

## **Conceptualizing School Board Governance**

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Nobody of sound mind would have deliberately created the collection of laws, regulations, court orders, intergovernmental relationships, and contracts that goes by the name of educational governance.

Paul T. Hill (2004)

Every corporation, regardless of sector—be it private, public or nonprofit—is a legal entity whose affairs must be directed and accounted for. That responsibility is vested in boards of directors. Boards represent the stakeholders of the organization and are warranted by law to reasonably conduct the affairs of the organization. This, in its simplest form, is board governance.

Interest in and research in governance has grown greatly in the past thirty years. A recent Scopus search showed that between 1980 and 2000, the number of governance related research articles grew from 816 to over 6000. Between 2000 and 2010 Scopus identified nearly 29,000 new governance related research articles. Governance research has multiple foci, including such areas as environmental governance, venture capital governance, e-governance, water governance, the governance of nations, and board governance. Most entries were found in the categories of political science and board governance. Of significance were the variations in how the concept governance was used and understood. My interest in this literature was two-fold – to explore contemporary governance thinking in seeking a better understanding of the concept of governance, and then to explore the question, could Ontario school boards govern in accord with public expectations and as embodied in current board governance theory?

### ***The Question of School Board Governance***

As a long-time board member and educator with nonprofit, public, and private-sector boards, I was struck by what I perceived as the limited authority and autonomy school boards can bring to bear in the exercise of their mandated governance tasks. Although school boards retain specific responsibilities for planning, monitoring, hiring, and oversight, the functions of board governance developed in the research literature is broad. Indeed, it encompasses such responsibilities as directing the activities of the organization, securing resources and accounting publicly for their use, as well as developing policy and broad strategic planning (Chait, Ryan, & Taylor, 2005; Leblanc & Gillies, 2005; Miller, 2002). For school boards in Ontario, these latter governance responsibilities are subject to regulations and approval by the provincial government. Moreover, the duality of governing and being governed experienced by school boards is not typical of board governance in the private and nonprofit sectors and so makes school boards an exceptional area of governance research.

Board governance across all sectors has faced difficult challenges since the early 1990s, in part due to policy shifts, public governance failures, restructuring initiatives, emergent complex needs requiring substantive levels of collaboration, and fierce competition for limited resources. Boards in the private and nonprofit sectors have seemed better situated than school boards to respond to these challenges. Nonprofit and private-sector boards govern autonomously within broadly understood legal and fiduciary expectations. They are situated at the top of their organizations, answerable to their stakeholders and various publics. Although they may be accountable for meeting

particular legislative requirements, ultimately they are fully and completely responsible for all organizational outcomes. In contrast, public school boards are constrained by their mandated structure and functions and may be less able to exercise the potential of board governance to the fullest, which gives rise to the question of school board governance.

### ***Background to the Inquiry***

It has been claimed that school boards are the oldest form of elected representation in the country (Ministry of Education, 2006). They are certainly the principal method of governing school districts in Canada. According to the Ontario Ministry of Education commissioned report *School Board Governance: A Focus on Achievement (2009)* school boards are necessary for translating provincial policy into local contexts, for setting local priorities, and for providing co-ordination and support for their schools. Moreover, school boards are accountable to the provincial government<sup>1</sup> for the proper execution of their duties and powers, and to their electorate for responding to the education needs of the local community. While provincial governments are not obligated in the Constitution to delegate functions and powers to school boards, most have done so<sup>2</sup>, although not without ensuring the regulatory and legal mechanisms necessary for maintaining centralized control.

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<sup>1</sup> Section 230.12 (1) of the *Education Act* of Ontario states: Where a board fails to comply with any order, direction or decision of the Minister under this Part, the Minister may, on the notice, if any, that he or she considers appropriate, do or order done all things necessary for compliance with the order, direction or decision, and may exercise all the powers of the board for the purpose, under its name.

<sup>2</sup> Nine Canadian provinces and two territories govern local school districts through district school boards. New Brunswick schools are governed by locally elected District Education Councils. The Councils are responsible for some development and monitoring of an education plan and supervising the Superintendent of the school district but do not have the authority and responsibilities of the other provincial and territorial boards, for example, teachers are employed directly by the province. Similarly, while there is one French school board in the Yukon, all other public schools are governed through school councils, who do not have human resource and other governance responsibilities.

School boards began in small farming communities and somewhat larger industrial centers, as the autonomous and representative voice overseeing schooling in a given locality. They evolved over the next two hundred years of political, economic, and population growth into bodies responsible for the oversight of large, complex systems of education. This growth witnessed the modification of school boards, sometimes in one direction, at times in the opposite direction, in form, function, autonomy, and power.

Today in Ontario, there are 72 public school boards, including 31 English public district school boards, 29 English Catholic district school boards, 4 French public district school boards, and 8 French Catholic district school boards. In addition, school authorities operate a small number of schools in hospitals and treatment facilities in remote and sparsely populated areas. Overall, Ontario registered nearly 2.1 million elementary and secondary students in 2008-2009 (Ministry of Education, 2010).

### ***Method***

The intent of this inquiry was to engage in a conceptual analysis for the purpose of better understanding the concept of governance, to know what we mean and what we do not mean by governance; to identify those features essential to the concept itself; and to apply this conceptual frame to understanding school board governance in Ontario.

The term governance is ubiquitous and problematic - ubiquitous because it is omnipresent in everyday usage, problematic because of its protean character. Ultimately, this lack of clarity results in assumptions about a shared meaning of governance that leaves the practice open to individual, unarticulated values and beliefs.

The analysis began by subjecting the central concept of governance to an ordered scrutiny from the perspective of the historical, political, and organizational contexts

within which governance is practiced, breaking down bodies of knowledge and many-sided perspectives into comprehensive, relational ideas about governance. Common elements across the bodies of governance literatures<sup>3</sup>, were described as essential features. These features captured the complex, dynamic interactions, structures, and processes that comprise governance, operant in many venues, with different goals, constituents, and stakeholders. No single feature is adequate to say what governance is, but taken together, they frame the essence of governance. Although it is difficult to state precisely when understanding has been improved, Giudice (2005) argues that in revealing confusion and disagreement about an existing concept, the way is cleared for construction of a more adequate understanding.

Yet, as much as governance is a concept, it is also a human activity. As such, the necessary or essential features can not remain in the abstract. In practice, they are embodied in forms and acts of governance in context, under particular conditions, and within the limits and possibilities in a given place and time. Variations in governance, specific to particular contexts that shape and influence its practice, are explained as contingent features, recognizing the complex nature of governance and the environments within which governance activities take place. Governance emerged not only as a structure and a process but also as a social practice, not fixed and inert, but influenced by settings, variables, cultures and contexts, and requirements for moral or ethical practice. This understanding allowed me to account for the differences and variations in the treatment of the term. By accommodating both essential and contingent features of

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<sup>3</sup> Literatures consulted included current governance related literatures from the fields of political science, organizational/management sciences, and board governance theory and practice.

governance, the analysis attended to broad variations of context found in an array of literatures and fields.

This analysis led to a conceptual model of governance, comprised of both essential and contingent features. The essential and contingent features were treated as continuous, reminding us that every theoretical conceptualization includes descriptive-explanatory elements, reflective of the social, political, economic, and other contexts in which governance occurs. Practically, the continuity between essential features (those recurrent, constants that comprise the concept) and contingent features (those aspects that contribute to and influence governance as a social practice) permitted a multi-perspective understanding made possible by including aspects of governance that would otherwise be excluded as being non-essential.

### ***At Issue***

With a conceptual model of governance identified I turned to exploring the evolution of school boards in Ontario with attention to shifts in how school board governance is understood in the Education Acts, in school board literature and related academic literature. While there may be apparent unity in conversations about school board governance, an exploration of the concept suggests that understandings are divided into camps of distinct and different meanings. If governance is not a good interpretive concept for understanding what school boards can do, then school boards may be particularly vulnerable to expectations that they cannot meet, as well as to personal and public misapprehensions about their roles and responsibilities. Exploring the appropriateness of the concept of governance in relation to school boards does not pretend to suggest what boards should be doing, or what legislatures should do to grant

boards more or less power in the exercise of their duties. Rather, it intends to provide the kind of conceptual clarity necessary to assist school boards to be optimally effective and functional.

As such, board governance that ignored the reality of the Education Act, that school board members are creatures of that legislation or the assembly that created the Education Act or can change the rules and regulations, would fail to adequately address the question of school board governance.

### *At Issue*

Although there are many comprehensive analyses and commentaries available about the emergence, growth, and consolidation of the education system in Ontario, school board governance as a distinct topic has received less attention. Generally, historical accounts of Ontario's educational system often imply or make assumptions about the roles and activities of school boards, but do not explicitly discuss them. This study traced the development of the education system in Ontario precisely from the point of view of school board governance and in doing so exposed several contested areas. Although certain features of school board governance appeared more or less constant through their history, the limits and domains of these features have all been disputed and challenged. For example, since its inception, Ontario school board governance has experienced incremental losses to its power and authority and at different times throughout history, its legitimacy, fiducial and political nature, and orientation toward a public good have all been challenged. These debates, while representing different interests at different times and places, not only raise issues about school board governance in practice, but also reinforce the belief and expectation that school boards

govern. Therefore, the degree to which these features are present or absent, latent or actual, in law or in practice in the school boards of Ontario, is of critical importance to understanding school board governance.

Viewing school board governance over time was necessary for establishing both its dynamic elements and the shifting contexts within which it occurs. It became clear that that school boards, in order to fulfill their function, need to oversee and direct the education enterprise for which they are responsible, that is, they are, in design, governing bodies. Power, authority, legitimacy, fiduciarity, governance as political, and governance oriented toward a public good recur as central features of governance throughout the history of school boards in Ontario and elsewhere, both as expectations and manifestations of good governance. Sometimes it was claimed that local school boards inadequately fulfilled these features of educational governance; at other times, central government was portrayed as lacking the local knowledge needed for good school board governance. Moreover, the variety of meanings related to governance were indicative of both the complexity of the process of educational governance and the struggle to adapt our understanding to appreciate the reality of school board governance in practice.

While the focus of this paper is on Ontario public school board governance, a review of the public and political interest in schools and education in Canada and the United States showed that contested issues of school board governance are not isolated to Ontario. However, focusing on the school boards of a single province provides a level of concreteness that makes possible comparisons between theory and the actual practice of school board governance, and allows a context for meaningful discussion of the question of school board governance. Finally, the specific choice of Ontario school boards for this



analysis can serve, *mutatis mutandis*, as a model for similar research in other geographical areas and political jurisdiction.

Over time, momentous change has altered nearly every aspect of public education in Ontario. Yet, the essential features of governance, those features that comprise its nature and substance, although altered, are not absent. An analysis of essential governance features shows that each of the identified features is integral to understanding school boards as they are constituted by law and that each of the essential features can be realized in school board governance today. While the features may be realized differently in school boards than in boards in other sectors, or take on iterations that set them apart from boards of other publicly funded organizations and agencies, they are nonetheless present. School boards, put simply, have what they need to be genuine and effective governing bodies. School boards that adequately appreciate their governance capacities and are willing to exercise the full extent of their legislated powers, can not only govern, but are positioned to provide clear leadership in education through imaginative and creative oversight and decision-making.

The term governance brings together both the active and the substantive usage of “to govern” and “the one (or body) who governs.” If school boards do not govern, the error is theirs. Within the limits and the possibilities of their unique form of governance they can clearly steer and direct their system of schools in a way that is fully governance, although not absolute governance.

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