointly and severally liable to the board in respect of the act of the student, or

(b) of 2 or more students acting together, the students and their parents are jointly and severally liable to the board in respect of the act of the students.

(2) Subsection (1) does not apply to the parent of an independent student.

1988 cS-3.1 s11

Support for student organizations

16.1(1) If one or more students attending a school operated by a board request a staff member employed by the board for support to establish a voluntary student organization, or to lead an activity intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging, the principal of the school shall

(a) permit the establishment of the student organization or the holding of the activity at the school, and

(b) designate a staff member to serve as the staff liaison to facilitate the establishment, and the ongoing operation, of the student organization or to assist in organizing the activity.

(2) For the purposes of subsection (1), an organization or activity includes an organization or activity that promotes equality and non-discrimination with respect to, without limitation, race, religious belief, colour, gender, gender identity, gender expression, physical disability, mental disability, family status or sexual orientation, including but not limited to organizations such as gay-straight alliances, diversity clubs, anti-racism clubs and anti-bullying clubs.

(3) The students may select a respectful and inclusive name for the organization, including the name "gay-straight alliance" or "queer-straight alliance", after consulting with the principal.

(4) The principal shall immediately inform the board and the Minister if no staff member is available to serve as a staff liaison referred to in subsection (1), and if so informed, the Minister shall appoint a responsible adult to work with the requesting students in organizing the activity or to facilitate the establishment, and the ongoing operation, of the student organization at the school.

(5) If a staff member indicates to a principal a willingness to act as a staff liaison under subsection (1),

(a) a principal shall not inform a board or the Minister under subsection (4) that no staff member is available to serve as a staff liaison, and

(b) that staff member shall be deemed to be available to serve as the staff liaison.

2015 c1 s3

Parents

16.2 A parent of a student has the responsibility

(a) to take an active role in the student's educational success, including assisting the student in complying with section 12,

(b) to ensure that the parent's conduct contributes to a welcoming, caring, respectful and safe learning environment,

(c) to co-operate and collaborate with school staff to support the delivery of specialized supports and services to the student,

(d) to encourage, foster and advance collaborative, positive and respectful relationships with teachers, principals, other school staff and professionals providing supports and services in the school, and

(e) to engage in the student's school community.

2015 c1 s3

Part 2
Schools

Division 1
Schools Operated by a Board

Application of Division

17 This Division applies only to schools operated by a board.

1988 cS-3.1 s12

Teachers

18(1) A teacher while providing instruction or supervision must

(a) provide instruction competently to students;

(b) teach the courses of study and education programs that are prescribed, approved or authorized pursuant to this Act;

(c) promote goals and standards applicable to the provision of education adopted or approved pursuant to this Act;

(a) of the expulsion, and

(b) of the right to request a review under section 124.

(4) The board may re-enrol a student who has been expelled.

1999 c28 s4

Flags

26 The principal of a school shall ensure that the Canadian flag and the Alberta flag are displayed at the school.

1988 cS-3.1 s20

Prohibited activities

27(1) No person shall

(a) disturb or interrupt the proceedings of a school,

(b) disturb or interrupt the proceedings of a school meeting or board meeting, or

(c) loiter or trespass in a school building or on property owned by a board.

(2) No person shall canvass, sell or offer to sell goods, services or merchandise to a teacher or a student in a school without the prior approval of the board.

1988 cS-3.1 s21

Division 2
Other Schools

Private schools

28(1) A school is entitled to be registered as a private school if the operator applies to the Minister and the Minister is satisfied that

(a) the school will provide a program of studies that complies with any orders made under section 39(1)(f),

(b) the school will meet the standards of student achievement and achievement testing acceptable to the Minister,

(c) the operator agrees to regular evaluation and monitoring by the Minister, and

(d) the building that is used for school purposes meets and will continue to meet all applicable local and provincial health, safety and building standards.

(2) A private school is entitled to be accredited as an accredited private school if

(a) the Minister approves the education program and any modification of it offered at the school, and

(b) the Minister is satisfied that

(i) the operator of the private school continues to meet the requirements under subsection (1),

(ii) 7 or more students from 2 or more families are enrolled and continue to be enrolled in the school, and

(iii) individuals whose qualifications are approved by the Minister are employed to teach at the school.

(3) The Minister may cancel or suspend the registration or accreditation of a private school

(a) if the operator of the school does not comply, in the case of a private school, with subsection (1) and, in the case of an accredited private school, with subsections (1) and (2),

(b) if in the opinion of the Minister, the students at the school are not achieving acceptable educational progress, or

(c) if the operator of the school permits education programs or instructional materials that do not comply with section 3 to be offered or used in the school.

(4) No person shall operate a school as a private school unless it is registered under subsection (1).

(5) If a person operates as a private school a school that is not registered under subsection (1) or in respect of which the registration has been cancelled or suspended, the Minister may apply to the Court of Queen's Bench for an order restraining that person from operating the school during the time that

(a) the school is not registered, or

(b) the registration of the school is cancelled or suspended,

as the case may be.

(6) The Minister may make regulations respecting private schools.

(7) Sections 16.1, 50.1 and 50.2 and section 123, in respect of appeals referred to in section 50.2, apply to a private school and its operation, and a reference in those provisions to a board is deemed to include a reference to the operator of a private school.

RSA 2000 cS-3 s28;2009 c53 s168;2015 c1 s3

Home education program

29(1) A parent of a student may provide, at home or elsewhere, a home education program for the student if the program

(a) meets the requirements of the regulations, and

(b) is under the supervision of a board or a private school accredited under section 28(2).

(2) If a parent resides in unorganized territory, the Minister shall act as a board under this section.

(3) The Minister may make regulations respecting home education.

1988 cS-3.1 s23;1993 c24 s6

Early childhood services program

30(1) A board or, with the approval of the Minister, a person may provide an early childhood services program to

(a) a child who, as of September 1, is younger than 6 years of age, if the parent of the child agrees, or

(b) a student, if the parent of the student and the board are of the opinion that the program will benefit the student.

(2) A person or board that provides an early childhood services program may charge fees in respect of the program from the parent of a child referred to in subsection (1)(a) who attends the program.

(3) If a child referred to in subsection (1)(a) attends a program under this section, the child is not, by reason of attending that program,

(a) a resident student of the board, or

(b) entitled to any of the rights or benefits given to a student under this Act.

(4) The Minister may make regulations respecting early childhood services programs.

1988 cS-3.1 s24; 1990 c36 s9;1994 c29 s10;1997 c25 s5

Division 3
Charter Schools

Application

31(1) A person or society may apply to the Minister for the establishment of a charter school to be operated by a society incorporated under the *Societies Act* or a company registered under Part 9 of the *Companies Act*.

courses and private tutoring institutions that offer correspondence courses or tutoring in the same or substantially the same subjects as those offered in schools.

(4) A regulation made under subsection (3)(d), (e) or (f) may be specific or general in its application.

1988 cS-3.1 s25;1990 c36 s10;1994 cG-8.5 s68

Investigators

40(1) The Minister may appoint a person to inquire into and report on

(a) any appeal, complaint or dispute arising from the decision of a board or inspector or other school official,

(b) the condition of one or more schools, or

(c) any other school matter.

(2) A person appointed under subsection (1) may take evidence on oath.

(3) The Minister may, on receipt of a report under subsection (1), make any order that to the Minister seems proper.

1994 cG-8.5 s68

Inquiry into administration

41(1) The Minister may appoint a person to examine and inspect

(a) the financial condition,

(b) the administrative condition, or

(c) any other matter connected with the management, administration or operation,

of a board, private school or early childhood services program.

(2) A person appointed under subsection (1) may examine and take copies of

(a) all books of record and accounts,

(b) all bank books, and

(c) any other papers, documents or things.

(3) If the Minister so provides, a person appointed under subsection (1) has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

(4) The books, papers, documents and things referred to in subsection (2) shall be made available to the person appointed by the Minister at the time the person requests them from the person who has custody of them.

(5) A person appointed under subsection (1) shall report to the Minister on the examination and inspection and on receipt of the report the Minister may make any order that seems proper to the Minister.

1994 cG-8.5 s68

Official trustee

42(1) The Minister may appoint an official trustee to conduct the affairs of a board, subject to any terms and conditions the Minister considers necessary,

(a) when a board fails to comply with an order made under section 40(3) or 41(5), or

(b) when the Minister considers it in the public interest to do so.

(2) An official trustee appointed under subsection (1)

(a) has the powers and duties conferred by this Act on a board,

(b) shall be remunerated out of the funds of the board or otherwise as the Lieutenant Governor in Council determines, and

(c) with the prior approval of the Minister, has the power to borrow money and pass a bylaw.

(3) On the appointment of an official trustee to a board, the members of the board cease to hold office as members of that board.

(4) An official trustee holds office during the pleasure of the Minister.

1994 cG-8.5 s68;1995 c24 s99(31)

Inspections

43(1) The Minister may authorize a person to inspect and evaluate teachers, schools, the operations of school districts and divisions, education programs, instructional materials or buildings used as a school.

(2) A person authorized to make an inspection and evaluation under subsection (1) may include in the person's inspection an examination of the achievement of students and of the policies,

student the opportunity to meet the standards of education set by the Minister.

(8) Repealed 2015 c1 s3.

RSA 2000 cS-3 s45;2015 c1 s3

Board responsibility

45.1(1) A board has the responsibility to ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided with a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging.

(2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1) to provide a welcoming, caring, respectful and safe learning environment that includes the establishment of a code of conduct for students that addresses bullying behaviour.

(3) A code of conduct established under subsection (2) must

(a) be made publicly available,

(b) be reviewed every year,

(c) be provided to all staff of the board, students of the board and parents of students of the board,

(d) contain the following elements:

(i) a statement of purpose that provides a rationale for the code of conduct, with a focus on welcoming, caring, respectful and safe learning environments;

(ii) one or more statements that address the prohibited grounds of discrimination set out in the *Alberta Human Rights Act*;

(iii) one or more statements about what is acceptable behaviour and what is unacceptable behaviour, whether or not it occurs within the school building, during the school day or by electronic means;

(iv) one or more statements about the consequences of unacceptable behaviour, which must take account of the student's age, maturity and individual circumstances, and which must ensure that support is provided for students who are impacted by inappropriate behaviour, as well as for students who engage in inappropriate behaviour,

and

(e) be in accordance with any further requirements established by the Minister by order.

(4) An order of the Minister under subsection (3)(e) must be made publicly available.

2015 c1 s3

Foreign students

46 A board shall enroll all individuals who are entitled under section 8 to have access to an education program in a school year before enrolling an individual who is not entitled under section 8 to have access to an education program in that school year.

1997 c25 s8

Special education program

47(1) A board may determine that a student is, by virtue of the student's behavioural, communicational, intellectual, learning or physical characteristics, or a combination of those characteristics, a student in need of a special education program.

(2) Subject to section 48, a student who is determined by a board to be in need of a special education program is entitled to have access to a special education program provided in accordance with this Act.

(3) Before a board places a student in a special education program it shall

(a) consult with the parent of that student, and

(b) where appropriate, consult with the student.

1988 cS-3.1 s29;1993 c24 s8

Special Needs Tribunal

48(1) A board may determine that a student has special needs that cannot be met in an education program that can be provided by the board under any other provision of this Act.

(2) If a board makes a determination under subsection (1) in respect of a student, the board shall refer the matter to a Special Needs Tribunal, which shall confirm the board's determination or determine that the board is able to provide the student with an education program that is appropriate to the needs of the student.

(3) If a Special Needs Tribunal confirms the determination of a board under subsection (1), it shall develop or approve a special needs plan that is consistent with the needs of the student and, in accordance with that plan, shall

APPENDIX B

Alberta Education letters to the Society dated March 28, 2014,
May 28, 2014, and March 25, 2015

Alberta Government

FNMI & Field Services
Learning Supports & Information Management
44 Capital Boulevard
10044 – 108 Street
Edmonton, Alberta T5J 5E6
Canada
www.education.alberta.ca

March 28, 2014

Independent Baptist Christian Education Society
26404 Highway 16, West
Spruce Grove, Alberta
T7X 3H5

On behalf of Greater Edmonton Services Branch, Bob Gerhart and I would like to thank you and your staff for taking time out of your busy schedule to accommodate us on March 6 and 7, 2014 for the Alberta Education onsite private school monitoring of Harvest Baptist Academy and Meadows Baptist Academy.

We appreciated the opportunity to tour your schools and to meet with you and your staff. These meetings gave us further insight into the successful teaching and learning practices that occur in the schools. Our discussions with you and your staff also provided us with insights regarding how education in Harvest Baptist Academy and Meadows Baptist Academy is aligned with the vision outlined in the provincially developed document *Inspiring Education.*

Based on our review of onsite documentation and interviews with administrators at the schools, we are of the opinion that Harvest Baptist Academy and Meadows Baptist Academy are meeting regulatory requirements. In addition, we would like to provide you with feedback regarding commendable practices and recommendations that may contribute to your school's continuous growth and improvement.

Throughout our meetings with staff and the tour of both schools, a number of commendable practices were identified. These practices include:

- The philosophy and practices of the two schools have elements that are aligned with the vision of Albertans as defined in the publication *Inspiring Education.*
- The principals and staff have created school environments that are welcoming, safe and respectful of others.
- The principals and staff work collaboratively as a team and practice distributed leadership to accomplish tasks that enhance the learning environment.
- Teachers and administrators make good use of relatively limited learning resources.
- Students were observed to be focused, engaged and interested in learning tasks and activities that are relevant and related to curriculum.
- Teaching and learning is taking place in a personalized manner.
- Classrooms are bright, with attractive bulletin boards and samples of student work prominently displayed.

The following recommendations are provided to support your school's focus on continuous improvement:

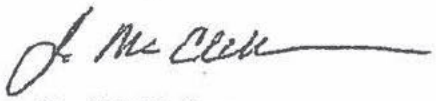
- The school administrators are encouraged to take full advantage of the services offered by Alberta Independent Schools and Colleges Association (AISCA) by becoming a full member of the Association.
- Teachers consider exploring professional development opportunities by becoming associate members of the Alberta Teachers Association.
- A formal technology plan should be developed and documented to continue to enhance and utilize technology as a resource and service for students and staff.
- Ensure that all student records include:
  - Year-end progress reports and reports of days attended;
  - The student's resident board;
  - Previous schools attended by the students; and
  - A standard Student Record file folder developed for Alberta Schools.
- All school policies should show the date that the policy was approved by the board, the review period (e.g., every 3 to 4 years), and references to the *School Act*/Education Act, regulations or other pertinent legal documents.
- The suspension/expulsion policy should be reviewed and revised with a focus on strengthening the suspension component of the policy, as described in the *School Act*.
- The school administrators are encouraged to develop a more robust teacher mentorship plan that includes supports for new teachers and other new non-certified staff.
- Continue to advocate for an intercom system for the school (Meadows Academy).

We look forward to the opportunity to meet with you as part of the post-monitoring process to further discuss our observations, accommodations and recommendations. It is our intent to meet with you, for approximately one hour, by the end of April 2014. I will be in contact with you to arrange a meeting date and time.

Again, thank you and your staff for the taking the time to participate in the monitoring activity. Your participation and warm hospitality were greatly appreciated.

If you or your staff have any questions please do not hesitate to call me at 780-415-6571 or contact me by email at Jim.McClellan@gov.ab.ca .

Sincerely,



Jim McClellan
Education Manager
Metro Services Branch

cc: [redacted]
Randy Billey, Director, Greater Edmonton Services Branch
Bob Gerhart, Education Manager, Greater Edmonton Services Branch

Alberta Government

FNMI & Field Services
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May 28, 2014

Independent Baptist Christian Education Society
26404 Highway 16, West
Spruce Grove, Alberta
T7X 3H5

Thank you for meeting with me on March 23, 2014 to discuss Independent Baptist Christian Education Society ***2013/2014 - 2015/2016 Three Year Education Plan and 2012/2013 Annual Education Results Report***.

I appreciate the information you provided and our discussions about the planning activities that are underway, the highlights of significant accomplishments, and the challenges within your school. I am especially pleased to note your efforts in continuous improvement with your staff through your commitment to ensuring quality teaching and learning in a safe, productive and respectful learning environment.

I commend Independent Baptist Christian Education Society for the results on your Accountability Pillar Overall Summary in the areas of Safe and Caring, Education Quality, Dropout Rate, Citizenship and Parental Involvement. I am pleased to note the efforts and improvements that are being addressed and achieved in these areas.

Based on my review, the planning and reporting processes conducted by the private school authority are aligned with the planning and reporting requirements established by the Ministry of Education in the ***Policy and Requirements for Accredited Private School Authority Planning and Results Reporting*** April 2013. The plan and annual report include all required elements. I hope that our ongoing communication will help to support your efforts to enhance student success in your private school authority.

If I can be of assistance in your planning or reporting process or any other matter, please do not hesitate to contact me at 780 415-6571 or by email at Jim.McClellan@gov.ab.ca.

Sincerely,

J. McClellan

Jim McClellan
Education Manager
Metro Services Branch

cc: Randy Billey, Director, Greater Edmonton Services Branch

Alberta Government

Field Services
Program and System Support
44 Capital Boulevard
10044 – 108 Street
Edmonton, Alberta T5J 5E6
Canada
www.education.alberta.ca

March 25, 2015

Thank you for meeting with Christine Bouchard and me to discuss Independent Baptist Christian Education Society's ***2014/2015-2016/2017 Three Year Education Plan and 2013/2014 Annual Education Results Report***. I appreciated the dialogue focused on your plan and results for continuous improvement in your private school authority.

I appreciated the information you provided and our discussion of the planning activities underway, highlights of significant accomplishments, and the challenges within the private school authority. I commend the private school authority for the results on your Accountability Pillar Overall Summary in the areas of Safe and Caring Schools, Citizenship and School Improvement. I am pleased to note the efforts and improvements that are being addressed and achieved in these areas.

From my review, the planning and reporting processes established by the private school authority are aligned with the planning and reporting requirements established by the Ministry of Education in the ***Policy and Requirements for Accredited Private School Authority Planning and Results Reporting*** April 2014. The plan and annual report include all required elements. Please express my appreciation to those who coordinated and assisted in the development of the plan and report.

I trust you will find our discussion regarding the alignment of strategies directly to student learning outcomes and the use of the logic model will both support your school in creating effective school improvement plans. I hope that our ongoing dialogue will support your efforts to enhance student success in your private school authority.

.../2

If I can be of assistance in your planning or reporting process or any other matter, please do not hesitate to contact me at 310.0000, then 780-638-9436 or cynthia.drumond@gov.ab.ca

Sincerely,

Cynthia Drumond
Education Manager
Greater Edmonton Services Branch

cc. Doreen Lupaschuk, Director, Greater Edmonton Services Branch