



Commission scolaire English-Montréal
English Montreal School Board

Brief Presented to the
Committee on Institutions
National Assembly of Quebec

Bill 21
An Act Respecting the Laicity of the State

By
The English Montreal School Board

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Introduction

Since our creation more than two decades ago the English Montreal School Board (EMSB) has been committed to contributing to the advancement of Quebec society and to building bridges of understanding between Quebecers of different backgrounds and cultural communities. We take pride in the diversity of our faculty and staff as well as our student body and in our success in creating an environment which promotes openness, tolerance and mutual respect.

Our position on the wearing of religious symbols by our faculty and staff is clear and longstanding. As we explained in the debate in 2013 over Bill 60, and we are reiterating today, we strongly believe that *Bill 21: An Act Respecting the Laicity of the State* conflicts with our values and our mission and with those of all Quebecers as expressed in the Quebec Charter of Human Rights and Freedoms. Its passage would lead to disharmony and friction and is contrary to our societal goal of promoting our peaceful co-existence in a pluralistic Quebec. We urge the Government at a minimum to exempt public school teachers, staff and administrators, as it has for subsidized private schools, from this legislation.

Our brief provides an overview of the EMSB and our success in bridge-building before focusing on Bill 21 and its implications. We have restricted our comments to our area of expertise - the impact of the proposed legislation on the Quebec school system and the English-speaking minority.

About the English Montreal School Board

With a youth and adult sector population of more than 44,000 students, the English Montreal School Board is the largest English public school board in Quebec. It was established on July 1, 1998, when the province created new boards along linguistic lines. Our network consists of 77 schools and centres spread across fourteen boroughs and six municipalities on the Island of Montreal: Ahuntsic/Cartierville, Anjou, Côte-des-Neiges/Notre-Dame-de-Grâce, Mercier/Hochelaga Maisonneuve, Montreal North, Outremont, Plateau Mont-Royal, Rivière-des-Prairies/Pointe-aux-Trembles, Rosemount/Petite Patrie, Saint-Laurent, Saint-Léonard, Sud-Ouest, Ville Marie, Villeray/Saint-Michel/Park Extension; Mount-Royal, Montreal East, Westmount, Côte-Saint-Luc, Hampstead and Montreal West.

Our network comprises elementary schools, high schools, adult education centres, vocational training centres and schools for children and adults with special needs. The population we serve is extremely diverse, not only economically, but also culturally and linguistically.

Our Success Rate

At 91 percent, the English Montreal School Board has achieved the highest success rate among public school boards in the entire province of Quebec, based on a seven year cohort, according to figures released by the Ministère de l'Éducation et de l'Enseignement supérieur (MEES). This is all the more impressive given the fact the province-wide success rate, which includes both public and private school results, is 80.9 percent. This achievement was made possible thanks to all those who contribute to the excellent education provided by the EMSB, including our teachers, staff, parents, volunteers, and, of course, our students. It is also attributable to our commitment to creating a positive learning environment which reflects the diversity of our community and to providing our young people with role models with whom they can identify.

Our Mission

The mission of the English Montreal School Board is to support our schools and centres in their efforts to educate students within a caring, safe and inclusive learning community.

To fulfill this mission, the EMSB shall:

- Recognize and value the diversity of its community;
- Provide all students with the opportunity to develop their talents and achieve their personal best;
- Recognize the skills and competencies of its employees and support their continuous professional development;
- Encourage collaboration among the various educational partners;
- Use resources effectively and innovatively to help schools and centres focus on the mission of instruction, socialization, and qualification;
- Encourage lifelong learning and critical thinking.

The EMSB mission fosters the development of educated and responsible persons who will assume their position as active members of a democratic society. As we have already stated, the provisions of Bill 21 are not coherent with the mission and values of the EMSB.

Our Commitment to Promoting Diversity and Pluralism

Our success rate and our mission stem from our roots, which were planted in 1998 with the deconfessionalization of school boards and strengthened in 2000 with the adoption of Bill 118. According to Bill 118, which was introduced by Premier François Legault, who was Minister of Education at the time, activities sponsored by schools must be inclusive, pluralistic and educational. In its introductory message, Bill 118 states that “schools should not only introduce young people to the basic values of Québec society and culture, but they should also make them aware of the richness of diversity.” It continues: “Religion must not find its place in schools by creating barriers, but instead by being a factor of cohesion, tolerance and openness. It can and must promote coexistence in an ever more pluralistic society.”

Bill 118 is a fair and just law that does not discriminate against anyone. It is an example of legislation that is applicable across the board and still fosters inherent values among students. At the EMSB, we have upheld the principles and values promoted through Bill 118 and have applied them consistently and cohesively. In fact, we have been recognized as a model by the MEES for developing and implementing programs that support the principles of Bill 118.

A course called Ethics and Religious Culture (ERC) is mandatory in all elementary and high schools in Quebec, according to the Basic School Regulation. Its aim is to adopt a descriptive approach to the diverse religious heritage of Quebec while promoting a “culture of dialogue” among students. From our perspective it is succeeding in ensuring students are respectful of different viewpoints while identifying what unites us.

The themes of this course are reinforced by programming and activities at EMSB schools. We take pride in the fact that our schools hold multi-faith celebrations. Via a Spiritual Community Animation Service, the EMSB has enhanced cross-cultural understanding and taught students about different cultures. We encourage activities and clubs that honour and respect our multi-cultural society with a focus on the needs of our students.

It is also important to emphasize that the values of Bill 118 are reinforced in the Quebec Education Program. It points out that “As learning community and microcosms of society, schools bring together students of diverse social and cultural origins. This makes the school an ideal place to learn to respect others and accept their differences, to be receptive to pluralism, to maintain egalitarian relationships with others, and to reject all forms of exclusion.”

In the Broad Area of Learning of Citizenship and Community Life, the Quebec Education Program states that a culture of peace must be a focus of a students’ development. Explicitly, it refers to a “recognition of the principle of equal rights for all and of the individuals and groups to express their differences; recognition of the negative consequences of stereotypes, discrimination and exclusion.” Bill 21 is in direct contradiction with the values that teachers are required by law to impart to their students.

Additionally, Bill 21 is in contradiction to the teacher obligations under the Education Act. Section 22 (3), “a teacher shall take the appropriate means to foster respect for human rights in his students.”

By educating our students about the cultural and religious diversity of Quebecers and celebrating the pluralistic nature of our society, we are striving with much success to reduce ignorance and prejudices and to create an atmosphere of respect and acceptance of differences. The EMSB’s aim is to foster an environment that promotes understanding and respect and that upholds the rights that are guaranteed to citizens through the Quebec Charter of Human Rights and Freedoms.

Bill 21: The EMSB Position

This is not the first time that the EMSB has had to defend its values and its mission. In 2013, we made it very clear that we would neither support nor enforce the provisions of Bill 60 (The Charter of Quebec Values) that related to restricting the wearing of religious symbols by provincial government employees, because they were contrary to both the mandate given to us by the MEES and to our mission and values. Fortunately, this law never came into effect.

We are extremely disappointed and frustrated that this matter has resurfaced with the recent introduction of Bill 21. Ironically, through this bill, Premier Legault's government is trying to suppress the very values and rights that he once championed through Bill 118.

Yet, before we focus on reasons for our opposition, let us identify our common ground.

We agree that all members of our staff must exercise their functions with their face uncovered. This is critical for the EMSB for reasons of communication, identity verification and security.

We also agree that as a school board we must remain neutral in religious matters and reflect the secular nature of the State, while making allowance, if applicable, for the emblematic and toponymic elements of Quebec's cultural heritage that testify to its history. Our buildings are often named after deserving Quebecers and international figures and have heritage elements in their facades. These should be preserved and honoured for they put our young people in touch with their roots and their history.

Most importantly we agree that in the execution of their duties our leadership as well as our teachers must maintain religious neutrality and exercise reserve with regard to expressing their religious beliefs. This, as we have highlighted, reflects our longstanding policy and approach.

In summary, we all agree on the fundamental principles described in the introduction to the Bill. More specifically, these are the separation of State and religions, the religious neutrality of the State, the equality of all citizens and freedom of conscience and freedom of religion.

The problem is that Bill 21 is a step backwards, not forwards.

It threatens to undermine much of what we have accomplished together over the last twenty years. It also fails to take into account the multicultural nature of Montreal. We are the most diverse region of the province.

As the EMSB is a school board established by the provincial government, Bill 21 would prohibit our future primary and high school teachers, school principals and vice-principals from wearing religious symbols in the exercise of their functions, while limiting the career advancement of our current employees. Most importantly it sends a message of intolerance and exclusion to our students and their families.

We have already pointed out that Bill 21 does not reflect the values of our founding legislation, our mission and values and those of the Quebec Education Program.

It is also in violation of the democratic values that we all cherish.

Bill 21 is in violation of both the Canadian Charter of Human Rights and Freedoms and the Quebec Charter of Human Rights and Freedoms. These Charters are meant to protect minority rights from the will of the majority. The secular nature of our school system is guaranteed in the law, and is certainly not under threat from school employees who choose to wear religious symbols. There is no justification in discriminating based on individual expressions of religious belief.

To be specific, the EMSB believes the following as indicated in the resolution passed by the Board on March 27, 2019:

- This proposed legislation would be contrary to paragraph 2 (a) of the Canadian Charter of Rights and Freedoms which guarantees everyone's right to freedom of conscience and freedom of religion;
- This proposed legislation would be contrary to paragraph 2 (b) of the Canadian Charter of Rights and Freedoms which guarantees everyone's right to freedom of thought, belief, opinion and expression;
- This proposed legislation would be contrary to subsection 15 (1) of the Canadian Charter of Rights and Freedoms which guarantees that everyone is equal before and under the law and guarantees the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on religion;
- This proposed legislation would be contrary to section 3 of the Charter of Human Rights and Freedoms which guarantees freedom of conscience, freedom of religion, freedom of opinion, and freedom of expression;
- This proposed legislation would be contrary to section 10 of the Charter of Human Rights and Freedoms which guarantees the right to full and equal recognition and exercise of his/her rights and freedoms, without distinction, exclusion or preference based on religion.

The EMSB values the diversity of our students and staff, and respects their personal and religious rights which are guaranteed both by the Canadian and Quebec Charters of Rights. Hence, the EMSB cannot be party to proposed legislation which, if passed, runs contrary to what we teach with regard to respect for individual rights and religious freedoms.

Since when does wearing a symbol equate with abusing authority? The EMSB considers this to be intolerant secularism. There is no question that secularism is becoming a religion which is being imposed on a pluralistic society. In a misguided attempt to demonstrate that the state is neutral, this legislation would show that Quebec is no longer open to pluralism.

Rather than promoting gender equality Bill 21 will have the opposite effect. Due to the preponderance of women working in Quebec schools, the law will have a disproportionate effect on them, particularly well-educated Muslim women with university teaching degrees whose role in public life will be restricted.

Teachers from other parts of Canada will not be able to seek employment in Quebec. In practical terms this hurts our school system as we currently face a teacher shortage.

The EMSB also believes that Bill 21 may be in violation of Section 23 of the Canadian Charter of Rights and Freedoms, which constitutionally guarantees the education rights of the English-speaking minority in Quebec. By placing restrictions on the curriculum and the hiring of personnel, the Bill if adopted would in our opinion limit the English-speaking minority community's control over "those aspects of education which pertain to or have an effect upon their language and culture."

What's more, our belief is the Quebec government agrees with the merits of our legal arguments. Otherwise why would it be invoking the notwithstanding clause?

In our opinion the use of this clause is unjustified. There is no threat to our secular system from teachers who choose to wear religious symbols. As Peter Sutherland, President of the Montreal Teachers Association points out, "Not once have I been made aware of a complaint regarding a teacher wearing a religious symbol and any effect (perceived or real) on their professionalism."

Our courts provide important checks and balances in our democracy, and it is wrong for the Quebec government to take pro-active steps in the hope of avoiding court challenges. Moreover, we fully anticipate that the Bill, if passed, will be the subject of multiple court challenges on grounds such as its impact on women and mobility.

The Impact on Teachers

The EMSB's opposition is not only based on abstract constitutional legal arguments. The reality is that Bill 21 will have a detrimental impact on the women and men and girls and boys who make up our community, as was made clear at our stakeholder consultation in February. At that time parents, teachers and students came together in one voice to express their support for allowing educators to wear religious symbols.

If it is adopted, Bill 21 will have a direct negative impact on countless Quebecers, destroying their dreams and curtailing their aspirations.

If enacted, Bill 21 will force individuals to choose between government employment and a desire to wear religious apparel. It is a personal choice to wear such apparel.

As Mr. Sutherland suggests, Bill 21 seems to be trying to address a non-existent problem.

There are some in our employ who wear headgear, clothing, jewelry or other adornments consistent with their respective religions and beliefs. This is something to celebrate; not to chide. People learn to interact peacefully through exposure to different cultures and religions, whereby stereotypes are broken down.

The underlying hypothesis of Bill 21 is that the wearing of religious apparel by teachers equates with the dissemination of religious beliefs to their students. Teachers are professionals who know that they are required to place their own convictions aside in order to offer various perspectives in the classroom.

Furheen Ahmed is a teacher at Westmount High School. She was born in Montreal and attended this school. Ms. Ahmed is a Muslim and wears a hijab. This in absolutely no way impacts negatively upon her objectivity, her professionalism or her teaching abilities.

“This proposal makes me really sad,” Ms. Ahmed said. “It feels as if I am not welcome in my own home. I am a born and raised Montrealer, so this is my home. It is my right as a Canadian and a Quebecer to be free and to practice my religion. If it does not conflict with what I’m doing in the classroom, then I do not see the issue. I would love for someone to show me one instance when a doctor wearing a turban, a teacher wearing a hijab or another civil servant wearing a crucifix has negatively influenced the people they served.”

Ms. Ahmed also observed: “This measure is allowing people to voice really terrible things. How can you tell somebody from 5 p.m. to 5 a.m. ‘go ahead and be a Muslim, but from the moment you wake up and go to work until 5 p.m. you are not Muslim anymore and you cannot practice anymore’? How is that possible? It is not the way Islam works! It is not how other faiths work!”

“We teach our kids not to make generalizations. Yet the government is putting people in boxes. ... We’re being told that when we wear a hijab or a kippa, we are less professional than our colleagues. Instead of being evaluated based on how I teach, a snap judgment is being made about me because of what I wear.”

Another EMSB teacher, Sara Rosa from John Caboto Academy in Ahuntsic, wears a large crucifix around her neck, something that would not be permitted if the Bill is adopted. "My belief is that we are still free people in this province and have the right to practice our faith according to our commitments," she says. "My faith defines who I am and how I live my life. According to the Canadian Charter of Rights, we have freedom of religion. We do not have to hide in our homes to practice our faith. We have the right to demonstrate our allegiance to God. If people are entitled to display tattoos, esoteric symbols (and other things), then why would I not be free to carry a symbol that represents me? Part of people's basic rights is the freedom to practice their religion."

The EMSB spoke with another teacher who is a Ba"ale Teshuvah Orthodox Jew – meaning that he is a Jew from a secular background who became religiously observant. For the past year he has been teaching in one of the Board's East End schools, where there are no Jewish students. Besides a kippa, he also has a tzizit – a four-cornered, tasseled jersey worn by Jewish males as part of the Jewish dress code. He was not asked to remove this head covering or garment, nor would it ever be obligatory. In the eight years he has been on staff, nobody has complained. If anything, students have asked him why he wears these things.

These teachers of course are fortunate in that the law allows them to keep their jobs. But these are talented men and women whose mobility within the public sector will now be severely limited. They cannot aspire for promotions or pursue opportunities at other school boards. Without opportunities for advancement and growth morale will suffer, and some will seek to transfer to the independent school system or move out of the province.

Let us be clear: it is inconsistent for subsidized private schools to be exempted from this Bill. Let us also be clear that we are not suggesting that the scope of this ill-conceived Bill be broadened. We are simply stating that our teachers, staff and administrators should be exempted as well.

As it stands Bill 21 will hurt our public school system, leading to an exodus of students and teachers. We are concerned that the Bill will make religious private school even more attractive to parents and students of religious minorities (a 2010 study concluded that 80 of 106 religious schools in Quebec were subsidized for more than \$105 million). The public school system in Quebec is already on an uneven playing field with the private system, and this situation would further strengthen the private system to the detriment of public school enrolment.

If Bill 21 causes an increase of enrolment in private schools, this would foster cells of insular religious environments instead of society with a broader understanding and acceptance of different religious traditions and customs.

We will have a hard time replacing these talented educators who leave the EMSB because Bill 21 would severely limit our talent pool. Even though we are currently suffering from a shortage of teachers, some students currently enrolled in our faculties of education will not be able to work in our schools.

We worry most about our current and future students.

“I don’t agree with this,” said one student. “There is nothing wrong in expressing your religion; it doesn’t make you any different.”

“Everyone is the same and it is wrong what the government is doing,” another student remarked.

To all students wearing a religious symbol, Bill 21 is sending them a message that they are not equal to their peers. Do they not have equal choices in their future as to which career to fill? As Ms. Ahmed states: “You are a young person who now has a whole bunch of doors shut. Psychologically, that hurts our young people. You want to have a sense of belonging.”

We are concerned that Bill 21 will create a sense of exclusion amongst students from religious and cultural minorities. Students who wear religious symbols will feel further marginalized. We are also sending them a negative message, while opening them to ridicule and taunting from their classmates.

Some EMSB teachers wear religious symbols to work and so do some of the students but this has no effect on their ability to lead.

The proposed Bill goes against the Board’s values. The EMSB is a multi-ethnic school board and Montreal is a multi-ethnic city. We need to reflect the values of everyone.

The fact that the Board has a proposal of this nature from our government is deeply disturbing. It is an affront to human rights and human dignity, and sends a message that is opposite to the message of respect the EMSB tries to convey to students every day.

Moving Forward

We indicated earlier Bill 21 is attempting to solve a non-existent problem. On the other hand, if passed it will create a host of new problems.

If adopted, Bill 21 will essentially create a brand-new role for school boards, one with which the EMSB is uncomfortable and does not intend to be party to.

We, like our fellow school boards across the province, will be asked to police our teachers, monitoring them for non-compliance with the restrictions imposed by the legislation, issuing warnings, imposing disciplinary measures – including dismissals if required. The draft legislation is silent with regards to sanctions so it is unclear what the disciplinary measures will be. One guarantee is that all school boards will be inundated with grievances which in turn will result in costly arbitration hearings... a new way to spend time and tax dollars that would be better spent to improve student success. It is important to emphasize that these arbitrations will occur in each region of the province and will in all likelihood lead to a smorgasbord of results.

School boards would have to change their hiring practices so that non-compliant candidates would be refused interviews for applicable positions – unless they renounced their religious beliefs during the working day. These candidates for teacher positions will likely include some of our own former students, who had aspired to pursue a teaching career without having to sacrifice their own religious beliefs.

School boards would also have to write up new policy and procedure statements describing how they would ensure compliance and invoke consequences on transgressors. How will we ensure that these are consistent across the province?

Monitoring the situation will be next to impossible. Down the road how will a school administrator know if a teacher has been grandfathered? What happens if a teacher in mid-career decides to wear a religious symbol?

School boards will have to screen all suppliers of services to ensure that they, too, were complying with the law – more bureaucracy and squandering of already diminishing resources.

The EMSB wishes to conclude by sharing with you this part of its resolution which was adopted by the Council of Commissioners on March 27, 2019:

BE IT RESOLVED THAT the EMSB states its strong opposition to any legislation that prohibits or restricts its employees from wearing religious symbols in the exercise of their functions and duties in our schools and classrooms.

IT WAS FURTHER UNANIMOUSLY RESOLVED THAT the EMSB states its refusal to adopt a policy to implement any such legislation that prohibits or restricts its employees from wearing religious symbols in the exercise of their functions and duties in our schools and classrooms.

The EMSB urges legislators to exempt public school teachers, staff and administrators, as it has for subsidized private schools, from this legislation. Our position, which is consistent with our founding legislation, the Quebec Education Program as well as our mission and values, ensures Quebecers continue to benefit from the wisdom, compassion and professionalism of teachers from all backgrounds. Diversity will strengthen our education system, provide role models for our young people and help ensure our peaceful co-existence as Quebecers.