



November 2, 2018

The Honourable Lisa Thompson  
Minister of Education  
Mowat Block, 22nd Floor  
900 Bay St  
Toronto ON M7A 1L2

Delivered via email to: [minister.edu@ontario.ca](mailto:minister.edu@ontario.ca)

Dear Minister Thompson:

Members of ISBOA were pleased to participate in the Student Transportation Competitive Procurement Review Panel (STCPR) composed of retired Justice Colin Campbell (Chair) and two procurement experts. Their final report contained 29 recommendations, all of which we support. One recommendation was in regard to the procurement contracts for student transportation.

Justice Campbell wrote in his report and recommendations:

*"...establish consistent and balanced legal agreement terms and conditions and fair, open and transparent competition, we also **recommend** that the purchasing consortia rebalance their legal agreement terms ... through a coordinated process that establishes province-wide common standards **based on input from both school boards and operators.**" (pages 21-22, emphasis added)*

*"Our review process included a review of the legal terms and conditions contained in a sample of 16 RFPs ... Without exception, all agreements included terms and conditions that, according to current legal standards based on the recent legal developments ... contained terms that appeared to be either commercially unreasonable, overly prescriptive or contractually unenforceable. Many had items and conditions falling into more than one of those categories." (pages 20-21)*

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Independent of the procurement process used, the industry supports the recommendations of Justice Campbell's report dealing with the need for a balanced contract. In addition, the industry has a uniqueness that is not conducive to a "one size fits all" contract. Therefore, a fair and reasonable contract should contain both of the following:

- clauses that are standard in all school board contracts with service providers across the province and,
- clauses that vary in each contract and which reflect local market conditions.

The contract between consortia and service providers should be fair, transparent and developed considering the needs of student safety, impact on the taxpayer in the long term, needs of school boards, and needs of service providers.

The attached contract provisions are recommended to be standard in all school board contracts regardless of procurement process (*specific language for clauses in the contract to be developed*) and could be effectively and efficiently communicated to all school boards/transportation consortia through an SB Memo.

The attached provisions continue to promote and advance the safety and sustainability goals of student transportation set out by your Ministry. These provisions contribute to fulfilling Justice Campbell's recommendations and provide unambiguous and useful guidance to transportation consortia going forward.

Notably, we would support hiring Justice Campbell to develop appropriate contract clauses based on these provisions, especially considering his recommendations, experience and previous work with the student transportation sector.

ISBOA and OSBA request the opportunity to meet with you and your officials to discuss the benefits to government of this submission.

Respectfully,



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