



June 29, 2017

Honourable Mike Bernier  
Minister of Education  
Government of British Columbia  
PO Box 9179, Stn Prov Govt  
Victoria, BC V8W 9H8

Dear Minister Bernier,

**RE: Conseil scolaire francophone de la Colombie-Britannique ("CSF") 2018/19 Five-Year Capital Plan Submission**

Please find attached the CSF's 2018/19 Five Year Capital Plan submission, which has the unanimous support of the elected Board of Regional Trustees. The CSF's 2018/19 Five-Year Capital Plan has been prepared in accordance with the requirements set out by the Ministry of Education's Capital Division in the *Capital Plan Instructions for 2018/19 Five-Year Capital Plan Submissions* dated March 2017 (Attachment 1). Each of the capital requests for projects scheduled between years one and three of the plan are supported by a Project Request Fact Sheet ("PRFS"), submitted to the Capital Delivery Branch.

The Ministry of Education ("the Ministry") is aware that the CSF has urgent needs throughout the province that must be satisfied in order for the CSF to fulfill its constitutional mandate to offer French-language education pursuant to section 23 of the *Canadian Charter of Rights and Freedoms* ("Charter"). In this regard, the CSF's 2018/19 Five-Year Capital Plan submission sets out the projects required by the CSF in order to deliver constitutionally mandated French-language education in British Columbia of equivalent quality to that offered by English-language school districts. From the perspective of the CSF's Board of Regional Trustees, all of the projects set out in this plan are crucial to the equitable delivery of French-language education services to its constituencies across the province.

The CSF's Board of Regional Trustees would like to take this opportunity to advise the Ministry of the following important factors regarding the CSF's 2018/19 Five Year Capital Plan submission.

**Every project within the CSF's capital plan is a high priority; most would be ranked as a number one priority if the Government of British Columbia's capital planning system accommodated the unique needs and rights of the CSF's constituents**

The CSF has been advised by Ministry officials that it must comply with all aspects of the Capital Plan Instructions, in order to be considered for capital funding during the 2018/19 budget process. These requirements include the prioritization of each project within the Capital Plan. The CSF has further been advised by Ministry officials that should the CSF choose not to provide the Ministry with a prioritized capital plan, the Ministry would establish the priorities for the CSF. Therefore, the CSF submits a prioritized capital plan in order to be compliant with the Ministry's instructions, but does so under protest.

The CSF's position is that the Ministry's current system of capital planning does not and cannot meet the school infrastructure needs of the CSF. In order to truly consider the uniqueness of the French-language school system in British Columbia, the Ministry of Education's processes would need to take into account, or better take into account, a number of factors, including: the regional nature of CSF's service delivery model resulting from its constitutional mandate to deliver French-language education to the francophone population in British Columbia; the fact that the Ministry has consistently underfunded the CSF since its inception so it starts from a position of inferiority in relation to the English-language school districts; and, that the Ministry has failed to work with Municipalities to ensure that they abide by the requirements set out in the *Local Government Act* and *School Act* that require municipalities to take into consideration school site requirements of the CSF for French-language school sites. The Ministry has a general duty to assist the CSF with respect to infrastructure needs; it has failed to do so since the inception of the CSF. These are just a few examples of how the system set up by the Government of British Columbia and the Ministry does not enable the CSF to compete for capital funding in an equitable manner, which makes its requirement for the CSF to prioritize its capital projects across the province patently unfair.

Given the constraints on the CSF set out by the Ministry, each of the projects set out in the CSF's 2018/19 Five-Year Capital Plan submission has been prioritized. However, the Board of Regional Trustees must clearly state that it provides such a list under protest and does not consider the prioritized capital plan to be a true reflection of the urgency that the CSF's lack of school infrastructure places on its ability to deliver constitutionally required services, never mind high quality services, to the francophone community in British Columbia. All the capital projects presented by the CSF in the 2018/2019 Capital Plan are required in order for the CSF to offer education of equivalent quality to English-language school districts. To be clear, it is the position of the CSF that all but nine projects set out in the capital plan rank as a number one priority, as set out in Attachment 2 to this submission. Of these number one priority projects, some are identified

by the letter “J”, which stands for “Judgment”, and which reflect the fact that the project must be realised soon in light of Justice Russell’s September 2016 judgment.

**In developing the prioritized list of capital projects required by the Ministry, in order for the CSF’s capital requests to be considered in the budget process, the CSF’s Board of Regional Trustees has established a set of principles to guide its decisions**

One of the key considerations for the Board of Regional Trustees is the urgent need for schools to fulfill its mandate to offer constitutionally required French-language education to serve the francophone population in British Columbia. It is therefore critical that the CSF continue to make significant progress identifying school sites for acquisition, obtaining approval from the Ministry to purchase sites and construct the school infrastructure identified in the 2018/19 capital plan. Where school sites are not available, it is critical to identify lease space to enable the CSF to provide French-language education. In order to achieve these objectives, it is imperative that the Ministry provide a significant and increasing capital budget envelope to the CSF, reflected in every year of the Ministry’s 2018/19 – 2020/21 capital funding envelope, in the Government of British Columbia’s 2018/19 Fiscal Plan.

In this regard, a second guiding principle for the CSF’s Regional Board of Trustees is to prioritize projects based on Madam Justice Russell’s judgment provided on September 26, 2016. Each such project is identified as a first priority, and is listed J-1 through to J-6 in the CSF’s 2018/19 Capital Plan. The CSF expects these projects to be identified by the Ministry as a priority for the 2018/19 – 2020/2021 capital funding envelope identified in the Ministry’s capital budget in the Government of British Columbia’s 2018/19 Fiscal Plan.

A third guiding principle for the CSF’s Regional Board of Trustees is to prioritize projects based on when the capital project could be achieved within the five year capital plan. Highest priority has been given to projects that could start within the first three years of the 2018/19 Capital Plan, and/or where there is a significant identified need for French-language programming, such as Vancouver West of Main Street. The objective of this principle is to maximize the number of projects that could be started each year within the capital funding envelope as projects that are feasible and ready to start are prioritized. These projects are considered achievable, without delay.

A fourth guiding principle takes into consideration the extent of the Ministry’s breaches of section 23 of the *Charter* to enable the CSF to provide French-language education of equivalent quality to that of English-language school districts. The objective of this principle is to take into consideration the number of students in a catchment area that are not enrolled because there is no school or because the school is full, as well as complaints regarding other considerations

communicated to the CSF by parents, parents' associations, or other members or representatives of the francophone community.

The final guiding principle is the principle of flexibility to proceed with projects that are identified in the CSF's Five-Year Capital Plan submission. This principle acknowledges that the regional nature of the CSF's service delivery model is unique, and that opportunities that are currently unknown are likely to arise outside of the Ministry's annual capital budgeting processes. In recognition of the unique situation of the CSF, the CSF has been advised by Ministry officials that the Ministry intends to be flexible when considering the selection of new supported projects and capital budget approvals for all projects identified within the CSF's Five-Year Capital Plan. It is the expectation of the CSF that if a site or leasing opportunity arises that has not been supported by the Ministry during its annual capital approval process, but is deemed by the CSF to be as high a priority as an approved project, Ministry officials will work with the CSF to review and approve the business case of the emerging project.

**The CSF recognizes that in many cases the most practical solution to acquire school infrastructure is to negotiate the transfer of capital assets from local English-language school districts**

Over the past number of months, the CSF and officials from the Ministry have been working to develop processes to work together, and with English language school districts, to identify potential opportunities to purchase school sites and infrastructure from various English-language school districts. The CSF's Board of Regional Trustees appreciates the Ministry officials' time and effort to assist the CSF in its work to identify appropriate school sites across the province that might become available from English-language school districts, but wishes to encourage a heightened level of effort in this regard.

There are several projects identified in the CSF's 2018/19 Capital Plan where the CSF would consider purchasing English-language school district assets. The school districts include: Vancouver, Burnaby, Victoria, Saanich, Sooke, Richmond, Abbotsford, Nelson, Kelowna, Kamloops, Maple Ridge, Revelstoke, Terrace, Chilliwack, North Vancouver, West Vancouver, and Nanaimo. The CSF requests that the Ministry assign dedicated resources to work with the CSF to help identify school facilities that might be appropriate for the CSF's requirements, and to participate in discussions and negotiations with the relevant English-language school districts to facilitate the transfer of assets to the CSF.

## **The Ministry has an obligation to intervene in municipal government land use planning to help the CSF secure school sites**

In addition to working with the CSF and English-language school districts to identify sites, the Ministry has an obligation to assist the CSF to work with local governments to ensure municipalities consult with the CSF and seek its input regarding: the CSF's actual and anticipated needs for school facilities and support services; the size, number, and location of the sites anticipated to be required for school facilities; the type of school anticipated to be required on the sites; and, when the facilities are anticipated to be required. To date, the Ministry has not worked with the CSF to ensure that local governments are in compliance with the *Local Government Act*, which requires municipalities to consult with the CSF during official community planning processes, or, in the case of Vancouver, official development planning processes.

Therefore, the CSF's Board of Regional Trustees requests that the Ministry assign dedicated resources to work with the CSF to help identify school sites for the projects identified in the CSF's 2018/19 Capital Plan that might meet the needs of the CSF, and to participate in discussions and negotiations with the relevant municipalities to facilitate the acquisition of those sites.

## **The Protocol for Agreements for Minority-Language Education and Second-Language Instruction will be renewed in 2018; there is an opportunity for the Ministry of Education to obtain more funding for CSF capital project requests**

The current Protocol for Agreements for Minority-Language Education and Second-Language instruction ("Protocol") comes to an end in 2018. We understand from Ministry officials that negotiations to renew the Protocol are underway. The Regional Board of Trustees wishes to reinforce with the Ministry that these negotiations represent a good opportunity for the Ministry and the CSF to obtain more funding for the CSF's capital projects. As the Ministry is aware, the CSF has benefited from federal funding for community spaces in the past. The CSF continues to encourage the Ministry to prioritize the negotiations with the federal government to ensure timely and increased funding to benefit the community programming needs of the CSF.

In addition, the CSF's Board of Regional Trustees encourages the Ministry to seek a special bilateral funding agreement with the federal government, similar to the agreement concluded in 1997, in order to obtain supplementary funding for capital projects related to section 23 of the *Charter*. The CSF's request for a special bilateral funding agreement is supported by a recent report of the Standing Senate Committee on Official Languages, tabled on May 31, 2017, outlining the major challenges to French-language education faced by the French-language community in British Columbia. In particular, the Senate Committee recommends that the Minister of Canadian Heritage "conclude a special agreement with [the Ministry] to respond to the

pressing infrastructure needs of the francophone community and guarantee the recognition of its rights under section 23 of the [Charter] and Part VII of the Official Languages Act.”<sup>1</sup> Such an agreement would provide funding to augment the Ministry’s capital funding envelope related to providing equivalent, homogenous French-language education in British Columbia, where numbers warrant.

Yours truly,



Marie-France Lapierre  
President

Cc : Sylvain Allison, Secretary-Treasurer

Attachment 1: CSF 2017/18 Capital Plan prioritized according to the Ministry of Education’s Capital Plan Instructions, March 2017

Attachment 2: CSF 2017/18 Capital Plan prioritized according the CSF’s priorities

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<sup>1</sup> Standing Senate Committee on Official Languages: “Horizon 2018: Toward stronger support of French-language learning in British Columbia,” May 2017. Available online: [https://sencanada.ca/content/sen/committee/421/OLLO\\_2017-03-29\\_ReportFinal\\_e.pdf](https://sencanada.ca/content/sen/committee/421/OLLO_2017-03-29_ReportFinal_e.pdf) (accessed on June 26, 2017)