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Studying School Sustainability in New Brunswick – Policy and Practice

Dr. Lee Chalmers
Academic Fellow, Urban and Community Studies Institute
University of New Brunswick, Saint John

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List of abbreviations and acronyms

AESD	Anglophone East School District
ANSD	Anglophone North School District
ASSD	Anglophone South School District
AWSD	Anglophone West School District
DEC	District Education Council
DPAC	District Parent Advisory Committee
EECD	Education and Early Childhood Development
EY	Ernst and Young
FSR	Facility Status Review
FTE	Full-time equivalent
HWSF	Hazen White/St. Francis School
IE	Institutional ethnography
KCS	Kingsclear Consolidated School
MYSIP	Multi-year school infrastructure proposal (or plan)
PM#1/PM#2/PM#3	Public meeting #1, #2, #3
PSSC	Parent School Support Committee
SJBKE	St. John the Baptist/King Edward School
SPAC	School Parent Advisory Committee
SSS	School sustainability study

Overview

Study aim and methods

Since 2014, a wave of school sustainability studies (SSSs) has taken place in New Brunswick, resulting in the closure of a number of schools. Those involved have raised a number of concerns about how well the *Policy 409* process governing these studies is working. With a focus on the Anglophone School Districts, the present study has sought to map out in some detail how the process laid out in the policy is implemented in practice to determine a school's sustainability. The aim has been to shed light on specific areas of contention and concern with a view to identifying specific areas where change is needed. Producing this map of the process relied on the analysis of in depth interviews with fifteen individuals who had first-hand experience with the sustainability study process (as parents and community members, individuals with District Education Council (DEC) experience, and school staff), as well as an examination of relevant documents (e.g., *Policy 409* itself, DEC meeting minutes, documents generated through particular sustainability studies, etc.).

Results

This detailed mapping allowed the identification of two key areas where the SSS process has been organized in ways that limit the potential of sustainability study to produce optimal outcomes for a district's students and their communities. These problematic areas pertain to how "sustainability study" and "public consultation" are understood and practiced.

<u>Sustainability Study</u>

A number of problems were identified with the current policy and how it is put into practice that compromise efforts to engage in a meaningful study of a school's sustainability.

- Despite a shift since 2009 to a focus on "sustainability," *Policy 409* and the SSS process continue to be oriented towards school closure.
- There is a tendency, at times, for district documentation to "accentuate the negative" in its presentation of information about a school, to the relative neglect of what is positive.
- Decisions in areas that bear on school sustainability (e.g., around grade reconfigurations, catchment area boundaries, capital improvements, out of zone transfers, and the location of programming like Early French Immersion) are made with no formal connection to assessing or planning for a school's sustainability.
- The trigger criteria and the triggering process in use are inadequate and can have a negative impact on the sustainability of certain schools by perennially threatening them with closure.
- By limiting sustainability study to three "infrastructure" options (status quo, repair, close), the policy provides no space for meaningful consideration of alternative "sustainability enhancing" options (e.g., grade reconfigurations, changes to catchment area boundaries…

opportunities for joint use arrangements to capitalize on under-utilized space in schools, etc.).
- *Policy* 409's focus on studying schools individually constrains efforts to engage in the meaningful study of school sustainability across a collection of schools.
- In policy and in practice, infrastructure planning and sustainability study/planning remain disconnected.

Public Consultation

Similarly, a number of problems were identified with how the policy and its implementation function to limit the scope and impact of public consultation for the SSS process.

- In practice, a narrow definition of those affected by the sustainability study of a particular school and its possible closure has focussed the SSS process on parents/guardians of students to the relative neglect of the school's broader community.
- The structure of the public consultation – as three meetings occurring in an often condensed timeframe and involving an exchange of information with little opportunity for discussion and dialogue – fails to facilitate meaningful consultation.
- The desired outcome of an informed decision can be compromised where community members experience challenges accessing the information they need to construct a thorough response to a district proposal, or where discrepancies between information presented by the district and that presented by the community remain unreconciled. On this latter point, a particular problem can arise where a district relies on assumptions that are presented as fact (e.g., that larger schools offer greater educational value than smaller schools).
- A lack of collaboration and prior consultation can allow the process to become adversarial, and misinformation and misunderstanding to limit a sustainability study's value.

Suggestions for change

- The focus of the process, in policy and practice, needs to shift to "sustainability" (and away from closure).
- Meaningful sustainability study requires
    - early and collaborative involvement with the affected school community (or communities);
    - a standard package of information about the school that is made available at the outset;
    - the provision of a timeframe and supports that allow for the thorough review of a school's standing;
    - structures and processes to facilitate discussion and dialogue (not simply information exchange), to create space for "out of the box" thinking about school sustainability, and to support a collaborative approach to assessing the feasibility of

all options on the table (those aimed at enhancing the school's sustainability as well as status quo/close options)

- a commitment to grounding decisions about school sustainability more thoroughly in an understanding of the local context and the needs of particular communities – a commitment that requires a more collaborative and integrated approach to infrastructure planning and sustainability study/planning.

The changes suggested by those participating in this study highlight a number of specific areas where change efforts might usefully be directed. However, one useful starting point may be to convene a broader group (or series of groups) of past SSS participants for a facilitated discussion to flesh out what a SSS process might look like, in policy and practice, if it is to have greater success addressing educational and community needs at the local level in New Brunswick.

Introduction[1]

Beginning in the fall of 2014 and extending through to April 2016, a number of "sustainability studies" of particular schools were conducted in New Brunswick's four Anglophone school districts under *Policy 409* (*Multi-year School Infrastructure Planning*), with closure of the school being one option under consideration.[2] It was typical during this recent wave of studies that, upon learning their local school was to be studied, parents and other community members became actively involved in the process. They asked questions, voiced concerns, and compiled and presented, during the public consultation phase, information they believed was important for the members of their District Education Council (DEC) to consider before making a decision about their school's future. The outcomes of these school sustainability studies varied, with members of the relevant DECs voting in some cases to maintain the status quo, and in others to recommend to the Minister of Education and Early Childhood Development (EECD) that the school be closed and its students relocated.

Regardless of outcome, a common theme that emerged at this time, through sustainability study documents and correspondence as well as media accounts of the proceedings, was that the process was both flawed and fraught in certain respects, with various parents, community members, and even some DEC members raising concerns in this regard.[3] As this wave of studies wound down, there were calls for *Policy 409* to be reviewed so that concerns about the process might be addressed. Since then, an additional number of sustainability studies have been launched across the districts, and questions about the policy and its implementation have continued to be raised. All of this suggested now would be an opportune time to examine the sustainability study process more closely.

The current research project began in January 2017, with a focus on achieving a better understanding of the apparent contentious nature of the school sustainability study (SSS) process through a detailed examination of the process itself.[4] This involved two areas of activity.[5] The first focussed on a close examination of relevant documents (e.g., *Policy 409* itself, DEC meeting minutes, documents generated through particular sustainability studies). One key activity here was tracing how the policy has changed over time in terms of its breadth

[1] Requests for additional information about this research may be directed to the author at chalmers@unb.ca. I would like to acknowledge, with appreciation, the research assistance provided by Jennifer Fraser-Furrow and Marissa MacMillan over the course of this project.

[2] While sustainability studies were conducted under *Policy 409* in the Francophone school districts in New Brunswick as well during this period, the focus of the present study is on the Anglophone school districts.

[3] Recent research from Ontario (Irwin & Seasons, 2012; Rappolt, 2015), Nova Scotia (Corbett & Tinkham, 2014; TInkham, 2014), the USA (Deeds & Pattillo, 2015), New Zealand (Kearns, Lewis, McCreanor, & Witten, 2009) and Scotland (Slee & Miller, 2015) attests that New Brunswick is by no means the only jurisdiction where the processes in place to review a school for possible closure have proven contentious and the fairness of the proceedings have been called into question.

[4] Coincidentally, a motion calling for a formal review of *Policy 409* was put before the provincial legislature and voted on in March, 2017, but did not secure enough support to pass.

[5] Additional information on the research approach employed in this study can be found in Appendix A.

of focus and the requirements laid out for reviewing a school's standing and considering closure as a possible outcome.[6] The second relied on in-depth interviews to tap into the knowledge people have acquired by virtue of having worked through the SSS process in relation to a particular school or set of schools. Fifteen individuals, with representation from all four Anglophone school districts, were interviewed, and included parents, community members, individuals with DEC experience, and school staff. The information generated from these two areas of activity was used to map out in some detail how the SSS process works to determine a school's sustainability.[7]

This mapping allowed the identification of two key areas where the SSS process, in policy and practice, has been organized in ways that limit the potential of sustainability study to produce optimal outcomes for a district's students and their communities. The first of these problematic areas pertains to how "sustainability study" is often defined and implemented in ways that focus people's efforts to review a school's standing narrowly on school closure. The second concerns how the potential for public consultation to contribute insights into a school's sustainability and add strength to SSS outcomes can be undermined where mechanisms facilitating the thorough, collaborative, and transparent study of a school's standing are weak or lacking. Each of these will be discussed in more detail in the next section. This discussion, in turn, will help to set the stage for considering needed change.

Problematic areas in policy and in practice [8]

> *The policy talks about studying school sustainability. So why aren't we looking at options that could make our school sustainable?*
>
> ~ Community member

> *The process was very opaque, non-transparent, confrontational, confusing.*
>
> ~ Community member

[6] The details of this historical review of *Policy 409* are provided in Appendix B. Copies of each version of the policy from 1990 to the most recent 2015 version can be found in Appendix C.

[7] This detailed mapping is presented in Appendix D. It traces the process from what happens in the lead-up to a DEC deciding to launch a sustainability study of a particular school, through the various phases of the public consultation process and the DEC's final decision-making process, to the Minister's role once a recommendation from the DEC is received. It also provides some detail on how the SSS process has been working where the professional services firm Ernst and Young (EY) has been contracted to produce school infrastructure planning options for a collection of schools, which have included proposals for school closures that have resulted in sustainability studies being launched. The interviews conducted for this study were focussed on the sustainability studies that took place between October 2014 and May 2017. Relevant documents were analyzed for the same period. District and government documentation and news media accounts were consulted to update the findings presented here to cover the period since May 2017 to December 2018.

[8] The map of the SSS process developed through examining interview transcripts and relevant SSS documents, which includes detail from some of the specific sustainability studies in the Anglophone districts that have taken place since 2014, has informed the observations and analysis provided in this section. The details of this mapping (Appendix D) can be consulted to flesh out and give further substance to the ideas presented here.

Defining and implementing "sustainability study"

In a number of its earlier versions, *Policy 409* took "*Closure of Schools"* explicitly as its subject and focus. However, since 2009, the policy has formally abandoned school closures as its primary focus in favour of a seemingly broader purpose – multi-year school infrastructure planning.[9] In so doing, it has replaced "the study of schools for possible closure" with "the study of a school's sustainability," presented as one component of a strategic and long-term approach to infrastructure planning along with major capital projects, capital improvements, and grade reconfigurations. It is guided by the goal that multi-year school infrastructure planning reflects the department's "commitment to providing New Brunswick pupils with equitable educational services." It has taken on, as a guiding principle, the department's recognition of the integral role schools play in promoting and preserving local culture and community, especially in rural areas. It has stipulated a responsibility to consider, when assessing community impact of a school under sustainability study, whether the school is the sole school in the community, especially at the elementary level.

Combined, these changes have signalled an important shift in perspective – that any consideration of a school closure is to occur within the broader study of the school's overall sustainability, which is to be assessed in connection with the still broader process of infrastructure planning for the district. All of this is to be aimed at maximizing the effective and efficient use of space in school facilities, while keeping in mind both the commitment to provide equitable educational services and recognition of schools' community role.[10] This suggests that the study of a school's sustainability, then, will be conducted in reciprocal relation with a broader infrastructure plan. A school will be studied with a view not simply to keeping it open or closing it, but also possibly to enhancing its sustainability through infrastructure investment (the newly added "repair the school" outcome). In addition, the inclusion of "grade reconfigurations" as a component of "district infrastructure planning" carries the implication that this option too will be considered in connection with studying a school's sustainability.

However, from the perspective of many community members, "sustainability study" has, in practice, been all about closure. As one community member observed:

[9] Since 1990, three versions of *Policy 409* have explicitly focussed on "the closure of schools" (the 1990, 1994, and 2002 versions). There was one prior attempt over this time period to broaden the policy's focus beyond school closure. The 1998 version focussed on "the effective use of schools," and established an explicit connection between education planning and school facilities planning. It directed attention to assessing a school's "viability" in light of educational, fiscal, and community requirements. While closure remained one possible outcome of such assessments, opportunities to address viability concerns through joint-use projects (allowing excess space in a school building to be used by community or other organizational partners) were to be routinely considered. For further detail, refer to the historical review of *Policy 409* in Appendix B.

[10] It appears that the words "effective" and "efficient" are often used interchangeably. In using them together here, I am referring to a distinction some have made between the effectiveness of a school (its ability to deliver a quality education and meet the needs of its students) and its efficiency (its ability to function at a reasonable cost).

> I think overall through the process we felt that there was not a lot of out of the box thinking, or, you know, there was this notion of "the school doesn't have enough kids so it needs to be looked at to be closed." Not how can we make the school sustainable. What are the things that we could do to make it sustainable and take the load off other schools. That mentality did not come through at all from either the DEC or the Superintendent…. That was some of the things that we were hoping could come out of that, that the DEC could come back and say "You know, the school is sustainable if you change the catchment and add French immersion." But that is not what we were told would come out of that as part of that, you know?[11]

From this standpoint, something is at work in the *Policy 409* process that is limiting the meaningful study of a school's sustainability.

In this regard, we can point to a number of "disconnects," evident both within the current policy itself and how it is put into practice, that are problematic for the pursuit of such meaningful study. First, the idea of studying a school's sustainability runs up against the lingering legacy of closure language at various points in the policy. The public consultation process is described as involving meetings "on the possible closure" (*Policy 409, section 6.5.4* and *Appendix C*), and determining a school's sustainability is to consider the possibility of increased educational opportunities "as a result of a closure" (*section 6.4.2*).[12] Indeed, the wording used in the policy frames the criteria to be considered when studying a school's sustainability more to "accentuate the negative" with a view to possible closure than to "accentuate the positive" with a view to how the school's sustainability might be enhanced.[13] So, for example, a school's low/declining enrolments are to be considered with respect to possible negative impacts on the learning environment, but not to possible benefits of smaller school size or possible courses of action that could address enrolment decline (e.g., reviewing policy and practice around out of zone transfers). Similarly, the "impact on other schools" criterion" has typically been employed from the perspective "what is the impact on feeder and receiving schools should the school under study close?" and not "what actions might be taken within this collection of schools (e.g., possible catchment area boundary adjustments) to strengthen the sustainability of each?" Based on policy language, the starting position of "sustainability" study remains, in many respects, studying a school for possible closure.[14] As voiced by community members, as well as some DEC members, this is an opportunity missed.

[11] I have used an ellipsis (…) when quoting those interviewed to indicate when a passage or sentence has been omitted from what was said. This was typically done either to exclude details that could be identifying or where the thread of the conversation took a short detour before returning to the issue highlighted in the quote.
[12] Unless otherwise indicated, references are to the current (2015) version of *Policy 409*, a copy of which is included in Appendix C. To distinguish reference to *Appendices* from *Policy 409* from the appendices attached to this report, I use italicized print to refer to the *Policy 409 Appendices*.
[13] In the 2009 and 2015 versions of the policy, the list of eight required sustainability criteria includes low/declining enrolments, health and safety, the quality of education programs and services, transportation, finances, impact on the local community, impact on other schools, and economic development (*section 6.4.4*). In addition, the policy notes that this list "does not preclude a DEC from considering other factors relevant to their local circumstances."
[14] That some community members have come to hold this view is evident in the community's presentation during the public consultation phase of the SSS process for Napan Elementary School in 2015. Here, the community

A second and related disconnect concerns how the districts present information when applying the required criteria to the study of a particular school's sustainability. Much of the volume of information the districts provide on the criteria in their public meeting documentation is conveyed in a neutral, descriptive manner and framed as a "presentation of facts" (e.g., the current enrolment numbers, the operating costs for the most recent fiscal year, etc.). However, in some instances and in certain respects, the facts presented are selective. This may involve emphasizing the advantages expected to follow a school closure, while neglecting to address how the advantages of the school under study would be preserved, and not lost, with a closure outcome. Responding to the district's presentation at the first public meeting (PM#1) of the public consultation, the Chief and Council of Fort Folly First Nation raised this concern in their submission to the Dorchester SSS, noting:

> The proposal takes great pains to outline problems with access to specialists in art, music and physical education at Dorchester; however, there is no related assurance that these problems will be solved at Salem [the proposed receiving school]….. While numerous pages are dedicated to detailing the savings that closure of Dorchester will bring, there is no serious analysis of the educational benefits for children. In addition to the failures to guarantee any pedagogical improvements [e.g., greater access to specialists]…, there is no analysis of who the children at Dorchester are and how needs will be met in Salem. Because even the proposal acknowledges that the individual attention children get in a small school is an advantage, we have every reason to expect details on how these needs will be met in any alternate solution.

This selectiveness may also involve highlighting factors contributing negatively to a school's sustainability while marginalizing or neglecting those contributing positively. This is evident in a number of areas where, for example, district documentation (or documentation prepared for the district):

- emphasizes what a school lacks in relation to new school building guidelines to the neglect of what it offers (e.g., noting at the PM#1 presentation for Pennfield Elementary that the school had no gym or cafeteria, leaving it to the community members at the second public meeting (PM#2) to clarify that they had a small gym supplemented by their outdoor space, and a full kitchen which their Home and School Association used for the school's hot lunch program);

members presented the criteria as identifying, not what to look for to assess (and support/enhance) a school's sustainability, but rather what to look for to close a school (e.g., the school faces low/declining enrolment; there is evidence of significant health or safety risks in the school, the facility is unable to provide essential educational services to students, the time and cost of student transportation is an issue; operating costs for the facility are excessive; the closure would have limited impact on the surrounding community; there are no negative impacts on feeder schools and/or receiving schools; the closure will not negatively impact economic development in the surrounding area). They reasoned, and argued, that, because their school did not meet any of these closure criteria, it should be considered "sustainable" and therefore should remain open. In effect, the absence of negative features defined sustainability.

- emphasizes where a school scores low on some criterion to the relative neglect of where it scores high (e.g., the recent report submitted on the Tantramar Community Schools study by EY to the AESD DEC included a summary slide of information from a student perception survey conducted in three of the schools under consideration, making the general observation that the schools met or exceeded Canadian school norms on the vast majority of indicators, but going on to detail in each case only the 3 indicators that deviated most negatively from the norms);
- portrays a school's finances in a more negative light by emphasizing the total estimated cost of all outstanding capital improvements, without indicating that some were of low priority – something one community member described as including the "wish-list" along with the more essential expenditures[15];
- emphasizes at PM#1 only those of the required criteria viewed as calling the school's sustainability into question (e.g., the PM#1 presentation on Lawrence Station Elementary School in ASSD concluded by referring to only the three required criteria deemed to fit under the heading a "Summary of Factors that Support Recommendation to Close Lawrence Station" (in this case, low/declining enrolment, quality of education programs (given small school size) and finances (anticipated operating and capital cost savings)).

Overall, such complementary instances of accentuating the positive of a proposed closure and the negative of a school's sustainability have contributed to a community perception that, when turning to study a school's sustainability, the district/DEC typically focus more on putting together a negative case and leave it to the school community to put forward a positive one. As one community member observed:

> At that first meeting, they told us that we would have a chance to do a rebuttal, so to speak, to come back to them with how we felt we were sustainable…. There was a certain amount of information that was gathered through the school district, but they didn't do any type of sustainability – they didn't look into it to see that we were sustainable. It was all downloaded onto the school themselves to come back and tell them why we thought we were sustainable.

For some, this left the impression that the study was not being conducted in an open-minded manner, that a "not sustainable" decision was favoured from the start.

[15] This was raised as a concern by a number of the community members I interviewed. To take one example from AWSD, the district's PM#1 presentation for the 2015 SSS of McAdam Elementary School listed 11 outstanding capital improvement projects totalling $456,500. Following the community's PM#2 presentations in response, the district's presentation at the third and final meeting of the public consultation (PM#3) listed the same total estimated cost, but added a bullet point indicating that 3 of the 11 projects were priority one, 5 were priority two and 3 were priority three, with priority one being considered most urgent. No breakdown of estimated cost by priority level was provided. It appears that community members questioning these totals has encouraged some districts to start routinely including in their PM#1 presentations the priority rating of capital improvements listed for a school under study.

In this regard, some community members, as well as one individual with DEC experience, referred to what one called a process of "attrition." Schools could become vulnerable in the present to having their sustainability called into question and to facing a closure proposal because enrolments were adversely affected by past district/DEC/department decisions pertaining to school boundaries, grade reconfigurations, out-of-zone transfers, or the allocation of programs (like French Immersion) or pilot projects. Similarly a school's "outstanding capital improvement costs" could be adversely affected, in comparison to other schools, by past district/DEC decisions about what capital projects for which schools to prioritize.[16] In a number of cases, the districts' PM#1 presentation of "outstanding capital improvement costs" was identified as particularly problematic. One community member referred to their PSSC trying to get a list of needed repairs for a couple of years and being told there was nothing that needed to be done, only to find during the sustainability study of their school that the improvements listed as needed totalled into the millions. Others observed that, while a list of needed capital improvements, with their estimated costs, was highlighted during the SSS of their school, the final outcome was not "repair," with a plan to address the needed improvements over time, but "status quo." Another community member observed:

> They count your capital improvement list against you as [X] million dollar overhead for the school, and, you know, people say 'Well, what about the ten years where you didn't spend any money on us?' You know? Like, look at how much you saved there, and could that not be applied now, or maybe this [X] million is because you didn't spend anything in ten years on us?

Such "attrition patterns" helped to generate a cynical view among some community members that their school had been targeted for closure for some time and its sustainability eroded rather than supported.

Reflecting on this possibility of schools being targeted, one community member noted that having "trigger criteria" in place has the advantage of ensuring an objective and standardized approach to determining when a SSS is to be launched.[17] However, community members generally saw the current trigger criteria and process as problematic in a number of ways. They noted the 100 or fewer students threshold is not reasonable for schools that were never built to accommodate that many students. They viewed this as unfairly flagging such schools for review each year and as hitting schools in rural areas particularly hard. The calculation of "functional capacity" remains contentious and confusing, with community, district, and province arriving at different capacity ratings for the same school in certain cases. In addition, the criteria the DECs use to decide whether or not to request an exemption for a triggered SSS and for what length of time are not always clear. There also appear to be different interpretations of *section 6.4.3*'s stipulation that "A school that has been subject to a sustainability study completed within the past four years is exempt." Does it mean that any

[16] The impact of prior decisions on infrastructure spending on subsequent decision-making around closure has been noted by Kearns et al. (2009) in their research on school closures in New Zealand.

[17] The 2015 (current) version of *Policy 409* introduced two criteria that would automatically "trigger" a sustainability study of any school that was at (1) an enrolment of 100 or fewer students, and/or (2) a functional capacity level of 30% or less (measuring utilization of available classroom space).

school, once studied, will not be studied again for four years even if triggered? Does it mean only schools that were studied because they were triggered are then exempt for four years? Does it mean such "triggered, then studied" schools are only exempt from triggered studies but the DEC can decide to study the school again, even the next year (i.e., does *section 6.4.1* trump this part of *section 6.4.3*)? As one community member pointed out, the negative impact of a community's school being perennially threatened with the prospect of closure represents another attrition pattern, where new families would be hesitant to move into a community where the school is under repeated review for closure. Given this and the costs of a sustainability study, this community member identified the issue of exemption after being studied as one in need of review. In addition, community members pointed out that "exemption from study" followed by silence rather than some collaborative undertaking to plan how to strengthen the school's sustainability is also problematic.

The lack of "sustainability planning" points to a third area of disconnection – that between the intention to study a school's sustainability and the limitation of such study to one from a standard set of only three possible outcomes (maintain the status quo, repair the school, or close the school and place the students elsewhere). These three possible outcomes focus more narrowly on "infrastructure options" (maintain/repair/close the building) than "sustainability options" for the school. A school's sustainability is not "just" a matter of physical infrastructure planning (repair, close), but also how space is used and by whom. The best "sustainability" option may involve reconfiguring grades (within or across schools), changing catchment area boundaries, considering placement of French immersion and other programs, and/or looking for joint uses of under-utilized space in the school (e.g., a day care or health centre). However, these do not fit easily under the three specified outcomes. As those interviewed noted, the policy does not make any explicit provision for developing a sustainability plan for the school that involves options like these which move beyond a narrow physical infrastructure focus. Again, this illustrates how the policy, as written, serves to constitute "sustainability study" in a restricted way, effectively focussed on one question – do we close this school or not?[18]

This is linked to a fourth area of disconnection – the lack of connection or coordination among *Policy 409's* components (infrastructure planning, sustainability study, grade reconfigurations). Again, there are no explicit mechanisms within the policy to ensure that infrastructure planning (e.g., with respect to capital improvement project prioritization) or grade reconfigurations are considered as part of a coordinated effort to maximize the

[18] Besides urging that joint-use opportunities be considered as an option to help to sustain their schools, community members also saw a place for what had been termed "alternate-use projects" under the 1998 version of the policy, which would allow at least the building to be sustained as a community asset. As one community member observed:

> The thing that most annoyed me about the whole process is that we had this building, this school, this great asset…right there, this fantastic building. And there was no plan for it. Nothing. And the way it works with *Policy 409*, it has to stay one year within the Department of Education budget, and then it gets transferred to, what is it? Public works, infrastructure. And it's still empty and it's sitting there, and there's nothing going on with it. And it irritates me to no end, that there's no foresight, like okay, what could we use it for? What are the needs in this community? Childcare, anything at all, like, you know?"

sustainability of the complement of schools within each district. As a consequence, there have been instances where significant capital investments have been made (e.g., Back Bay Elementary School) or grade reconfigurations implemented (e.g., Pennfield Elementary School) a year or two before a school has been selected or triggered for possible closure. Similarly, decisions regarding catchment area boundaries, out of zone transfers, and location of particular education programs, though outside *Policy 409*'s scope, also appear to be taken without any requirement to consider how these might impact a school's sustainability (e.g., how an earlier decision to alter catchment area boundaries adversely affected enrolments (and thus the sustainability standing) of Lorne Middle School, contributing to the launching of a sustainability study of the school in 2015).

Highlighting the need to connect these other areas of decision-making to sustainability study, some community members and individuals with DEC experience problematized *Policy 409*'s focus on studying schools individually.[19] As one community member noted:

> A single school should never be looked at being closed without looking at the whole area. Now, we said that all along. "Why aren't you looking at these other schools in the area as well? Like, you're not seeing the big picture."

That the districts/DECs have more recently been contracting EY to develop planning options for various collections of schools indicates that they too see a need to look at the bigger picture. Community members noted that this multi-school approach has the advantage of having a neutral party examine a wider range of options with a view to making the best use of school space within a particular area. However, they also raised concerns about how this was working in practice.

One concern has been that, despite the multi-school focus, the study parameters the district/DEC have assigned to EY have been narrowly defined in certain cases. This was viewed as effectively precluding consideration of options of particular importance to multi-school planning (e.g., an assessment of how adjustments to out of zone transfers policies, changes to catchment area boundaries, or the introduction of French Immersion might enhance the sustainability of schools in the area). An additional issue was raised about the suitability of *Policy 409*'s SSS process, with its individual school focus, to a multi-school study. Typically, the EY studies have been centrally concerned with infrastructure assessment and planning around a collection of schools, often concluding with a recommendation to build a new facility and close one or more existing schools. If the DEC decides to pursue this recommendation, sustainability studies for the schools proposed for closure have commonly been launched. In keeping with *Policy 409*'s stipulations, each study has tended to focus on assessing an individual school's sustainability in relation to the eight required criteria and in light of its proposed closure, rather

[19] Although the policy does require that "impact on other schools" be considered, this is limited to considering "the impact on feeder schools and receiving schools," with the added implication "should the outcome be to close the school under study."

than on assessing the merits of the overall plan for the collection of schools.[20] As one community member observed, this has proven problematic:

> Using this policy and doing this kind of thing, it just doesn't seem to fit the pattern in any way that we feel is adequate because it's a planning thing…. It's not about your school is not sustainable or this school is. It's just trying to do a larger scale plan for the whole area. And we just feel that what they've done is pit one school against the other…. So is this really the proper process?.... You're showing us what Ernst and Young provided, but you already gave them what your priorities were before even checking with the general public, with the schools, with everybody that's working in the community. So that was really upsetting. They did this [EY Report] and then set up the meetings, and the fact that the meetings were done at all the individual schools, it felt like they were separating us all out, and so we had to talk about our school, which didn't seem to be exactly right because it was our school fitting into a whole plan, but we all felt that we had to defend our school using their criteria.

A final and related concern was that this approach appears to have done little to establish a connection between infrastructure planning and sustainability study, or to shift the focus of sustainability study in practice from closure to sustainability. As noted above, and as the titles of their study reports indicate, EY produces an infrastructure planning report for a collection of schools. Where these involve a proposal to close one or more schools (which they typically have), and where the DEC decides to pursue their recommendation and launch SSSs of these schools, it is only at this point that all eight required sustainability criteria come to be considered. A key problem here is that the process allows no opportunity for a full sustainability study to inform the development of infrastructure plans; instead, sustainability study is reduced simply to responding to the specific closure proposals resulting from a separate infrastructure planning process.[21] This does not preclude sustainability study from helping to revise the initial plans. As one individual with DEC experience observed, evidence

[20] It should be noted that the most recent studies in ASSD (SJ Central Schools study) and AESD (Irishtown/Moncton Elmwood Drive Area study; Tantramar Region study) have demonstrated some movement towards greater community involvement in reviewing the overall plan and considering additional options.

[21] This pattern of infrastructure planning resulting in recommendations for new builds and related closures that delimit the scope of subsequent sustainability study is particularly striking in the case of AWSD's recent multi-school "feasibility" (infrastructure) studies (the South Fredericton Elementary Schools study, conducted by EY, and the Northside Fredericton Elementary Schools Study, conducted by district staff). Meeting minutes indicate that the DEC received and considered a detailed infrastructure report and a "Sustainability of Schools" report from the district's Director of Finance and Administration at its May 24, 2018 meeting. This included a recommendation that the DEC consider future sustainability studies of four schools flagged as having potential for being combined into two new schools (Forest Hill and Liverpool Elementary Schools from the South Fredericton study, and Nashwaaksis Memorial and McAdam Avenue Elementary Schools from the Northside Fredericton study). At this same meeting, the DEC went on to approve sustainability studies of all four schools to run from September 2018 to January 2019. However, this was after they had first approved that requests for the two new schools to replace these four schools be added to the district's 2018-2019 Major Capital Priority list due for submission to the Minister by May 31st (as stipulated in *Policy 409, section 6.1*). While the PM#1 meetings of the subsequent SSSs still introduced status quo/repair/close as the possible study outcomes, the prior approval of new school requests suggests the SSSs were being conducted with an inclination towards a closure outcome.

that the process works is provided by the fact that, in the recent Central Schools Study in Saint John, the DEC put aside EY's initial recommendations in response to community feedback and worked with EY to develop a new plan more in line with community views. However, from the community's perspective, had the feedback that came to light through the sustainability study process been sought earlier in the planning process, considerable time, effort and money would have been saved.

Through their observations, community members and some of those with DEC experience conveyed that elements of *Policy 409* (e.g., the single school focus of the SSS process, the conflation of "sustainability" with "closure," and the restriction of SSS outcomes to infrastructure options) limit the effectiveness of the sustainability studies. From this view, collaborative efforts to examine a school's status thoroughly (and in relation to other schools within its area) and to consider a range of options to keep a school viable (with closure as just one, and the last, option) are discouraged rather than facilitated. Some community members emphasized that the process fails to give sufficient weight to the important role a school plays in its community and the negative impacts, beyond the realm of education, that are likely to follow its closure. This was particularly true in rural communities. Community members here worried not only about the impacts that larger size, longer bus times, and a more distant school-community relationship would have on their children's learning (and well-being), but also about how the school's closure would weaken their community's identity and cohesiveness and its ability to maintain its current population and even attract new people to the area.[22]

At one level, *Policy 409* appears to offer some scope to transcend the sort of "silo thinking" that focuses attention solely on educational outcomes to the exclusion of other important considerations. In this regard, community members pointed to the policy's principle recognizing schools' integral role in communities, especially in rural areas (*section 5.3*). In addition, they noted the policy requires that the study of a school's sustainability consider the impact of the school (and its possible closure) on the community, including economic development in the community and surrounding area (*section 6.4.4*). While not necessarily encouraging out-of-the-box thinking about how to enhance a school's "sustainability," these criteria do encourage sober second thought about whether some of the anticipated gains that may follow closing a school (e.g., the availability of a broader range of school activities and support programs at a larger receiving school) truly outweigh the longer-term gains to students and community that would come from sustaining their school. Finally, some observed that the policy is explicit in allowing consideration of other factors, beyond the required eight criteria, that are relevant to local circumstances when studying a school's sustainability (*section 6.4.4*).

[22] Research from other jurisdictions has highlighted how schools are often focal points for their communities, serving a variety of community needs beyond education (e.g., Deeds & Pattillo, 2015), and their closure can have adverse effects on community life (e.g., Oncescu, 2014). They are understood and experienced in terms of lessening social isolation, facilitating a sense of belonging, and encouraging community participation, all of which are understood to impact positively on social cohesion and community capacity (e.g., (e.g., Ares Abalde, 2014; Basu, 2004; Kearns et al., 2009; Valencia, 1984 Witten et al., 2003). It is interesting to note that the negative impacts school closures can have on parents and communities have been acknowledged in court cases considering the procedural fairness of school closure processes (e.g., *Potter v. Halifax Regional School Board,* 2002).

However, in practice these considerations have often been given shorter shrift in district documentation during the SSS process. Typically, *section 5.3* is not explicitly referenced, and it is left to the school community to apply this principle to their particular case. Similarly, while the districts routinely collect information on enrolments and the status of school buildings (two of the SSS criteria), they do not routinely collect information on community impacts and economic development (nor do they likely have the resources to do so). To address these criteria when undertaking a SSS, the districts/DECs have sometimes simply compiled lists of community organizations making use of the school for various activities and of businesses in the community with connections to the school, but with no explicit consideration of impacts. They have often relied on the communities themselves to spell out in specific detail what the school and its possible closure would mean to the community and to the area's economic development. Where communities have made a case for the role the school plays, for example, as a focus for poverty reduction efforts in the community or as a key component of an economic plan aimed at attracting workers and their families to the area, some of those with DEC experience have pointed out that the government has provided no money in their education budget to take on social, economic, or rural development roles, in addition to their primary education role. This invites consideration that any "silo thinking" on the part of the district/DEC may be in large part a product of government structures and policy stipulations that encourage people to think and work in siloed ways. Indeed, the need to put structures in place to counter such tendencies was evident in a stipulation of the 1998 version of *Policy 409* that an inter-departmental committee on school facility use be struck to help communities develop joint-use and alternate-use projects for their schools.

Finally, in practice, the option to consider other factors relevant to local circumstances has only occasionally been exercised by the districts/DECs. This points to a disadvantage that can accompany the routine application of a standard set of categories – the eight required sustainability criteria, in this case. Although the standardized categories help to ensure that a breadth of factors are consistently considered when studying any school, if those standard criteria come to define the scope of sustainability study in practice, then "standard practice" determines that other factors that may bear on the particular case are less likely to be raised for consideration. This problem was evident in the observation one community member made regarding school community deliberations about what to present at the second public meeting:

> Our DEC representative consulted with our PSSC and told them that what they have to do is go over *Policy 409* and touch on the criteria, the eight points, and that's how they should approach it. And not to veer off that. There were some discussions about…if they should be veering off and doing kind of what they were doing in Nova Scotia, bringing up hub school proposals and all of that. But they said no, they're going to stick to the guideline that was given to them by the DEC which was to touch on these eight criteria, and that's what they would present on."

Arguably, exploring a "hub school proposal" in light of a school's particular circumstances is both allowed (or at least not precluded) under the policy and very relevant to infrastructure

planning and determining a school's sustainability. Indeed, the "hub school model" that Nova Scotia launched in 2014 bears a striking resemblance to what the 1998 version of *Policy 409* referred to as "joint-use projects." Both offered an opportunity for communities to consider options for utilizing excess space in their schools in ways that met educational and community needs while maintaining or enhancing the "viability" or "sustainability" of their schools.[23] New Brunswick has policies currently in place covering the development of "school/community partnerships and sponsorships" (*Policy 315*) and "the community use of schools" (*Policy 407*), though they lack the scope of both the hub model and the earlier joint-use model. Nevertheless, they remain curiously disconnected from *Policy 409*, despite their relevance to that policy's focus on infrastructure planning and sustainability study.[24]

Documentation from recent SSSs in the Anglophone districts indicates that communities have typically had thoughtful alternative suggestions warranting consideration. For example, based on their own positive experiences with student relationships and provincial assessment results using combined classes (and questioning the assumption that such multi-grade classes provide a lower quality learning environment to students), Pennfield community members suggested exploring the use of such classes further as one avenue to reduce costs and allow the school to remain open. Community members from Pennfield also highlighted how grade reconfigurations across schools in the area may offer opportunities to support the sustainability of all of the schools. Similarly, the Brown's Flat community suggested that specific changes to catchment area boundaries among adjacent schools in the area, combined with the closure of the oldest schools in need of extensive repair, could result in a better utilization of space across the (remaining) schools, perhaps mitigating the need for a new school (and its associated costs). Members of the Dorchester community emphasized the importance of communities having the opportunity to consider alternative uses of school space (e.g., putting a day care or after school program in place). Community members in Saint John suggested that the district approach the diocese about buying out the church in the case of the two leased schools, St. John the Baptist/King Edward (SJBKE) and Hazen White/St. Francis (HWSF). Two individuals with DEC experience commented on the merits of moving government staff (e.g., district staff, social development staff, health staff, extramural staff) from leased facilities to under-utilized (excess) space in district schools. While community members recognized that some of their suggestions might prove unfeasible when subjected to more detailed scrutiny, they were concerned that the current process did not encourage the development and assessment of

[23] As indicated in the Nova Scotia EECD Department's *Guidelines and Criteria for a Hub School Model to Guide the Use of School Space* (https://www.ednet.ns.ca/docs/hubschoolsguidelinescriteria.pdf), the identification of opportunities for use of available school space was linked to the long-range planning and family of school reviews undertaken by school boards. The guidelines indicated that a hub school proposal could be employed to avert a potential school closure, as long as the proposed initiative met educational, fiscal, and community requirements. For the 1998 version of *Policy 409* (joint-use proposals), see Appendix C.

[24] *Policy 315 – School/Community Partnerships and Sponsorships* does include a link to *Policy 409* in its list of references, but *Policy 407 – Community Use of Schools* does not. *Policy 409* does not include a link to either of these two policies in its reference list. This disconnect seems more curious considering that the issues of school/community partnerships and community use of schools remain outside *Policy 409*'s infrastructure planning umbrella while the "naming of schools" became a component of district infrastructure planning with the folding of *Policy 401* into *Policy 409* in 2009.

alternative sustainability options and that, even when such alternatives were put forward, they were frequently dismissed or ignored.

Districts/DECs may be subject to some pressure to limit the scope of sustainability study and not veer away from the eight required SSS criteria and three specified outcomes. First, they have been pressed by government in recent years to conduct a number of sustainability reviews of schools, with a view to rationalizing infrastructure. Second, their activities under *Policy 409* are to be evaluated against the principle of "procedural fairness," so aiming to follow sustainability study protocols to the letter, with no deviation from policy requirements, may be viewed as the course of action most likely to ensure a DEC decision is not vetoed by the Minister or successfully challenged in court.[25] Combined, such pressures do little to encourage the sort of "out of the box thinking" and consideration of alternative options that community members have sought when their school has come under sustainability study. However, as the Chief and Council of Fort Folly First Nation conveyed in their 2015 submission to the Dorchester Consolidated SSS in AESD, there is a case to be made that "procedural fairness" requires scope to allow for the sort of expansive thinking that can lead to innovative planning solutions:

> Any decision can only be fully understood in the context of the alternatives. This would surely be true for advocates of closure, who urge us to remember that they only wish to close our school because the other scenarios are worse. Yet what, exactly, these other scenarios might be have never been shared. The initial proposal shows considerable study and resources went into advocating the closure of Dorchester School, and choosing a new recipient school. Yet not one model was constructed for the staffing and funding of the School in any scenario where it remains open. Parents have no opportunity to study options for community school models, for revenue generation through space allocation, through departmental cooperation in government, or any other approach. Nor has the DEC made any serious effort to look at these options. The duty of fairness under Policy 409 cannot be discharged by offering several closure scenarios alone.

Overall, then, *Policy 409* is characterized by a profound disconnect between infrastructure planning and sustainability study/planning. The tendencies to adopt a starting position for the SSS inclined towards closure, to frame the study in a way that "accentuates the negative," and

[25] The procedural fairness principle was introduced in the 2002 version of the policy and its definition was revised in 2009. According to the current definition "[p]rocedural fairness refers to the duty of administrative bodies to employ decision-making processes that provide real opportunity for persons whose interests and privileges may be affected to provide input. This includes certain requirements such as providing the opportunity to affected persons to be heard and for the school district to receive and consider the information before any recommendation is forwarded to the Minister." It is instructive to review how Canadian courts have handled the issue of procedural fairness in cases involving school closure processes. They illustrate the courts' inclination to defer to the discretionary decisions of elected officials and not to overturn such decisions unless there are grounds for concluding that some breach of protocols pertaining to procedural fairness is of such consequence that it likely affected the outcome. Note: Cases can be located by searching *The Canadian Legal Literature Institute* database: https://www.canlii.org/en/#search/linkedNoteup= (e.g., using search terms "school closure and "procedural fairness"). My thanks to Dr. Jula Hughes for directing me to this database.

to forego consideration of "sustainability options" in favour of a more limited focus on the policy's three standard infrastructure outcomes all help to ensure a practice where infrastructure planning informs sustainability study, and not vice versa. Concerns that arise through infrastructure planning drive how a school's sustainability is subsequently studied, with the result that broader issues surrounding a school's sustainability (e.g., how to leverage factors contributing positively to a school's sustainability and strengthen areas where it is weak) are typically neglected. In addition, the process is structured in a way that encourages silo thinking, disconnecting sustainability study from other institutional processes (e.g., community development initiatives) that bear on school sustainability. "Sustainability study" has been constituted, in policy and practice, in a limited way, one that remains tilted towards closure.

Those individuals with DEC experience with whom I spoke were unanimous and unequivocal in understanding that their decisions and actions are to be guided, first and foremost, by the goal of achieving the best possible education for their students with the budget they are given. However, their comments suggest that they wrestle with how to direct the sustainability process to serve this end. From one orientation, the SSS process is understood in terms of looking for possibilities to rationalize buildings, based on a general view that low numbers and low capacity ratings equate to fewer educational opportunities and higher costs per student. From another, it is seen as an opportunity to develop a thorough understanding of a particular school in its local context and consider what might be done to support and enhance its sustainability, with closure an option only when no viable ways forward have been identified that would allow the school to continue to provide the expected quality of education for their students in a cost-efficient manner. Depending on the orientation a DEC adopts, "sustainability study" may be defined and implemented with an inclination more towards "sustainability planning" than infrastructure planning, and more towards sustainability than closure. In this regard, it is interesting to note the "orientation" statement on sustainability studies recorded in the June 13, 2016 meeting minutes of the ANSD DEC: "Council members agreed that sustainability studies, that have no preconceived notions, should be conducted regularly in order to review current infrastructure, and to allow parents and community members an opportunity to discuss ways how their schools can become more sustainable."

Facilitating "public consultation"

Public consultation has been a requirement through every version of *Policy 409* since 1994, whether the focus was on a proposed school closure, a joint-use project proposal, or determining a school's sustainability. The 1998 version of the policy introduced timelines that covered the consultation process. Forgoing specific timelines, the 2002 version introduced the principle of procedural fairness and the requirement that DECs develop policy outlining procedures for consultation. These were to ensure "those affected" (understood as parents of students at the school considered for closure as well as at the receiving school(s)) were fully informed about the process, provided with relevant documentation, and given sufficient time to consider the provided information and develop a response to present to the DEC. The 2009 version of the policy retained the stipulations around fully informing those affected and

providing them with adequate time to consider and develop a response. However, it introduced a number of new requirements. Twelve months was established as the maximum timeframe for study, requirements for providing public notice of a sustainability study were laid out, and a minimum of three public DEC meetings was established as a standard requirement of the consultation process. Although the policy today no longer includes as specific a timeframe for consultation as was the case in 1998, it has become more prescriptive about what is to constitute "public consultation." This has involved a shift away from earlier language that depicted consultation involving an opportunity for dialogue (with the 1998 version's reference to providing an opportunity to "discuss" information pertaining to a proposed closure, and the 2002 version's reference to providing an opportunity for those affected to "influence the decisions being made"). In its place, the 2009 and 2015 versions of the policy offer new language that constitutes consultation as an opportunity for those affected to "provide input" through a series of public meetings. These meetings are structured to allow an exchange of information (first the district/DEC's intention and description of the process at PM#1, then the community's response at PM#2, and finally the DEC's decision at PM#3), but offer limited opportunity for discussion.

These various revisions to the policy have culminated in a particular standardization of the public consultation process that has been proving problematic in a number of ways. One problem concerns the policy's definition of "affected persons." While the 2002 version of the policy defined "affected persons" as parents of students attending the school being considered for closure and those of students at receiving schools, the wording of the 2009 and 2015 versions broadens the definition by noting that "affected persons" are to "include" parents/guardians of the studied, feeder, and receiving schools.[26] Nevertheless, in practice, the DECs' responsibilities to notify and inform "affected persons" and then listen to what they have to say have typically been focussed more narrowly on these parents/guardians. The policy does include the recommendations that the DECs "make every effort to engage the community at large" during public consultation (*section 7.0*), but this is not a requirement. As some community members mentioned to me, the challenges those in the broader community can face tracking down the time and location of the public meetings mean that some end up being excluded from the process. From this viewpoint, there is a gap between those in a school community who are affected by a proposed closure and those who are treated as affected persons through the process – a point of disconnection that may result in some broader community concerns and suggestions about their school being left out of the consultation.

While committed to providing, in the interest of procedural fairness, real opportunity for those affected to have input to decision-making, the policy stipulates that the public consultation on a school's sustainability is to involve "a minimum of three public DEC meetings on the possible closure." Holding these three public meetings becomes a key standard against which the procedural fairness of the SSS process is assessed. In practice, the "minimum" standard of three meetings has also become the norm. The districts' PM#1 presentations often

[26] It is interesting to note that the 1994 and 1998 versions of the policy explicitly presented those affected as including the broader community.

indicate that there will be three public meetings as outlined in *Policy 409*, but without highlighting the policy's stipulation that this is a minimum and that "[t]he DEC may arrange for as many meetings as necessary to appropriately consult on the study of a school's sustainability" (*Policy 409, Appendix C*). Some community members described requesting, without success, to have an extra meeting when they were told that the length of time they would have to present at PM#2 was less than what they had requested, given the number of registered presenters. As one individual with DEC experience mentioned to me, the district/DEC find it challenging enough to arrange three public meetings at times when most DEC members will be able to attend, so the preferred strategies have been to lengthen the meetings and/or shorten the time allotted to individual presentations rather than hold an additional meeting.

Still, for community members, the seeming assumption that three public meetings will consistently provide the "real opportunity to provide input" required for procedural fairness is problematic. This is largely because it fails to take into account the variation across SSSs in both the timeframes the DECs have established for study and the resources available to communities to pull together a response within the established timeframe.[27] Reflecting on this part of the process, one community member observed:

> A lot of times, you know, communities and PSSCs are just made up of average parents that may not have any background in dealing with government or dealing with policy or dealing with any of this stuff. Right? Sometimes they just don't have any experience whatever…. [I]f you're a group of average people that don't have more time, and no one really has the time or background or support to put this together, the community doesn't stand a chance. And if something comes through the system in three or four months, I mean even if you are well-organized and well-funded, and have connections, you can get blindsided pretty quick.

A community member from another district echoed this view:

> The amount of effort required on a PSSC to truly educate the DEC is monumental, and unless you happen to have that amount of passion and availability and numbers of engaged PSSC or community, it's very difficult to go through that process and come out the other side in a favourable outcome. Many of the DEC members are from different areas of the province and they don't really know your unique needs. There needs to be additional support for PSSCs or the DEC to really bring them up to speed on that local community.[28]

[27] Some communities have had five or fewer weeks to put together a presentation after the PM#1 presentation, while others have had eight or more weeks (see SSS timeline chart, Appendix E).

[28] On this point, it is interesting to note a recent observation made by a DEC member in ASSD. Upon visiting Norton Elementary, which had gone through a sustainability study in 2015 with closure under consideration, this member found that test scores were up and the parents were supportive of the school. She noted her visit had given her a different perspective, and she suggested that for future *Policy 409* reviews, the DEC members should go and see the schools. (ASSD DEC meeting minutes, November 14, 2018).

Similarly, the Chief and Council of Fort Folly First Nation, in their PM#2 presentation during the 2015 Dorchester Consolidated SSS, commented:

> We have been given merely eight weeks to respond to a detailed proposal, which has clearly been prepared in advance and with access to staff, resources and research which volunteer parents cannot hope to match…. True consultation, in both the legal and policy sense of the term, provides the time and resources to affected parties to truly analyze the proposal and make researched responses, even to provide alternatives. This respect for the quality of the feedback would show a true desire to hear from us. We do not see this reflected in the process or the timelines.

For community members, these experiences pointed to problems in the SSS process around DECs meeting their responsibilities under the policy (*section 6.5.3*) to ensure adequate time was provided not only for affected persons to deliver their presentations to the DEC but also to consider the information provided by the district and prepare their presentations.

Although having 59.2 calendar days (the overall average) between PM#1 and PM#2 might appear more than sufficient for a community to provide an assessment of their school's sustainability in response to what the district has presented, in practice the timeframe puts community members under considerable pressure. They must spend time bringing people together to discuss how to respond, then allocating tasks and coordinating efforts. They must spend time learning to navigate the terrain of district and departmental operations to track down the details of enrolment figures, functional capacity calculations, catchment areas, out of zone transfers, bussing routes, capital improvement estimates, etc. They must also spend time following up with phone calls and/or emails when requests for information receive no response or the requested information arrives but is incomplete. Just as community members encounter challenges accessing needed information, district staff can experience workload difficulties as they attempt to respond to these information requests on top of their regular duties. These workload challenges are exacerbated when two or more SSSs occur at the same time within a district. Similarly, for community members, gathering information and organizing their presentations has to be done on top of their regular jobs. Those interviewed described simply rolling up their sleeves and putting in the extra hours needed to pull their presentations together. While many noted where their presentations might have been improved (e.g., had they had time to gather further information in support of their points, or to cut out some of the repetition that occurred across individual presentations), generally they expressed satisfaction with what they were able to accomplish in the time they had. However, many remarked that this phase of the SSS took a heavy toll on family time.

For community members, problems with the timeframe were linked to a concern that, while *Policy 409* built some opportunities into the SSS process for community input, the process was structured in a way, and the public meetings organized and managed in a way, that discouraged dialogue and limited community input, reducing its impact. In ASSD, community members were told at PM#1 that the focus of the meeting was for the district to provide

information about the school that informed the DEC's decision to launch a sustainability study and to lay out the study process. They were instructed that any questions at this meeting should be about the SSS process, not about what the district presented on the school, as PM#2 was introduced as the meeting where the community would get their say. In AWSD, the PM#1 powerpoint presentation has routinely highlighted that PM#1 provides the opportunity for the district to present information regarding the school, and PM#2 provides the community a chance to share their thoughts on the school's sustainability. It also makes explicit that the SSS is "not designed as an 'us against them' process; public meetings are not designed to facilitate debate between two parties." As the community members described it, the first two meetings were set up to provide "each side" a chance to present their views, but offered little opportunity for discussion and a meaningful exchange of ideas.

> [W]e are reluctantly participating in a process which values confrontation and debate over dialogue and we would very much like to work to change that.
>
> ~ Chief and Council, Fort Folly First Nation, PM#2 Presentation
> Dorchester Consolidated SSS, 2015

> The DEC feels that this is consultation. And to me, it's not. You walking into a public meeting and just presenting ideas and walking out isn't consulting the community. And then the community having the ability to then talk to you, with no back and forth dialogue is not consultation. To me, when I look at the definition of consultation, that's not what it is.
>
> ~ Community member

Community members viewed the standardized format of the public meetings as problematic in a number of respects. Despite district/DEC statements indicating the process was not designed as "us against them," community members found it to be adversarial and confrontational rather than collaborative, framed more like a legal proceeding where the district presents its case, the community defends, and the DEC passes judgement. They found it to be a limited series of one-way exchanges of information rather than a true consultation based on two-way dialogue. In a number of instances, the sheer volume of information presented by the district minimized opportunities for discussion by making it more difficult for people to formulate questions, much less have time to ask them. They found it positioned community members in "reactive mode," having to respond to the district/DEC's intention/proposal, rather than in proactive mode where they might work collaboratively with the district/DEC from the outset to conduct a thorough assessment of their school's sustainability with all options on the table.

The lack of prior consultation was a common concern. A number of community members expressed the view that the process would run more smoothly and yield better results if the school community were consulted right from the start. As one community member noted:

> [I]t was us and them. It was the DEC going into the community, and the community saw them as the enemy. They saw the DEC as trying to negate the value of their school in their community. Like they had their back up right from the beginning…. If it was a more collaborative, "You know what, this is happening, there's 50 students here, this is how much it costs us, like, what do you see as the viable alternatives?"…. If it was a more collaborative meeting process whereby, it wasn't the DEC Chair going in and saying "We're closing your school," it was "This is what we're faced with, and what do you feel will work, and how do you see it shaking down? What would you do if you were in this situation?" – I can't help but think it might go better."

Another observed:

> It was very adversarial. Very adversarial. I'm not an adversarial person by nature, but I do have a line, and when I cross that line, then I don't like getting pushed around, and I felt as though I got pushed to that level…. So this should have been a very open, transparent, working together, evaluating the process. The entire process was almost as if, the feeling was, and this is what really ticks communities off, the feeling is it's a cost issue, the decision has been made, we have to go through the process, check all the boxes, and say we've done the process, to scratch off the list, and away you go. Thanks for coming out. That's the feeling…. But so much of this could have been avoided…if you could have just had people in a small room, a small group, say this is something that's being looked at, we're being asked by government, you know, District, to look at this school. Get a small group together to have a conversation, before it gets to this big media and public outcry. Because, if it does make practical sense, it's going to be difficult for communities to defend it…. It gets to the point where, at some point, people start getting their backs up, and then positions are solidified, you know? I'm here and you're there. And that's not where you want to be.

This concern around collaboration and early consultation was voiced with unanimity among those participating in the studies involving EY. One community member pointed out:

> It happens too quickly, without consultation first. There should be a time, you know, "We're looking at this, things don't seem to be working. Let's sit down and look at the whole area and talk about it." And then not just an economic, financial look at it, but everything.

Those with DEC experience acknowledged that the parameters provided to EY to guide their study determined what was looked at and what was not. For example, unless explicitly asked to consider the impact of catchment boundary changes, out of zone transfers and opportunities for joint use of schools to address under-capacity, these factors would likely not be considered, despite their relevance to a school's sustainability. For community members, not having community input into setting the study parameters meant that certain considerations that could prove key to the success of the study would be missed. For example, community members in Kingsclear suggested that a thorough review of catchment boundaries should be

done in their area as part of the Fredericton South Schools study to determine how capacity across schools could be optimized. However, they were told that EY was already too far along in the study for this to be included. Community members in Saint John pointed out that, while EY was directed to work towards "mixed Socio-Economic Status (SES) schools," their study and recommendations would have benefited from recognizing at the outset the important role played by local community schools and joint school/community initiatives in certain neighbourhoods in addressing barriers to getting out of poverty.

Community members also pointed out that the EY studies would have been strengthened had they consulted with communities at the information gathering stage, rather than rely solely on information provided by district staff and site visits to the schools. Community members in Saint John pointed out that, had EY consulted with the communities early on, they would have learned that their enrolment projections needed to be updated to take into account the arrival of Syrian newcomer families, and that their planning cannot assume all parents/guardians have access to cars. One community member observed:

> To me, that's the flaw in the 409 process, because I don't fault Ernst and Young. They wrote the report based on the parameters they had been given…. And that was that. But they went away and they worked in a silo, and they didn't gather any other input from community partners…. It didn't make any sense…. No consultation before. It all happened after it was written.

This was echoed by a community member in another district:

> We asked them why they hadn't consulted with the PSSC because we also had some ideas for our school and things that could be done for the sustainability of the school and even to help with the overcrowding at other schools. The response was they didn't have the time in the study to go out and talk to all the community members…. So I really think that that was a miss, because how can you do an entire report recommending stuff, and it was just based on paper facts? It wasn't based on talking to anybody, or understanding what the needs of the community are or really what is the actual community.

The AESD DEC has also wrestled with this problem, observing that the EY studies have tended to be very infrastructure focussed, when issues like community impact and impact on programs need to be studied as well (AESD DEC minutes, June 9, 2015). Similarly, one ASSD DEC member observed that, when the DEC initially reviewed the EY report on the SJ Central Schools, "it seemed (from a high level perspective) to do what was needed." However, following the public consultations, he came to feel differently "looking from the ground level and the effect it would have on people" (ASSD DEC minutes, May 10, 2017). As one community member noted, had EY been directed to get that ground level view at the outset it would have meant "the money would have been more wisely spent" and EY could have delivered something of greater value.

An additional problematic aspect of the public consultation process identified by community members pertained to how the district framed its PM#1 presentation as "a presentation of facts" while describing the community's PM#2 presentations more as a presentation of their "thoughts" on their school's sustainability. As some noted, this appears to assign greater legitimacy to the district presentation than to the community presentations. One community presenter relayed the following:

> I remember finishing my presentation and somebody, I can't remember who it was [from the district or the DEC], standing up and saying something along the lines of "Everybody loves their school, and everybody is going to say something nice about their school." Kind of like poo-pooing everything I said, like "Aww, it's really sweet, you really like your school and therefore everything you say is going to be in favour of your school." While I felt that I had presented a very clear picture of what was being done, something that was objective, this is what our school is. And then all of my arguments brought down as "Aww, this is like an emotional rant from a parent who might lose their child's school…. That's where they're going to bring everything we've said and dismiss it.

Community members found this claim to objectivity particularly frustrating when they identified various problems with the "facts" presented (e.g., failing to provide evidence breaking down anticipated cost savings; interpreting all outstanding capital improvements as a potential cost saving without explicitly considering their urgency/priority; etc.).[29]

An additional concern, related to the issue of evidence, centred on what community members regarded as the district's reliance on questionable assumptions, often presented as if they were undisputed "facts." A particularly sore point here was that smaller school size was being used to lower their school's "sustainability standing," particularly on the quality of education criterion. In addition to their own experience with their children's success, they were able to cite various studies supporting their argument about the relative merits of smaller schools, and indeed, the research literature on school size makes clear that any blanket claims that larger schools are more effective in terms of learning outcomes or more cost-efficient than smaller schools are unwarranted.[30]

Besides smaller size, community members raised questions about two additional assumptions evident in some district documentation: that students in combined (or multi-grade) classes are at a disadvantage compared to those in single grade classes, and that students in grades 6-8 are disadvantaged if they are in a situation where their small numbers or

[29] While there was some variation across districts, and across SSSs within districts, in how community members evaluated the information provided by the district at the first public meeting, certain concerns were prominent among those the community members raised: errors in the data, a lack of detail, a lack of evidence, questionable interpretations, and a failure to consider meaningfully all eight of the sustainability criteria. For additional detail on these concerns, see the section on the PM#2 presentations in "A Mapping of the Process" (Appendix D).
[30] For example, see literature reviews by Ares Abalde (2014), Leithwood and Jantzi (2009), and Scheerens, Hendriks & Luyten (2014).

grade configurations do not allow for a full middle school experience. Community presenters were able to note that, despite the use of combined classes in their schools, their provincial assessment results compared favourably to other schools in the district and province, an observation that finds support in the research literature in this area.[31] On the issue of the middle school experience, researchers continue to raise questions about its relative merits,[32] and views across the districts appear to be divided. In ASSD, district documentation has referred to the value of a "true" middle school experience. However, at their PM#2 presentations, some community members in ASSD's Saint John central schools studies expressed skepticism about the purported advantages. Still, in AWSD, the Nackawic community emphasized the merits of having grades 6-8 in their own middle school as part of their PM#2 presentation. In their PM#1 presentation for the sustainability study of Dalhousie Middle School and Regional High School in ANSD, the district noted that current developmentally appropriate boundaries would remain if the two schools were combined. However, they went on to highlight certain advantages to having the middle school and high school students together as one school: the impact of the Grade 9 transition to high school would be lessened, and there would be leadership opportunities for the high school students to support the middle level students.

Community members used their submissions and public meeting #2 presentations to raise their concerns about the quality of the information the district had presented. Documentation reveals that districts subsequently made necessary corrections or provided further detail to clarify points. However, in a number of cases, the "facts" about various aspects of a school's standing remained unclear at the conclusion of the public meetings. To take one example, at PM#1 in the 2015 SSS of McAdam Elementary School in AWSD, the district presented charts showing provincial assessment data on the school. The numbers for Grade 2 reading across a 5 years span (to 2013-2014) indicated that the McAdam results were roughly on par with district averages in three of the five years, though were considerably lower in the most recent year. In their PM#2 presentation, community members presented the same results in bar chart format, but with the addition of the results from Millville and Nackawic schools. Both schools

[31] For example, Smit, Hyry-Beihammer, and Raggl (2015) point out that, while there is a need for further research on this issue, there is evidence indicating multi-grade classrooms compare favourably to single-grade classrooms in terms of student achievement. The literature also indicates that combined classes have been viewed as challenging by teachers (e.g., in terms of the amount of planning and preparation required, and the availability of curriculum supports) as well as students (e.g., in terms of greater classroom distraction, and less individual attention from the teacher). However, as Smit et al. (2015) and Veenman (1997) have observed, there is evidence indicating success responding to these challenges where such classes have been approached, and supported, as a pedagogical opportunity rather than seen simply as a measure to address uneven class sizes. In this vein, researchers exploring issues around teaching and learning in small rural schools have pointed to the potential of "multi-age teaching," involving the creation of cross-age learning situations in multi-grade or ungraded classrooms, to provide high quality educational opportunities for students while strengthening the sustainability of such schools (e.g., Smit et al., 2015; Tinkham, 2014). AWSD's Keswick Ridge School would appear to offer some close-to-home evidence on this point, having won a national award for their work melding ages, and traditional grades, together (Fowler, 2017).

[32] For example, West and Schwerdt (2012) found evidence that moving to middle school can result in a decline in student achievement that is not evident among their counterparts who remain in K-8 schools and that is more persistent than the declines in student achievement that follow the transition to high school.

showed similar declines over the most recent year, with Millville falling below the district average for the first time in the five year span. The community members stated that the literacy achievement rates for McAdam Elementary were on par with district averages, but added two more detailed points. First, while the results for 2013-2014 presented at PM#1 showed a decline in the literacy achievement score for the school, the actual distribution of scores showed that, while 42% of students were below the grade level average, another 42% were above. Second, they documented that, over that same year, the school was seeing significant improvement for those students not meeting baseline levels, which they attributed to the greater ease in smaller classroom settings identifying students in need of additional support. At PM#3, the district's 21-slide presentation summarized the content of PM#1 in nine slides. On the assessment results, and drawing on data that had become available for the most recent year (2014-2015), the district noted that "McAdam Elementary School has traditionally been near district averages in the Provincial Grade 2 Reading Assessment, but has shown a decline in the last two years (sitting at 53.8% appropriate level or above in 2015)." There is no comparison with Millville or Nackawic to illustrate whether McAdam was unique in this two-year decline. The content of PM#2 is then summarized on one slide, and there is no mention in the written record of what the community had to say about their school's scores in relation to those of nearby schools, the distribution of scores (rather than just the averages), or the rate of improvement among students not meeting baseline levels. In the absence of additional details and further analysis, it is difficult to know what to make of all that was presented on this one issue of assessment data.

For community members, all of this points to a problem in the consultation process that needs to be rectified. While districts have endeavoured to "present the facts" about a school and its sustainability status at the outset of a study, "the facts" presented are often a source of contention. Some of these disagreements are resolved through the consultation process, but others are not. This raises questions for community members whether their DEC is in a position to make a fully informed decision by the end of the public consultation. It also highlights that, given the way the public consultation process is currently structured, there is little opportunity for the community and district/DEC to get together and discuss and reconcile their different perspectives on "the facts" pertaining to various aspects of the school's standing.

Overall, from a community perspective, these problems highlight another disconnect within the process. On the one hand, the policy stipulates that those affected are to have a "real opportunity" to provide input and to be heard impartially. On the other, it appears that their input is not always respected. As community members pointed out, various features of the process conspire to constitute "public consultation" in ways that limit the meaningful incorporation of the full range of community input into the SSS process. These include the lack of opportunity for prior consultation, the rushed timeframes, the differential framing of district and community presentations (as providing "facts" vs. "information"), the failure to reconcile outstanding discrepancies in "the facts" before a decision is taken, the abbreviated treatment of PM#2 compared to PM#1 presentation material in the final reports, the limitations of the status quo/repair/close outcomes, etc. District use of presentation "templates" can be similarly problematic. For example, providing a summary of "school benefits" and "school

challenges" when examining the sustainability of smaller sized schools acknowledges the community view that small size cannot be understood through a lens focussed only on disadvantage. However, while using standardized lists of benefits and challenges across sustainability studies can make sense in terms of expediting presentation preparation, it risks erasing from the DEC's view the particularities of the specific school under study as they work towards deciding an outcome for the school. All of this combined to call into question for many community members whether the process reflected, to quote again the Chief and Council of Fort Folly First Nation, "a true desire to hear from us." Reflecting on the process, one community member observed, "I felt the way it was done, we were given a voice just because the policy said that we could, but really that voice went nowhere."

Moving forward: suggested changes

Community members emphasized that they were not opposed to change in the school system or to closing schools. They were sensitive to current economic and demographic trends in the province. However, they underscored that, once closed, a school was unlikely to re-open, so it was incumbent upon the district, DEC, and community to work together to ensure that a thorough, evidence-based, and fair assessment of a school's sustainability takes place. They saw merit to having a policy in place to govern the process of studying a school's sustainability. One person observed that the policy appropriately requires some accountability from schools and communities regarding the money going into their schools. Another commended the policy for including a requirement that the public be consulted. Others pointed out having a policy that lays out the procedures to be followed helps to ensure some comparability, within and across districts, in terms of how sustainability studies and school closures are handled. Still, community members made clear their view that the policy itself and how it was being implemented in practice were proving inadequate in various respects.

Those with DEC experience were generally less likely to identify problems with the policy. Some cited the fact that the policy provides the public with the opportunity to give feedback that has ultimately swayed the DEC's decision to vote against a district recommendation and not close a certain school as evidence that the policy does, in fact, work.[33] However, most acknowledged that, in practice, the process does not always go well, that it can become confrontational, even "nasty," at times. Still, one individual with DEC experience observed that, if the policy were followed and the DEC approaches the study with an open mind and works to ensure strong lines of communication with the community throughout the process, "you shouldn't create a fuss."

This last observation highlights that the current version of *Policy 409* already offers a measure of flexibility on certain elements of the SSS process that, if utilized to a greater degree

[33] Interestingly, some community members cited this same fact as evidence of the policy's problems. Their reasoning was that, if a more collaborative approach were adopted early on between DEC/district and community to assessing a school's sustainability, they would be able to identify much sooner when closing a particular school is not viable, saving time and money as well as people from having to go through a stressful sustainability study.

in practice, could help to address certain community concerns. For example, the policy recommends that DECs make every effort to engage the broader community during the public consultation and does not limit the definition of "affected persons" to the parents/guardians of students (*sections 7.1* and *3.0*). In doing so, the policy aligns with the commonly held community view that schools are more than parents and students, more than education and buildings – "these schools are community schools" and impact the community as a whole. In addition, the policy makes it explicit that the DEC is not precluded from going beyond the eight required sustainability criteria to consider "other factors relevant to their local circumstances" (*section 6.4.4*). In doing so, it creates an opening for the sort of "out of the box" thinking and consideration of alternatives that community members want to see in the process. Similarly, the policy specifies that the DEC may arrange as many public meetings as necessary to consult appropriately on a school's sustainability (*Policy 409, Appendix C*) and leaves the timeframe for study relatively open. In doing so, it provides DECs with the flexibility to act on the recognition that, if all communities are to be provided with "a real opportunity" for "true consultation," some school communities, given the particular circumstances of their SSS, may require more time than others.

However, there are features of the current version of the policy that, especially from a community perspective, have constituted sustainability study and public consultation in problematic ways, offering little opportunity for a meaningful and collaborative review of a school's standing. As detailed in the previous section, these features include an orientation towards school closure (inherited from earlier versions of the policy), the restriction of study outcomes to one of three narrowly focussed "infrastructure" options, the disconnections among the policy's key areas of activity (infrastructure planning, sustainability study, grade reconfigurations), and a consultation structure that provides little opportunity for collaboration, discussion and dialogue, or "out of the box" thinking. Asked to reflect upon the strengths and weaknesses of policy and practice around SSSs and to identify needed changes, those interviewed for this study offered a number of suggestions for moving forward.

<u>Shift the focus from closure to sustainability</u>

> How would I have approached it differently? Well, I mean, just to have that background knowledge is helpful because if you know the points of contention, then you can build a better defence, right?.... So why aren't both sides knowing all the information beforehand? That's one thing. The timeline – because if it said 12 months, then that meant we had another year at the school, and that would have meant one more year to, you know, maybe work on the plan. Okay, what are we going to do? …. Perfect place for a day care operation…or French immersion…. People have to have the time. Communicating and time…. Put everything on the table. Let people provide their input, because, you know, there are great ideas out there. It can't be just one mindset, that the district wants to close [these schools] and this is the way we're going to go about it. Let's look at it, you know?
>
> ~ *Principal*

> We should be saying, as communities, and as a province, Okay, there should be triggers…we can't have schools all over this province with three students in them, that doesn't make any sense. But let's do this together, like let's be transparent about it and say, you know, if there are triggers, if it's 100 and it's declining enrolment, that's not unreasonable…. But let's make sure that we're looking at proper numbers and what those formulas are, and what the alternatives are. Because if we're going to close schools only to bring in mobile classrooms, or put them in an area that we can't put students, I mean that doesn't make any sense either, right? If we're not saving money and we're not bettering their education, then there has to be a win here somewhere. If there isn't a win, then why go through the process? Because all you're doing is contributing to your economic woes by spending unnecessary financial resources and time on something that didn't make sense in the first place. There's bigger fish to fry, I would say.
>
> *~ Community member*

> I think there should be an option for looking at are there ways to make the school sustainable that the District needs to look at. And it shouldn't be the responsibility of the parents or the PSSC to come together and do this. The District should actually sit down and say 'What are some of the things that we could do, are there options that we could do to make the school sustainable?' And whether that's a conversation they have with the PSSC and then it's presented, or whether that's something they look at and think about, like French immersion, or could there be an opportunity for the school to be a pilot for something that they're looking to do, you know, at the education level. So I really think that, besides presenting facts on paper, the District and the DEC should be charged with coming up with potential ideas for how something could be sustainable.
>
> *~ Community member*

A dominant theme concerning change that emerged from the interviews was the need for a collaborative revisiting and reworking of the policy to effect a substantive shift in the focus of the process from closure to sustainability. This would include removing the language that continues to orient the process towards closure in favour of language that orients the process towards identifying and examining possible options to sustain the school under study, with closure as an outcome only when those options are determined to be unviable. This would involve revising the list of factors to be considered to determine a school's sustainability to strengthen the focus on sustainability. For example, the enrolments criterion could be expanded to cover the impacts of increasing (and not simply declining) enrolments on a school's sustainability. The health and safety criterion could be broadened to consider indicators of student well-being.[34] In addition, a new criterion could be added to ensure that the study of school sustainability routinely considers how school space might be better utilized. In this vein, some community members suggested the need for at least a fourth possible

[34] Thomson and Hertz (2018) note that "student well-being" has been explicitly added as a criterion to consider in the most recent revisions to the school review process in Ontario.

outcome, one that would allow for a period of collaborative work to consider options and develop a "renewal" or "sustainability" plan for a school. Considering the policy's history, the 1998 version's references to joint-use and alternate-use projects may be useful to revisit in this regard.

Review process of initiating sustainability studies

Those interviewed also called for a collaborative review of the process of initiating sustainability studies. A number thought there was merit to having trigger criteria, viewing them as providing an objective standard for deciding whether to launch a study. However, many pointed out a need to reconsider the current trigger criteria. In this regard, community members suggested that the calculation of "functional capacity" be reviewed, and an agreed upon definition determined. They added that, to enhance transparency, the calculation of a school's functional capacity should be clearly detailed in SSS documentation. They also mentioned that the use of the 100 student threshold should be reconsidered, particularly for smaller schools. It was noted that a functional capacity rating may be the more appropriate criterion to use in these cases. Two additional points warrant consideration when reviewing the trigger criteria. As pointed out by Ares Abalde (2014), other trigger criteria have been employed in various jurisdictions (e.g., operating costs that are over three times the district average, significant sustained declines in student performance, etc.). This suggests a review of trigger criteria options may be usefully aligned with efforts to shift the policy orientation from closure to sustainability by considering which from a range of possible trigger criteria would be best suited to flagging schools in New Brunswick in need of sustainability study. Alternatively, the trigger criteria model might be scrapped in favour of a process of regular reviews of each of a district's schools (perhaps every 4-5 years), taking workload/resource issues into account, and conducted with a view to bringing district, DEC and community together to develop/review/ update a sustainability plan on a routine basis for each school (or collection of schools).[35]

Shift to a collaborative approach, allowing for dialogue and early consultation

> For me, I think the policy has to be more collaborative. I truly do. And I think that would mitigate a lot of the "us and them"…. I feel that if the process itself became more collaborative, if the DEC and the consultant and reps from the community all sat down at the beginning, and they had a conversation and then if they came up with an alternative, and then went back to that group and said "This is what our alternative looks like, what are the concerns, what are the questions, what do you think the community will feel, how do you think this will fly? And then they go away. Maybe they tweak, maybe they don't. And then they come out again in a public forum and present. I think having that two-way dialogue all the way along would help answer some of the questions from the get-go, and allow people to not put the wall up right away when

[35] As noted earlier, this appears to be the position recently adopted by the ANSD DEC (ANSD DEC minutes of June 13, 2016).

> they hear the alternative, but be open to hearing what people have to say…. If people feel like they're involved, then they're less apt to object.
>
> *~ Community member*

> There needs to be more two-way dialogue…. The first public meeting is set up to be the presentation from the DEC on what's going to be done. I think it would add value at the end of that presentation to have a question and answer, understanding that it's an emotional topic for everyone. But I think, with the right moderator, it could be facilitated, like questions and answers could be provided. The second meeting, which is where the community presents their alternatives, again there were a number of presentations in a number of schools that generated very valid questions which have never been answered. So there's a gap there. Like I appreciate the DEC doesn't have the answer right there then at that exact minute, but there's no forum to give back the answers to those concerns to the community, ever. I went back through their archives, and there was no document that addressed the community's questions and concerns. That to me is a gap. Nobody, people have asked questions that were valid, they feel are valid, and they don't ever get an answer.
>
> *~ Community member*

There was unanimity among the community members interviewed that the process needed to be structured in ways that positioned communities in relation to the district/DEC as collaborators in school sustainability study rather than adversaries and that allowed for meaningful dialogue. It appears that the current meeting structure, with "each side" having its say (first the district, then the community), not only structures the relationship as an adversarial one but also works to inhibit any chance of two-way dialogue. As one individual with DEC experience commented:

> We don't ever engage in debate. The purpose of the second meeting is not to argue with the public, because that gives a preconceived notion that we're settled on this and we're just trying to go through the motions and get through the two meetings and vote for it at the end of the day. I think people don't understand…. Look around, look at the last couple of years. We've done I don't know how many sustainability studies around the province. About half of them have been turned down, [showing] that we do take this seriously. We do take it to heart, and we try to do the right thing before making a decision.

This conveys that, because the current meeting structure risks having any opportunity for discussion degenerate into a "debate" with two sides pushing their opposing arguments, the district/DECs have been inclined to minimize such opportunities. For community members, the public consultation requires a meeting structure where district, DEC, and a range of community representatives are able to get together in a room, perhaps with a facilitator, to work collaboratively reviewing the information about the school, talking about the school's standing, and discussing options in a real-time two-way exchange.

A good number suggested that this consultation should begin earlier, as a step "prior to *Policy 409*" and the formal launch of a sustainability study.

> So if there's anything I would change in the process, it would be if they, if government is looking at something, there needs to be a better way of gathering information, doing the research, getting even community members or PSSC members, I don't know who, involved in the process early on to do like a reconnaissance mission…. Do the research, the practical research, by getting in a vehicle, going to the school, talking to the people, seeing the rooms, doing the numbers, going through that exercise, and legitimately determining 'Does this make sense?' And if you do all that, and it does make sense, then absolutely, then let's trigger it and let's go through the formal process.
>
> *~ Community member*

> I can't help but think that it would have been better if the public consultation had happened before EY produced their report…. I feel a two-way dialogue with the community and partners, the school community, at the beginning would add value before we ever get to the point of a public meeting, to get data on social programs, concerns, any information that could be gathered that's independent of the numbers that would come from the district. Student numbers, enrolment, that type of thing…. I feel if there was a preliminary step where everyone talked together, and, you know, reps from the [city/municipality], reps from community groups, reps from the schools, bring everyone in with a facilitator, generate some parameters that you then give a consultant to come up with something. These are the areas of concern, strengths, weaknesses, opportunities, threats, the whole thing. Then once the recommendation is authored, to have a meeting with that same group to say 'This is what we came up with, what's your feedback?' Like I feel that back and forth piece doesn't exist within 409 right now…. To me, like I feel if they had got that community feedback first …it would have held more weight in the end, with the recommendation that was generated…. It's more value for money.
>
> *~ Community member*

> There's a lot of stuff that is frustrating…. These are all, and I get the DEC positions as well, they get, well, nothing for pay, so it's basically volunteer. But…we all have careers, we have jobs, we have lives. So to carve off, you know, a sizable chunk…lots of emails, phone calls back and forth, DEC meetings, after hours, after school to go through a tour of the school. A lot of hours put into this, right? And I just felt as though a lot of that could have been avoided had we had the information and a reasonable conversation early on before it got to kind of high military alert type of situation, so to speak.
>
> *~ Community member*

> There should be another step, perhaps before we get to *Policy 409*. Give the population a chance, let them know that they are in jeopardy, and give them a chance to come up with a plan.
>
> *~ Community member*

> I think there's a need for more open, honest communication early on. Because when we start, holding this *Policy 409* document up and regurgitating this over and over and over, you begin to sound like lawyers. We're not lawyers, you know? We're dealing with communities. We are supposed to be people who are trying to make good decisions in communities. So, I get this is a legal document, I understand that. But how it gets implemented is all about relationships. So we can have a good relationship with the DEC and the community. Getting that information upfront, having that open, honest communication, and putting the case in front of people with all of the information I think would avoid a lot of these pitfalls.
>
> *~ Community member*

The call for prior consultation to take advantage of the knowledge community members have about their school and community is another suggestion that may be met under the current policy. There appears to be nothing in *Policy 409* that would preclude the district/DEC from consulting (or having EY consult) with a local community in the lead up to the DEC deciding whether to launch a sustainability study (or to request an exemption, in the case of a triggered school). However, from the community view, this would be a useful step to formalize under a revamped policy.

<u>Develop a standard information package for public consultation</u>

> There needs to be a package of goods, a standard protocol, that a community is given and the DEC is given, and a requirement for the DEC and the community to get together to have a conversation, be it the PSSC or whoever that is, to have a conversation that isn't 200 people at a public meeting. That's not helpful out of the gate. But, what's the case? What are the numbers? What's this look like? And explain the process, walk them through it. And if they do get triggered, then absolutely, there should be 6 months, or whatever it is, and it can't happen over the summer, whatever the process is, but all the information is required to be given. Communities should not be required to go through access to information. That ticks communities off, and I don't blame them…. That does not start off on the right foot. So when you are talking about working together, and transparent and so on with the process, we're going to look at this together.
>
> ~ Community member

Some community members suggested that SSS experience to date be examined to identify the range of information that has emerged as necessary to conducting a sustainability study of a school with a view to developing a "standard information package." Then, when considering

launching a SSS on any particular school, the district would compile this package of standard information, and reach out to the school's PSSC and community to review it and provide feedback before finalizing the package and formally launching the study. As one community member observed, this would allow the district, DEC, and community to work together to (for example) "build some realism into the capital improvement list" in terms of what is needed and feasible to do as well as estimated costs. It would allow the community to provide additional insight at the outset into the required sustainability criteria as applied to their school, particularly those pertaining to community impacts and economic development, as well as provide information on "other factors relevant to their local circumstances." In addition, it would allow the district an opportunity to work through where additional details and clarifications (e.g., on functional capacity calculations, estimated cost savings) might usefully be added before the first formal public meeting.

Community members thought this approach would have at least five advantages. First, it could identify instances where there is no need to launch a formal study, e.g., in cases where transportation issues or lack of available space at proposed receiving schools rule out the closure option, thus saving the district, DEC and community the time and expense of the study. Second, it would address the concern that community members, as well as teaching staff, expressed about feeling "blind-sided" learning from the media that a sustainability study had been launched for their school. Third, it would help to reduce, if not eliminate, the frustrations and stress experienced by community members as well as district staff having to spend time during the formal consultation phase gathering the sorts of basic information typically requested (e.g., on the number of out of zone transfers, details of the functional capacity calculations, etc.). Fourth, it would create an opportunity at the outset to address any community concerns that "the facts" were gathered to present a negative case regarding a school's sustainability in order to justify closure (e.g., instances where enrolment trends pointing to decline have not been footnoted to acknowledge the trends are more reflective of past decisions to reconfigure grades or adjust French immersion programming than "enrolment decline" per se). Fifth, it would ensure that the district, DEC, and community are "on the same page" at the outset when it comes to the facts to be used to evaluate the school's sustainability; this, they believed, would help the formal study to become a more collaborative process, focussed on exploring available options and possible outcomes.

<u>Strengthen communications, support</u>

Community members also had some additional suggestions for how the process could be improved in those instances where the DEC concluded, following initial consultation, that a formal sustainability study was warranted. One set of suggestions highlighted what they saw as a need for the districts to strengthen their communications strategies. In this vein, they encouraged the districts to make greater use of social media to engage the community in the process.

> Another thing that should be part of the process is there should be some degree of support that's provided to the communities and PSSCs. Don't know how that is, or if

there's a budget for that, but, whether there's a consultant or some support network that can be provided.

~ Community member

They also noted it would be useful, at the outset of any SSS, for the community to have a designated contact person who would be able to help them connect quickly to needed district/ departmental sources and who would be adequately resourced to offer support as they examined their school's sustainability and considered options.

In addition, they recommended the districts invest resources in maintaining a section of their websites to provide access, not only to all relevant SSS materials, but also to information from the annual Facility Status Review (FSR) of each school and district Multi-Year School Infrastructure Proposal (MYSIP), or perhaps from a newly introduced "standard package of information," on enrolments, functional capacity, needed capital improvements, etc. This, they noted, would help to ensure that communities have ready access to the information needed to monitor their school's sustainability. As one individual with DEC experience observed, "[i]t's so important and so critical for communities to have their finger on what's going on in the schools and to be looking ahead and planning ahead, and telling us 'this is important because—.'"

<u>Establish guidelines for SSS timeframes</u>

> It seemed so rushed. We were like 'What's the rush?'…. Our idea was don't rush it. Don't rush it because, it might not be a bad idea, but if you rush it and you just close it, then that's it. It's done. There's no alternative, right? Like we're not going to go back and re-open it. So let's go see what are the other opportunities out there.
>
> *~ Community member*

A second set of suggestions focussed on the need to establish clear and realistic guidelines around timeframes for the process, sensitive to available resources and workload.[36] The policy's wording has effectively established an eight-month timeframe for sustainability study in the case of triggered schools (with notification in May and final decision by the end of January). A number of community members mentioned that this new "trigger timeframe" offers a more realistic schedule for ensuring meaningful public consultation. Noting that the policy provides minimal guidance regarding the timeframe for non-triggered schools selected for sustainability study, those interviewed highlighted the need to develop a timeframe that is fair and consistent

[36] It is worth noting that, in considering the procedural fairness of school closure processes, the courts have observed in certain cases that the timeframes allowed for public consultation have not been ideal (e.g., *Mercer v. School Board*, 1998). Despite facing a tight timeframe, community members have often rallied to pull together a strong presentation in response to a proposal to close their school. This accomplishment may be taken as evidence that the time constraints did not adversely affect either the community's ability to participate in the public consultation or the school board's/DEC's ability to reach an informed decision about the school. However, from a community perspective, the stress and costs to family time incurred as a result of compressed timeframes need to be addressed.

for all schools, however they are selected for study. In addition, two individuals with DEC experience mentioned that consideration needs to be given to workload at the district level, and what is reasonable for a district/DEC to undertake in terms of the number of SSSs underway and the level of available support at any one time. Community members also called for flexibility to be built into the policy so that, for example, in cases where the community decided to pursue an alternative option (e.g., a joint-use project), they would be afforded adequate time to develop a proposal to present to their DEC.

Create space for "out of the box" thinking

> I think there are good things [about the policy]. I think that especially a province like New Brunswick that is struggling financially and is limited in resources, you're not going to keep schools open just to keep them open. But I think that the province, the District, the communities have to think outside the box and be allowed to find maybe solutions that work for their communities. I think sometimes different solutions have to be looked at seriously by the province, to be looked at, to be implemented.
>
> *~ Community member*

> If there are ways of utilizing spaces in existing schools, why not? Part of the problem that I see, there needs to be more innovation, more thinking outside the box on how to solve problems, because at the end of the day, we want the best education for our kids, in the most cost-effective way possible…. So if some schools are not as efficient as they should be, for location or infrastructure or whatever it is, are there other things that could be done to generate more revenue or to keep them in the school? Maybe there are opportunities for, you know, economic development. I mean if it's a day care, if daycare is something that could be provided, maybe there are people in the community that are trained or could be trained on that but their big gap is they don't have a place to do it. So if there's a place to do it and they can do it, then why not connect those dots? You're providing a service, you're helping people get on the path of a career, while helping the kids and helping the school.
>
> *~ Community member*

Community members pointed to the limited range of possible outcomes (status quo/repair, close), the limited time sometimes afforded for study, and the disconnections between infrastructure planning and sustainability study as evidence that the opportunities to examine a school's sustainability thoroughly and to consider alternatives were restricted. They argued for changes to these elements of the policy to create space for more "out of the box" thinking about their schools. This would include mechanisms to ensure stronger connections between decision-making around school sustainability and decision-making around factors bearing on school sustainability (capital improvements/major projects, grade reconfigurations, catchment area boundaries, out of zone transfers, the allocation of EFI and other programming opportunities, etc.). Some of those with DEC experience offered a similar view, arguing for the scope of sustainability study to be broadened to allow a collection of schools, rather than an

individual school, to be considered, and options to enhance a school's sustainability (e.g., joint-use opportunities) to be explored. In addition, one individual with DEC experience pointed to the need for mechanisms to facilitate greater collaboration across districts to allow schools in close proximity to each other but in different districts to be considered collectively for sustainability solutions. While addressing silo thinking is a challenge for most larger-scale organizations, the thrust of community member suggestions to work towards developing structures and processes that facilitate dialogue and consultation provides some guidance on how to proceed.

Strengthen local input into decision-making

Finally, those interviewed touched on a number of areas that led them to call for a review of current structures and processes with a view to strengthening local input into decision-making. In this regard, a number of those with DEC experience expressed concern that stipulations in the *Education Act* and *Policy 409*, and government requirements around processes that impact the policy, have had the effect of transferring some authority from the more local DEC level to the provincial government level. Here, they pointed to the DECs being unable to make decisions, but rather having to make recommendations (regarding school closures and the location of new schools) that the Minister then needs to approve. Procedures have been introduced at the provincial level to standardize how DECs are to prioritize their capital improvement lists,[37] raising some concern at the DEC level that this process may fail in some cases to take additional factors unique/relevant to the local context into account. Trigger criteria have been introduced that require DECs to conduct sustainability studies in certain instances (with DEC requests to exempt a triggered school from study also needing to be approved by the Minister), something that some DEC members viewed as an imposition that interfered with their own district-level planning efforts. Some community members regarded the ministerial veto on school closures as an important mechanism to ensure that the proceedings were fair. Some DEC members, however, expressed concern that this creates an opening for local-level decision-making to become unnecessarily politicized (in their view, a reasoned decision based on careful study at the local level being at risk of being overturned for political reasons). In this regard, it is interesting to note the recent court ruling against the 2016 decision by the then EECD Minister to close a small rural school even though the DEC had recommended further study, not closure at that point. In his decision, Justice Zoel Dionne was reported in the media as questioning whether the introduction of the trigger criteria "is a tool for imposing on education councils…a list of schools that should be closed and…a way of effecting these closures" (Poitras, 2018, May 22).[38]

Some community members mentioned, with disappointment, that the *Policy 409* principle recognizing the role schools play in preserving and promoting local culture and community, especially in rural areas, appears to have played only a marginal role both when DECs have

[37] Quadruple bottom line multi-criteria analysis (http://web1.nbed.nb.ca/sites/ASD-E/Sustainability/Moncton%20Documents/EECD%20tool%20for%20determining%20major%20capital%20projects.pdf).
[38] The government subsequently decided to appeal this ruling (Poitras, 2018, June 13).

been deciding whether or not to launch a sustainability study of a particular school or when district staff have compiled information for PM#1. They saw this principle as underscoring a need in the SSS process to move beyond considering simply a building and how its operating costs look on the district's or department's ledger, and to weigh the intricate, mutually sustaining connections between school and community. From the perspective of rural community members, there needs to be a policy review involving meaningful consultation aimed at designing tangible ways of honouring the commitment embodied in this principle that can then be incorporated into the policy. Beckley (2015) has noted in his examination of rural New Brunswick that "rural New Brunswickers have demonstrated a knack for ingenuity, creativity and persistence as they continue to find ways to live, work and sustain themselves as they have for generations." This track record suggests that providing these community members with an opportunity to bring a local/rural perspective to a review of the policy should yield positive results.

The same call for local input into decision-making is evident in recent efforts in Sackville (Sackville Schools 2020) and Saint John (SJ Central Task Force) to have input, not simply into the naming of schools, but into their actual design. These efforts are based on an understanding that community needs in relation to schools vary and so defy any cookie-cutter approach to school design. This is but another area of work activity affirming the importance of consultation at the local level, in this case involving the local community in school infrastructure planning. A *Policy 409* review might usefully consider establishing a formal connection between the school infrastructure planning process and public consultation. In addition, the Sackville and SJ Central area studies have both highlighted the challenges posed to school planning processes when decision-making responsibility regarding the location of new schools lies elsewhere and occurs with minimal local input. This was identified, with some emphasis, as another issue in need of redress.

Summing up

The major problems with the SSS process identified by participants in this study, and the suggested changes they offered to address them, fall under two over-arching and inter-connected themes. The first centers on the need to shift the focus of the SSS process from closure to the meaningful study of school sustainability, with sensitivity to the particularities of local context, and space to consider options other than simply status quo/repair/close. The second focusses on the need to shift the approach to studying school sustainability to one that is much more collaborative. This would require a process that brings community, DEC, and district together at the outset to share and assess information about the sustainability of a school (or set of schools), and provides opportunities for them to discuss, share ideas, brainstorm options, and discuss again as they work together to determine a school's sustainability standing and explore and assess the feasibility of various options.

The areas of concern and the suggested changes identified by those participating in this study are similar to those that have come to light through research on school closure processes elsewhere. As noted earlier, researchers in various jurisdictions have observed that the process

leading to school closure is frequently fraught with controversy and conflict. For community members, this is often rooted in the perception that, although the review process is presented as consultative, it is not collaborative and their voices are not heard. The decision appears to be predetermined and the process highly controlled, with community members often placed in a more passive and reactive role, asked simply to comment on an already prepared proposal or recommendation rather than being included in the process of crafting options and recommendations (Irwin & Seasons, 2012). Community frustration is exacerbated where the details of the data and analysis upon which a closure recommendation has been based are unclear (Deeds & Pattillo, 2015). Such experiences convey to many in the affected communities that the process is structured unfairly, serving to marginalize certain views and perspectives while privileging others. As a number of researchers have noted, there can be "hidden" and consequential costs when school closure processes are perceived to be unfair. Such processes have been linked to reduced public/community support for public education, increased sense of alienation, increased public cynicism and a breakdown in public trust, and increased demoralization at the community level among at least some groups (e.g., Deeds & Pattillo, 2015; Irwin & Seasons, 2012; Kearns et al., 2009; Slee & Miller, 2015).

However, the research literature suggests such negative outcomes can be averted by designing the sort of school review process that participants in the current study envision – a process that is inclusive, collaborative, meaningful, and transparent. Where community members have been meaningfully included in the review process from the outset, where they have been provided with clear, accurate, and sufficiently detailed information about the context in which a decision about the closure of their school is to be made, where impacts have been carefully considered and assessed and other options have been meaningfully explored, then, if closure is determined to be the most viable option, they are far more likely to have confidence in the decision regarding their school (e.g., Abes Abalde, 2014; Irwin & Seasons, 2012).

This is not to say that the path to achieving a more meaningful focus and process for sustainability study will be easy. Those advocating for a focus expanded beyond closure to include consideration of other options (e.g., alternative classroom configurations, or joint-use arrangements) and for a shift towards a more collaborative approach to school reviews acknowledge the challenges involved. Nevertheless, they conclude the journey will be worthwhile. Those exploring the sustainability of small rural schools have pointed to the potential of "multi-age" classrooms to provide students with high quality learning opportunities while enhancing school sustainability (e.g., Tinkham, 2014). Those researching the details of joint-use arrangements have highlighted the potential of such initiatives to yield benefits to students, families, and communities both within and beyond the realm of education (e.g., Haig, 2014; Vincent, 2014). In this regard, Kanters et al. (2014) provide evidence pointing to the potential health benefits for students and members of the broader community stemming from shared use arrangements focussed on afterschool physical activity programs. Similarly, those examining school review processes in some depth have concluded that the most constructive way forward is with a process where decisions are reached locally and collaboratively,

grounded in an understanding of both educational and community needs (e.g., Irwin & Seasons, 2012; Rappolt, 2015; Thomson & Hertz, 2018; Tinkham, 2014).

As a final point I would note that, as the suggestions for moving forward listed in the previous section were provided only from those participating in this study, they may well not reflect the full range of change suggestions that could be solicited from all of those who have gone through the SSS process in New Brunswick over recent years. However, they do point to the fact that people "on both sides" have a willingness to work to improve the process and also sound ideas worth considering about how to do so. This suggests that a useful starting point for moving forward would be to convene a group of past SSS participants for a facilitated discussion to flesh out what a SSS process might look like, in policy and practice, if it is to have greater success addressing educational and community needs at the local level in New Brunswick.

Appendix A: Research approach

Having decided to carry out a detailed examination of the SSS process for this research, I was aware that this would require a thorough review of *Policy 409*, what it says and how it is implemented in practice. How do various individuals (e.g., community members, DEC members, district staff) make use of specific elements of the policy as they engage in the process of studying a school's sustainability? How do the policy's requirements shape the substance, as well as the process, of "sustainability" study? Given such questions, institutional ethnography appeared to offer a particularly useful approach for this research undertaking.[39]

Institutional ethnography (IE) is an approach to research that focusses attention on discerning how people's everyday lives are organized in certain ways through their interactions with various institutional processes, like the SSS process. It pays particular attention to the role "texts" (like *Policy 409*) play in governing these interactions. It has been applied to a range of topics, from the organizing of nursing work in hospitals (e.g., Campbell, 2006) to processes of university governance (e.g., Wright, 2014), and has demonstrated its usefulness in exploring "policy in practice" in the field of education (e.g., Nichols & Griffith, 2009), constraints on public participation (e.g., Murray, 2012), and the workings of public consultation in municipal planning processes (e.g., Turner, 2001).

Applying this approach to the present research, an institutional ethnographer would seek to map out in detail how the SSS process works to determine a school's sustainability. This mapping would provide the basis to examine how people's involvement with the issue of a school's sustainability is organized through the process of drawing on, or "activating," *Policy 409* and addressing its requirements. A key objective here is to generate knowledge that facilitates efforts to bring to light and address specific areas of contention and concern with the current policy and its implementation.

Accordingly, the present research involved two areas of activity. The first focussed on examining relevant textual materials, including *Policy 409* itself and its related documents (e.g., school Facility Status Reviews, Multi-Year School Infrastructure Proposals), as well as DEC meeting minutes and documents generated through the particular sustainability studies conducted over recent years in the four Anglophone districts (e.g., communications between the district and school community involved in a SSS, presentations submitted through the public consultation process, etc.). These documents were either publicly available through government and school district websites or obtained through contacts with individuals who have had some involvement with the SSS process. A historical review of *Policy 409* and how it has been revised over time was conducted, and the results are provided in Appendix B (copies of each version of the policy from 1990 to the current 2015 version are included in Appendix C).

[39] The general description of institutional ethnography that follows draws on these sources: Campbell and Gregor (2002); DeVault and McCoy (2002/2006); Griffith and Smith (2014); McCoy (2006); Smith (1987, 2005, 2006); Smith and Turner (2014); and Smith, Mykhalovskiy, and Weatherbee (2006). This project was reviewed by the Research Ethics Board of the University of New Brunswick (Saint John).

The second area of activity relied on in-depth interviews to tap into the knowledge people have acquired by virtue of having worked through the SSS process in relation to a particular school or set of schools. Eighteen individuals were approached for an interview, selected to represent a diversity of experience with the SSS process (e.g., parents and other community members, individuals with DEC experience, school and district staff, and government representatives). Fifteen individuals, with representation from all four Anglophone school districts, agreed to participate, with interviews taking place between March and August, 2017. Unfortunately, no one among the district staff or government representatives contacted agreed to take part. Still, the fifteen interview participants offered detailed accounts of how the SSS process works, both in cases resulting in a decision to close and in those resulting in a "status quo" outcome.

The interviews were semi-structured, beginning by asking each participant to tell their "sustainability study story" in as much detail as possible from the start of the SSS process right through to its conclusion, sharing what they were thinking and doing at every step of the way. It was intended that this opening question would provide sufficient focus while allowing each participant to frame their SSS account as they saw fit. As each interview proceeded, specific questions, tailored to the particular participant, were introduced to flesh out particular details about the process (e.g., what information was available to a DEC member when making the decision to launch a sustainability study, how did a community member draw on specific elements of *Policy 409* when preparing for the public consultation). As these details from the early interviews began to coalesce into a preliminary map of the process, the developing portrayal was checked with participants in subsequent interviews. Each interview concluded with the participant being asked to provide their assessment of *Policy 409* and the SSS process, including any suggestions for change they might have. The interviews lasted between 75 and 170 minutes, and were digitally recorded and later transcribed.

For analysis, each of the fifteen transcripts was read several times. These different readings provided an opportunity to listen to what each person had to say from different angles (e.g., how they described the steps in the SSS process – who was involved, what work was carried out at each step, what documents were activated and created, how *Policy 409* informed that work, and what challenges were encountered; how they described themselves in relation to the process and to others in the process; if/how they described forces beyond the immediate vicinity of the SSS as bearing on the process and its outcome (e.g., government support for rural communities). This use of multiple readings is encouraged not only to afford additional insights into the focus of the research, but also to help the researcher to hear more clearly the account each interview participant is providing, without it being filtered or edited in some way to align with whatever the researcher might have been expecting to hear. It encourages the researcher to remain reflexive throughout the process of analysis, helping her to be aware of any preconceptions she harbours and to "tune her ear" so as to minimize any danger of misrepresenting what the participant has to say.[40]

[40] The method of using multiple readings employed in this study drew on the following sources: Doucet and Mauthner (2008), Mauthner and Doucet (1998), Walby (2007, 2013).

The same reflexive stance was adopted while reading through and analyzing *Policy 409* and its related documents, DEC meeting minutes, and much of the hefty volume of documentation produced by the district and community participants through each SSS process since 2014. The analysis of these documents made a number of contributions to the research. For example, reviews of various documents provided details that helped to flesh out the developing map of the SSS process. *Policy 409* itself provided insights into the anticipated timelines and procedural requirements for sustainability studies. District correspondence with parents, DEC meeting minutes, and district submissions to the public consultation process helped to document the actual timelines of recent sustainability studies and offered insights into how the policy's procedural requirements were implemented in practice. In addition, documents produced through the period of public consultation offered a means to explore and compare district and community accounts of a particular school's sustainability, and to examine how these accounts were rendered, and their points of inconsistency handled, over the course of the SSS process.

The information gleaned from analyzing the interview transcripts and relevant documents allowed key details making up the SSS process to be pieced together. The resulting "map" of the SSS process is presented in some depth in Appendix D. Consistent with other applications of institutional ethnography, mapping the process helped to identify problematic areas, shedding light in this case on how "sustainability/sustainability study" and "public consultation" have been constituted in ways that compromise, to varying degrees, people's efforts to evaluate school sustainability with a view to achieving the best outcome for a district's students and their communities. These problematic areas, and the suggestions for change that emerged from the study, are detailed in the main body of this report.

Appendix B: An historical review of *Policy 409*[41]

In its earlier versions, *Policy 409* was explicitly assigned *"Closure of Schools"* as its subject. It was a brief document with a singular purpose, to set forth a process, a methodology, for closure of a school. The 1990 version laid out some specific procedures for the (then) school boards to follow when declining enrolments or the availability of alternate existing facilities led them to conclude that a particular school should be closed. The boards were to advise the (then) Department of Education by July of their intention to proceed with the closure of a school, and submit a report indicating "the reasons for the proposed closure and implications for community and district."[42] The Department was to respond to the intended closure by October, and by January the school board would notify the public through a notice in the paper about its decision to close the school and where students would be reassigned. The school would then close in June. The policy did refer to the considerations that should inform a closure decision (declining enrolments, the availability of alternative space, the implications of closure for community and district). However, the main focus was on laying out the process and timeline to follow once a board had decided to close a school.

This changed with the 1994 revision of the policy. From this point the policy turned its attention to earlier in the process of deciding to close a school. Now declining enrolments and/or the availability of alternate existing facilities would inform a board's decision "to study" the possible closure of a school. Boards were to advise the Minister of the Department of their intention to study a school, and were to "fully inform and consult the parents affected by a possible school closure before coming to any official decision on the matter." Following the consultation, a board would vote on the proposed closure and, if voting to close, would inform the Minister of their decision "stating the reasons for closure, the results of the public consultation, and the plan of action" and inform parents where students would be reassigned. However, beyond requiring the boards to provide "parents and/or community groups" with "information, internal studies and/or other documents prepared by the school board," the policy provided little specific detail to the boards on how, and according to what timeframe, the review of the school and the process of public consultation on a possible school closure should proceed.

In 1996, under the McKenna Liberal government, the existing school board structure was scrapped and replaced with a layered structure involving School Parent Advisory Committees (SPACs) at the school level, District Parent Advisory Committees (DPACs) at the district level, and two Provincial Boards of Education (one Anglophone, one Francophone), with advice to

[41] Copies of the 1990 – current iterations of *Policy 409* referred to in this section appear in Appendix C. A search of the provincial archives failed to locate a copy of the 1980 version of the policy, or copies of any other earlier versions. I would like to acknowledge, with appreciation, the work undertaken by Rachel Dion and Mathieu Collin, both with EECD, and by Tom McCaffrey of the Provincial Archives of New Brunswick to locate copies of previous versions of *Policy 409* for this research.

[42] A form was appended to the policy which was to be filled out for each proposed school closing. It gathered information about the school (e.g., number of classrooms and pupils, grades taught, age, facilities, etc.), where pupils would be transferred, community use of the school, and effects of closure on bus transportation.

move up through the layers to the Minister and Department of Education. This was the governance structure in place when, in 1998, "*Policy 409*: *Closure of Schools"* was replaced by the broader and much more detailed "*Policy 409: Effective Use of School Facilities*." No longer was the policy focussed narrowly on school closures. The policy's purpose now included helping "to ensure the provision of quality, equitable educational services in a cost-effective manner"; promoting "community well-being in decisions concerning effective use of school facilities"; and providing parents and community members "with the opportunity for formal input into decision making regarding school use and school closure in their community." The policy was written to encourage the adoption of a planning perspective sensitive to the needs of the broader community. As specified in the policy, its procedures were

> designed to maximize the use of resources designated for public education while being mindful of communities by:
> 1. determining when a school is no longer viable;
> 2. making good use of excess space through appropriate joint-use partnerships;
> 3. enabling alternative uses for entire facilities to be identified once a facility has been determined to no longer be viable. (*Policy 409*, 1998, p. 2)

The policy established an explicit connection between education planning and school facilities planning. Superintendents were to conduct an annual assessment of educational programming needs for their districts, and the results would inform a review of existing school facilities. Information from this review would then be used to develop an "overall district school use plan" addressing "the distribution of enrolment between schools, catchment area decisions and allotments for capital projects including new construction and renovations" (p. 2). It was envisioned that, through this planning process, certain schools deemed to be viable but having excess space would be identified for potential joint-use (where excess space in a school building is considered for medium or long-term use by community or other organizational partners). In addition, certain schools that were deemed to be no longer viable would be identified for alternate use (where a school building is designated as surplus to educational needs, and other community uses for the asset are considered).

The 1998 version of *Policy 409* incorporated a number of noteworthy elements compared to the earlier versions. First, it positioned "determining a school's viability" at the center of the "school use review" process. It recognized that the allocation of students to schools, the drawing of catchment area boundaries, and the identification and prioritization of capital improvements needed to be routinely addressed as part of the school use planning process, given their close connections to facility use (and thus to school viability).

Second, with the policy's widening of focus from closure to viability, the review process was no longer limited to a choice between two outcomes – close the school or keep it open. Instead, the new version encouraged routine consideration of how joint-use projects might support the viability of a school with excess space, and also how alternate-use projects might

allow a school building vacated after a closure decision to be converted to address another community need.[43]

Third, and relatedly, the policy specified that a standing interdepartmental committee (made up of representatives from various government departments, e.g., Education, Supply and Services, Economic Development and Tourism, Health, etc.) be formed to assist communities with the process of developing and assessing joint-use or alternate-use proposals (p. 11). This would have the advantage of bringing to the planning table people with expertise from areas of government where collaboration on joint-use or alternate use proposals would be most likely (e.g., proposals to develop a day-care or health centre in the school facility).

Fourth, although "viability" was not formally defined in the policy, standard criteria were introduced to govern how a school's viability was to be assessed, with this assessment informing any recommendation for possible closure/alternate use. In this regard, superintendents were instructed to evaluate a school's standing in terms of four general areas (and in comparison with other schools), with each area elaborated through examples of relevant variables to consider (pp. 7-8):

- *Health and safety* (examples): structural integrity of the building; indoor air quality and water quality; fire safety systems; safety and security of school grounds/play area; amount of time pupils spend in transit.
- *Quality of education* (examples): appropriateness of facilities for curriculum delivery; increased educational opportunities as a result of consolidation (including availability of facilities and diversity of educational programs); enrolment per grade or multi-level class and pupil-teacher ratio at both sending and receiving schools; ability to meet the needs of all pupils, including exceptional pupils, currently enrolled at the sending school and the potential for service at the receiving school.
- *Financial considerations* (examples): operating costs, including staffing, utilities, and transportation costs; condition of the building, considering short and long-term capital costs; modifications required to the receiving school(s) to accommodate transferred pupils.
- *Community* (examples): parental involvement and feasibility of continued parental involvement, particularly for elementary pupils; community support (could include sponsorships, donations, support of co-op programs, involvement in nutrition program,

[43] The policy laid out a process for proposing and assessing joint-use projects that could occur independently of any proposal to close a school. The superintendent was to consult with the appropriate SPAC, principal, and DPAC to determine whether or not a particular school should be recommended for joint-use consideration. Once recommended, the superintendent was to launch a four-step community consultation process extending over a 6-month period (allowing five months for proposal development and one month for a proposal review/approval process). A range of criteria for assessing proposed joint-use projects were specified in the policy. Beyond emphasizing a guiding focus of community benefit, the policy provided less detail on the development of alternate-use projects. This was likely because, once a school was deemed no longer viable for educational purposes, steps would be taken to transfer ownership of the building to the (then) Department of Supply and Services, removing the building from the Department of Education's authority.

etc.); availability of, and pupil access to, extracurricular activities at the sending and receiving schools, taking bussing considerations into account; cultural and linguistic uniqueness; the school's role in the community.

Overall, these criteria convey a "viable school" is one that provides, in a cost-effective way, a healthy and safe environment that affords students access to a desired range of educational opportunities while both attending to their particular needs and benefiting the broader community. In this regard it is noteworthy that, even though the use of the term "examples" conveys that these elaborations of the four general areas are meant to be suggestive and not exhaustive, the wording overall is somewhat inclined towards a "closure/not viable" determination. For example, there is explicit reference to assessing "increased" educational opportunities as a result of consolidation, but not to what might be lost in terms of educational opportunities currently provided by the school under consideration for closure.

Finally, where the previous versions of the policy left much to the discretion of the school boards, the 1998 policy specified standard protocols for public consultation, both for potential joint-use projects and proposals to close. As laid out in the policy, a proposal to close a school would involve a five-step public consultation process extending over a 6 month timeline from September 15th – March 15th (detailed in the policy, pp. 9-11). The process began with the results of the annual review (including reasons why the school was being considered for closure along with any supporting data) being distributed to affected SPACs (closing, feeder, and receiving schools) and their DPAC(s), and then discussed at a joint meeting with those groups. This was followed by a single public meeting where the reasons and documentation put forward for closing the school could be considered and discussed with the broader community. From there, the issue went to a vote by parents of students attending the school being considered for closure on whether to proceed to close the school (and perhaps consider possible alternate uses for the facility) or to pursue options for keeping the school open (perhaps possible joint uses). Subsequent steps detailed the procedures to be followed if the vote went in favour of developing proposals for maintaining the school and how to proceed if it went in favour of closing the school.

Overall, the 1998 version of *Policy 409* has represented perhaps the most far-reaching effort to date to move beyond a focus on school closure towards a broader view of school viability in light of educational, fiscal, and community requirements. It explicitly connected educational planning and infrastructure planning, tying the superintendent's annual assessment of educational programming to the development of a school use plan. It allowed for the pursuit of outcomes other than "close or keep open," laying out procedures to support the development of joint-use and alternate-use projects. It moved to specify and standardize the criteria through which a school's standing, or viability, was to be assessed and the steps and timeframe through which public consultation was to occur.

Still, the 1998 policy was, in some ways, more restrictive from a local level perspective than the prior versions. The 1998 version came under the authority of the new *Education Act*, and had the effect of reducing local level decision-making authority. Decisions taken at the local

level regarding joint-use opportunities or school closures took the form of recommendations (by parents, DPACs) to be forwarded to provincial boards and ultimately the Minister of the (then) Department of Education for approval. This ministerial authority to approve a recommendation to close a school was stipulated in the *Education Act*. Accordingly, it has been included in each subsequent version of *Policy 409*, including the current (2015) version. In addition, as noted, the 1998 policy established specific procedures and standard timeframes for public consultation around joint-use projects and school closures. This would have the advantage of ensuring different school communities were afforded the same opportunity for public consultation if their schools were being considered for closure. However, the specific timeframes established were tight in places, and the policy itself offered no flexibility for the district to make adjustments to accommodate local circumstances. For example, the specific timeframe established for communities to develop and submit a plan to maintain their school, once the parents had voted to pursue this course of action, was limited to a 3 month period from late October/early November to February 1st. No formal allowance was made for the superintendent/DPACs to grant extensions due to stormy weather or challenges community members might encounter trying to access needed information over the Christmas/New Year period.[44]

As things turned out, there was not much time to assess the merits of the 1998 policy changes. Following the election of Bernard Lord's Conservatives in 1999, the structure of education governance was changed again. The three-tiered SPAC/DPAC/Provincial Board structure was replaced in 2001 by the Parent School Support Committee (PSSC) / District Education Council (DEC) structure which remains, with some minor changes, to the present day. *Policy 409: Effective Use of School Facilities* was repealed in July, 2001. It was replaced in May, 2002, by the retitled *Policy 409: Closure of Schools*, scaled back down in purpose to defining "the parameters for processes in relation to school closures," with no mention of considering joint-use or alternate-use possibilities. Where the 1998 policy had as one of its stated purposes "to ensure the provision of quality, equitable educational services in a cost-effective manner," the 2002 policy offered a narrower principle "to ensure *school closures* reflect the Department of Education's commitment to providing New Brunswick pupils with equitable educational services" (emphasis added). The detail from the 1998 policy linking educational planning and school use planning through the superintendent's annual reviews was dropped. The 2002 policy provided little guidance as to how studying a school for possible closure was to fit into any broader educational or infrastructure planning. It merely indicated that it was the new DECs that would determine whether to study a school for possible closure.

The DECs were instructed to establish a district policy, in line with *Policy 409*, detailing the steps to follow when proposing a school closure.[45] As part of this process, they were to ensure

[44] Interestingly, the development of joint-use proposals outside of a school closure review was allowed 5 months under the policy, from the superintendent giving notice requesting proposals (by Sept. 15) to the proposal submission date (Feb. 15).

[45] The stipulation that DECs "will" establish district policy that outlines procedures for reviewing schools for closure (2002), and later for sustainability (2009, 2015), has remained part of *Policy 409* since 2002. Documentary evidence indicates that such district level policies have been active in recent SSSs in at least two of the Anglophone

that those affected by a possible closure were fully informed of the process and the details relevant to the proposal to close their school. Where the 1994 and 1998 policies had presented the idea of "those affected" as explicitly including the broader community, the 2002 version adopted a narrower view focussed on the parents of students of both the school considered for closure and possible receiving schools. In lieu of imposing standard timeframes, the new version simply stipulated that the DECs ensure affected parents were allowed adequate time both "to consider the information provided, seek advice, and consult with experts, should they wish to" and "to prepare and make a presentation to the DEC" and be heard impartially (p. 2). On the public consultation, the 1998 policy had referred to holding a public meeting "to consider and discuss the supporting documentation" for a closure proposal. In contrast, this 2002 wording suggests less an opportunity for dialogue and discussion than a one-way exchange of information where those affected would be allowed simply to have their say about the documentation compiled by the district in support of the proposed school closure.

Still, this apparently more limited vision of public consultation was not carved in stone. While affirming a need for some standardized protocols around public consultation on closure proposals, the 2002 policy allowed the DECs considerable leeway to develop their own standard procedures through their own district level policy to specify how exactly they would implement the overall study and the public consultation component and within what timeframe. When developing these procedures, they were to be guided by the newly introduced principle of "procedural fairness" (referring to "the duty of administrative bodies to employ decision-making processes that provide real opportunity, to persons whose interests and privileges may be affected, to influence the decisions being made").

The DECs were charged with making a decision about a proposed closure after "reasonable public consultation" and (harkening back to the language of the 1994 version) with informing the Minister and affected persons of its decision, "stating its reasons, the results of the public consultation and the plan of action, if any" (p. 2). Under the 1998 policy, the basis for ministerial review of a DEC's decision to close a school was the Minister's responsibility for final decisions regarding school operations and "the overall health of the public education system." Now, the basis for the Minister's review of the DEC's decision was altered in scope to include "the principles of procedural fairness, with consideration of whether all pertinent factors have

school districts. In the 2015 sustainability study of Dorchester Consolidated School (AESD), the community submission by Fort Folly First Nation refers to the district's *Policy 1.5* which is quoted as stating that "[t]he issue of closure will be put to a vote of parents of students enrolled in the affected school(s) using a secret ballot" before proceeding to any next steps. As noted earlier, this step had been stipulated in the 1998 version of *Policy 409* but was dropped from the 2002 version. That a vote had not been held in the Dorchester case was flagged by Fort Folly First Nation as calling procedural fairness into question. Following their two SSSs in 2015, the AESD DEC decided to review their policy; the old policy appears to have been rescinded, but to date no new version of a district policy on review procedures has appeared. AWSD has a district level "Sustainability of Schools" policy currently in place (*Policy ASD-W-EL7*, last revised September 22, 2016). It retains from the 2002 version of *Policy 409* the stipulation that those affected by a possible school closure "have adequate time to consider the information provided, seek advice, and consult with experts, should they wish to." AWSD's policy is available on their website under DEC policies, "Governance Policies – Executive Limitations" (http://web1.nbed.nb.ca/sites/ASD-W/DEC/Policies/Forms/AllItems.aspx).

been taken into account in the DEC's decision, and with regard to the interests of the public education system." The policy explicitly indicated that ministerial approval of the DEC's recommendation may be withheld if the Minister determined that procedural fairness was not applied. However, the policy referred only to the DEC's duty to inform the public and provide them with time to reflect and an opportunity to respond. It offered no standard criteria against which the Minister would assess whether "a real opportunity to influence the decisions being made" had been provided, whether "reasonable public consultation" had occurred, or whether "all pertinent factors" had been considered.

Finally, the 2002 version of the policy retained, almost verbatim, the four criteria to be considered when assessing a school for possible closure that were specified in the 1998 policy (health and safety, quality of education, financial considerations, community, with their example variables).[46] However, these were now presented as "guiding" or "recommended," rather than "required," considerations. This would appear to have addressed any possible concern that the former wording restricted the DEC to considering only those four criteria. However, it would also appear to have the disadvantage of potentially re-establishing a more varied, rather than standard, approach to how schools were being assessed for closure.

The policy received another overhaul and change of subject title in 2009, under the watch of Shawn Graham's Liberal government. According to an interviewee with DEC experience, this revised version, *Policy 409: Multi-Year School Infrastructure Planning,* was largely in response to a call from the DEC Chairs to the Minister of Education for the development of a longer-term approach to school infrastructure planning. The 2009 policy was the first version of *Policy 409* to have a statement of purpose that did not refer explicitly to school closure. It read: "This policy defines the process for multi-year school infrastructure planning to ensure a strategic and long-term approach to major capital projects, capital improvement projects, the study of a school's sustainability and proposed grade reconfigurations" (p. 1).

As was the case with the 1998 version, this shift in purpose for the 2009 policy signified a broadening of scope beyond school closures, reflecting a similar effort to situate school closures within a broader planning perspective and in light of what was now termed a school's "sustainability" (rather than "viability"). However, where the 1998 policy established explicit connections among the components of its broader focus (linking joint-use and alternate-use projects to school viability and school closure study), the 2009 policy was less clear articulating the connections among its four areas of activity. Consistent with its new title, requirements for the development and submission of a district multi-year school infrastructure plan (centred on capital improvement and major project priority lists) received top billing. Procedures surrounding the request for and naming of new schools, the determination of a school's sustainability, and grade reconfigurations were subsequently introduced as components of "District Infrastructure Planning." However, while requests for new schools were to be submitted as part of the district infrastructure plan, when and how infrastructure planning was

[46] The only change to the list of variables came under "Community," where the wording of one variable example was changed from "cultural and linguistic uniqueness" to "effects on culture and language."

to inform or be informed by assessments of a school's sustainability or decision-making around grade reconfigurations were not specified in the policy.

Regarding infrastructure planning, the new policy outlined the district's responsibilities regarding the content and timeline for the annual submission of its multi-year (rolling 5 year) school infrastructure plan to the Minister. This plan was to include the Facility Status Reviews (FSRs) for each school, the major capital project priority list (projects involving the construction of a new school or an addition/major renovation to an existing school), the capital improvement project priority list (projects involving replacement of existing building components or the addition of a building code improvement), and an estimated timeframe for projects. It stipulated that the FSRs:

> will highlight any schools where sustainability may be an issue and a brief description of the reasons why the school may be vulnerable (declining enrolment, health and safety, etc.). Note: this is not a requirement to undertake a complete study of a school's sustainability, as per section 6.4 [Determining a school's sustainability] and 6.5 [Public consultation on a school's sustainability]. This is also not a commitment to close the school listed as potentially vulnerable to closure.

This passage is noteworthy for it underscored that flagging a school as vulnerable during the FSR process was meant to encourage further consideration of the school's sustainability, but not to lead necessarily to undertaking "a complete study of a school's sustainability" nor to set a course to closure. This explicitly created space for DECs to engage in further review before making a decision whether or not to launch "a complete study" of any particular school. It is interesting, therefore, that this passage was dropped from *Section 6.1.2* of the 2015 (current) version of *Policy 409*.

As was true with its precursor term "viability," "sustainability" was introduced in the 2009 policy without any formal definition. Once again, the meaning of the term had to be gleaned from the standardized set of criteria that the policy required the DECs to consider when studying a school's sustainability. The 2009 policy retained the set of four criteria that had appeared in the two previous versions of the policy, but introduced some modifications to their wording. Most notably here, the "impact on the local community" criterion (formerly titled simply "community") now included the elaboration that consideration be given to "whether the school is the sole school in the community, especially at the elementary level." The 2009 policy also expanded the original list of four criteria to eight, with the addition of the following:

- *Low/declining enrolments*: impact of declining or low enrolments on learning environment (Is enrolment reaching a critical threshold or will it be dropping substantially over the next few years?). Enrolment trends and projections must be considered.
- *Transportation*: time spent in transit and cost of travel.
- *Impact on other schools*: impact on feeder schools and receiving schools

- *Economic development*: consideration of planned and future economic development projects in the community or surrounding area.

Arguably, with the 2009 changes, this standardized set of criteria has come to encompass an extensive range of important factors to consider when studying a school's sustainability. The additional provision in the 2009 policy that a DEC may move beyond these eight required criteria to consider "other factors relevant to their local circumstances" enhances the potential for these studies to provide a thorough review of a given school's sustainability, taking into account the particularities of both the school and its local community. Still, some concerns can be raised about how these sustainability criteria evolved under the 2009 policy. First, the elaborations of each of the (now eight) criteria are no longer flagged as providing "examples" of the sorts of variables that might be considered under each criterion. Instead, the indicated variables appear now to define, and so to risk delimiting, what is to be considered under each criterion. Second, despite the change in focus to "sustainability" over closure, the criteria and their elaborations in some cases continue to reflect an "inclination" towards closure. For example, the first criterion indicates that a school's sustainability is to be assessed in terms of low/declining enrolments, a circumstance where the school might be especially likely to be considered for possible closure. However, there is no comparable criterion directing attention to assessing a school in terms of high/increasing enrolments, a circumstance that could equally affect its "sustainability" but perhaps call for solutions other than closure (e.g., reconfiguring grades or adjusting catchment area boundaries to redirect some students elsewhere, recommending an expansion to the school building, etc.).

Besides elaborating the sustainability criteria in comparison to the 2002 version of the policy, the 2009 policy provided more specific direction to the DECs regarding their public consultation responsibilities during a sustainability study. The 2009 version of the policy still stipulated that the DECs "will establish" a district level policy detailing the school sustainability study process, but with the requirement that this district level policy be consistent with *Policy 409* (*section 8.1*). Effectively, this requirement meant that the DECs were duty bound to adhere to the new standard protocols for public consultation introduced elsewhere in the policy. Rather than leave to the DEC's discretion how to notify those affected about a sustainability study of their school, the new policy now stipulated that affected persons be notified through some form of public notice (and offered a few examples, e.g., ad in the local newspaper). It also commented on the content of the notice, e.g., that it was to indicate the DEC's intention to study a school's sustainability and the timeframe for consultation. A statement was added that a SSS shall normally be completed within 12 months and should not occur over the summer months. The DEC continued to be responsible for ensuring that affected persons are informed about the process and "the proposal," have time to consider the information provided, and have an opportunity to respond. In addition, the 2002 reference to "reasonable consultation" was dropped in favour of a requirement that a minimum of three public DEC meetings be held on "the possible closure." It is noteworthy that, despite the 2009 policy's shift from the 2002 language of "studying the possible closure of a school" to "studying a school's sustainability," some legacy of closure language remains in the presentation of public consultation protocols, with their references to "the proposal" and "possible closure." The content of the three

required meetings was also specified: the first would inform the school community of the DEC's decision to study their school and the process for doing so; the second would provide the school community with an opportunity to present to the DEC; and the third public meeting would provide the results of the consultation, an account of the factors considered, and the recommendation the DEC would submit to the Minister. The 2002 version requirement that the DEC "inform persons affected and the Minister of its decision *stating its reasons*" along with the public consultation results and any plan of action (p. 2, emphasis added) was replaced by the requirement that the DEC provide the public, at the third public meeting, "with the results of the public consultation, including an account of the factors considered." This shift in wording appears to require the DECs only to provide a summary of what was learned and considered about a school's standing in relation to the sustainability criteria, relieving them of responsibility to indicate "why," based on the factors considered, they reached a particular decision.[47]

The 2009 policy also formally introduced a standardized set of outcomes to govern the DEC's deliberations when arriving at a final determination about a school's sustainability. It maintained what had been the de facto two outcomes in the previous versions of the policy focussed on closure (1990, 1994, and 2002) – maintain the status quo (keep the school open) or close the school and place the students elsewhere. However, just as the 1998 policy had added joint-use and alternate-use options to consider when assessing a school's viability, the 2009 version added a third possible outcome, one that, while aligned with the policy's new infrastructure planning focus, was more limited in scope than the 1998 viability options. This third outcome was "repair the school," and it created space for the DEC to recommend an infrastructure investment plan for a school to address sustainability concerns. However, despite what would seem to be an obvious point of connection between sustainability study and infrastructure planning, this repair outcome was not explicitly linked to the infrastructure planning process laid out in the policy.[48]

The goals/principles of the policy were also modified in comparison to the 2002 version, and some new ones added. One goal remained limited in scope (compared to the 1998 version) but was revised to read that "multi-year school infrastructure planning" (vs. school closures) should reflect the department's commitment to providing NB students with equitable educational services. Another was reworded to stipulate school sustainability studies and proposed grade reconfigurations were to occur in accordance with the principles of procedural fairness. However, the definition of procedural fairness was diluted from the 2002 duty to

[47] This appears to have been confirmed in *Her Majesty the Queen in Right of the Province of New Brunswick…v. Kennedy et al.* (2015), where the Court of Appeal observed that procedural fairness under *Policy 409* "does not command the post-consultation delivery of reasons for decision by the District Education Council."

[48] Given this disconnection, it is likely not surprising that the "repair" option has been rarely used. As one individual with DEC experience intimated, a "status quo" outcome is the better choice because a "repair" decision at the conclusion of a SSS is not binding on the capital improvement prioritization process. This is not to say that observations around needed repairs during a SSS might not be carried forward for discussion during the capital improvement prioritization process. However, the "status quo" outcome appears better suited to convey the lack of any firm commitment at the conclusion of a SSS to prioritize repairs for a studied school.

provide those affected with a real opportunity "to influence the decisions being made" to a duty to provide them with a real opportunity "for input." This duty was also to include requirements "such as providing the opportunity to affected persons to be heard and for the school district to receive and consider the information before any recommendation is forwarded to the Minister," a wording that again framed public consultation more as an exchange of information than an opportunity for dialogue and discussion.

In addition to a new goal pertaining to consistency and transparency in the naming of schools, two new principles were added. Reminiscent of the 1998 policy's link between education planning and school use planning, one 2009 principle stated that "recognizing that the organization of schools has budgetary, programming and infrastructure impacts, this policy provides a transparent process for multi-year school infrastructure planning." Given this principle, it is worth drawing attention again to the lack of explicit connections in the policy between infrastructure planning on the one hand and decision-making on grade reconfigurations and school closures on the other, considering that these both bear on the organization of schools.

The other new principle stated the department's recognition that "schools are integral to the promotion and preservation of the local culture and community, especially in rural areas." This elevated to a principle what had been touched upon in the 1990 version and acknowledged among the criteria for assessing a school's standing since the 1998 version of the policy -- that schools play an important role in their communities, including their linguistic and cultural uniqueness. The focus on rural areas was new to the 2009 version – and significant, given the considerable percentage of New Brunswickers that continue to live in rural areas.

Finally, in 2015, *Policy 409* received a comparatively modest revision under the Brian Gallant Liberal government. It retained from the 2009 version the same title, *Policy 409: Multi-year School Infrastructure Planning*, the same goals/principles, the same focus on four areas of activity (infrastructure planning, requesting and naming new schools, sustainability study, and grade reconfigurations), and the same list of criteria and three possible outcomes to consider when studying a school's sustainability. The key change was the introduction of new criteria that would automatically "trigger" a sustainability study of any school at an enrolment of 100 or fewer students or a capacity level of 30% or less (indicating classroom space utilization). This automatic triggering effectively took away some of the DEC's authority when it came to deciding whether or not to launch a sustainability study of a particular school (for, although they could recommend that a school be exempted from study, this exemption needed to be approved by the Minister). According to the EECD Minister at the time, these new "trigger criteria" were intended to create consistency and fairness across the province in identifying schools for study (Poitras, 2015).

Where the tendency across versions of the policy from 2002 – 2015 was generally towards establishing greater standardization (in the criteria for launching a SSS, the criteria for assessing sustainability, the public consultation process, and the study outcomes), this was not the case for the SSS timeframe. The 2015 version dropped the reference to a sustainability study

normally being completed within a twelve month period, retaining only the stipulation that the study not take place in July/August. It provided no guidance as to the length of time that normally would be allotted for non-triggered sustainability studies. However, the wording of the policy does effectively establish an eight month timeframe for triggered sustainability studies (with the decision to study taken by the end of May, and two, if not all three required public meetings having to be scheduled in the fall months (to avoid July and August), with the decision to the Minister by January 31st). Finally, the section on grade reconfiguration was revised to assign greater responsibility to the DEC for this process than was the case under the 2009 version (where greater responsibility had been assigned to the Superintendent).[49]

This historical review of *Policy 409* suggests that the difficulties people have encountered studying the "viability" or "sustainability" of schools can be traced in part to certain aspects of the policy's development. This is evident in the lingering effects of the policy having being originally framed with a focus on school closure, the limitations of various standardized protocols developed for studying schools (e.g., study outcomes), and the disconnections between "sustainability study" and various processes that play a key role shaping a school's sustainability (e.g., catchment area boundary decisions, prioritization of capital improvement requests). These are fleshed out in the mapping of the SSS process detailed in Appendix D and discussed further in the "Problematic Areas…" section in the main body of this report.

[49] The present study has focussed primarily on the school sustainability studies conducted in the Anglophone school districts since 2014, some of which were launched under the 2009 version of *Policy 409* and others under the 2015 version.

Appendix C

Versions of *Policy 409* (2009 – 2015)

POLICY STATEMENT 409

DIRECTIVE 409

SUBJECT	Closure of Schools	OBJET	Fermeture d'écoles
EFFECTIVE	September 1, 1980	PRISE D'EFFET	1er septembre 1980
REVISED	January 1990	RÉVISÉE	Janvier 1990
AUTHORITY	Schools Act Section 67(2)	AUTORITÉ	Loi scolaire - Article 67(2)
PAGE	1 of 2	PAGE	1 de 2

PURPOSE

This policy sets forth the methodology for the closure of a school.

BUT

La présente directive met en relief les modalités de fermeture d'écoles.

POLICY

The school board shall inform the Department of Education of the intended closure of a school.

PRINCIPE DIRECTEUR

Le conseil scolaire doit informer le ministère de l'Éducation de la fermeture projetée d'une école.

GUIDELINES

I. Procedures for the closure of a school as a result of declining enrollments or the availability of alternate existing facilities are detailed as follows:

July

The Department of Education is advised by the School Board of it's intention to proceed with the closure of a school. A report shall be prepared by the district stating the reasons for the proposed closure and implications for the community and district. (Appendix A)

ORIENTATION

I. Procédures de fermeture d'écoles à cause de la baisse des effectifs ou de la disponibilité d'autres installations scolaires:

Juillet

Le conseil informe le ministère de l'Éducation de son intention de procéder à la fermeture d'une école. Il doit préparer un rapport indiquant les raisons de la fermeture proposée et les répercussions sur la communauté et le district. (Annexe A)

Shirley Dysart

MINISTER - MINISTRE

October

The Department of Education would respond to the intent to close the school.

January

The School Board will place an advertisement in the local newspaper stating it's decision to close the school and the schools to which the students will be reassigned.

June

School is closed.

II. Procedures described in paragraph 1 are not applicable where a facility has been destroyed or damaged as a result of emergency circumstances (fire, structural failure) or a school construction project has been completed to accommodate the students.

III. The school board shall notify the Department of Education when a school or property is surplus to its needs for educational purposes.

Octobre

Le ministère de l'Éducation répondra à la proposition de fermeture de l'école.

Janvier

Le conseil scolaire publiera dans un journal à circulation locale sa décision de fermeture de l'école et déterminera les écoles auxquelles les élèves seront assignés.

Juin

L'école est fermée.

II. Les procédures décrites au paragraphe 1 ne s'appliquent pas aux installations détruites ou endommagées dans des situations d'urgence (incendie, défaut structurel) ou aux projets de construction scolaire.

III. Le conseil scolaire doit faire connaître au plus tôt au ministère de l'Éducation si une école ou un terrain est en excédent par rapport aux besoins éducatifs.

Shirley Dysart

MINISTER - MINISTRE

Appendix A

PROPOSED SCHOOL CLOSINGS

School Year _____

DISTRICT _____

Please complete and forward to the Director of Educational Facilities, Department of Education, a separate form for each school which is to be closed.

School Name	School Number	Classrooms	Pupils	Grades Taught	Language of Instruction	Location
_____	_____	_____	_____	_____	_____	_____

Pupils will be transferred to the following schools(s):

	School Name	Location
_____ pupils in grade(s) _____	to _____	in _____.
_____ pupils in grade(s) _____	to _____	in _____.

Was this school utilized for community activities during the past 12 months?

Yes _____ No _____ How many times _____

If no, how many other schools are presently in use? _____

Age of School _____ Facilities in the school _____

_____

List the effects of this school closure on bus transportation.

_____

_____

Annexe A

PROPOSITION DE FERMETURE D'ÉCOLE

Année scolaire _____

DISTRICT N° _____

Prière de remplir une formule distincte pour chaque école devant être fermée et de la transmettre au Directeur des installations éducatives, ministère de l'Éducation.

Nom de l'école	N° de l'école	Nbre de salles de classe	Nbre d'élèves	Niveaux enseignés	Langue d'enseignement	Lieu
_____	_____	_____	_____	_____	_____	_____

Les élèves seront transférés à l'école/aux écoles suivante(s) :

Nom de l'école — Lieu

_____élèves en _____ année(s) iront à _____, située à _____.

_____élèves en _____ année(s) iront à _____, située à _____.

L'école en question a-t-elle été utilisée pour des activités communautaires au cours des 12 derniers mois?

Oui _____ Non _____ Combien de fois? _____

Si non, combien d'autres écoles sont utilisées à cette fin?

Âge de l'école _____ Facilités de l'école _____

_____

Indiquez les conséquences de la fermeture de la présente école sur le transport scolaire.

_____

_____

Replaced by Effective Use of Schools Sept 8/98

DEPARTMENT OF EDUCATION
MINISTÈRE DE L'ÉDUCATION

POLICY STATEMENT 409

DIRECTIVE 409

SUBJECT	**Closure of Schools**	**OBJET**	**Fermeture d'écoles**
EFFECTIVE	January 1990	**PRISE D'EFFET**	Janvier 1990
REVISED	*June 1994*	**RÉVISÉE**	*Juin 1994*
AUTHORITY	Schools Act	**AUTORITÉ**	Loi scolaire
PAGE	1 of 2	**PAGE**	1 de 2

PURPOSE

This policy sets forth the process for closure of a school.

POLICY

The School Board shall follow the following procedures for the closure of a school.

PROCEDURES

Procedures for the closure of a school as a result of declining enrolments and/or availability of alternate existing facilities are detailed as follows:

I. **the Minister of the Department of Education shall be advised by the school board of its intention to study the possible closure of a school;**

BUT

La présente directive énonce les modalités de fermeture d'une école.

PRINCIPE

Le conseil scolaire doit observer les modalités suivantes relatives à la fermeture d'une école.

MODALITÉS

Les étapes suivantes doivent guider le conseil scolaire lorsqu'il envisage la fermeture d'une école en raison d'inscriptions scolaires insuffisantes ou de la disponibilité d'autres installations scolaires existantes :

I. **le conseil scolaire doit informer le ministre de l'Éducation de son intention d'étudier la possibilité de fermer une école;**

Vaughn Blaney

MINISTER - MINISTRE

II. the school board shall fully inform and consult the parents affected by a possible school closure before coming to any official decision on the matter. This shall include the disclosure of information, internal studies and/or other documents prepared by the school board to the parents and/or community groups affected;

III. the school board shall vote on the proposed closure and inform the Minister of its decision, stating the reasons for the closure, the results of the public consultation, and the plan of action;

IV. the school board shall be responsible to inform parents of the schools to which the students will be assigned;

V. procedures described herewith are not applicable where a facility has been destroyed or damaged as a result of emergency circumstances (fire, structural failure) or a school construction project has been approved to accommodate the students;

VI. the school board shall notify the Department of Education when a school or property is surplus to its needs for educational purposes.

II. avant d'en arriver à une décision officielle, le conseil scolaire doit informer et consulter les parents touchés par la fermeture possible d'une école. Cela comporte l'obligation de rendre publics l'information, les études internes ou autres documents préparés par le conseil scolaire à l'intention des parents ou des groupes communautaires visés.

III. le conseil scolaire vote sur la proposition de fermeture et informe le Ministre de sa décision en indiquant les raisons de la fermeture, les résultats de la consultation publique et le plan d'action;

IV. la responsabilité incombe au conseil scolaire d'indiquer aux parents à quelles écoles les élèves sont affectés;

V. les modalités ne s'appliquent pas aux installations détruites ou endommagées à la suite d'événements imprévisibles (incendie, défaut structurel) ou aux projets approuvés de construction scolaire;

VI. le conseil scolaire doit informer le ministère de l'Éducation lorsqu'une école ou un terrain n'est plus essentiel à ses opérations.

Vaughn Blaney

MINISTER - MINISTRE

POLICY STATEMENT 409

DIRECTIVE 409

SUBJECT	**Effective Use of School Facilities**	OBJET	**Utilisation efficace des établissements scolaires**
EFFECTIVE	September 8, 1998	PRISE D'EFFET	Le 8 septembre 1998
REVISED		RÉVISÉE	
AUTHORITY	*Education Act*, sections 3 and 42(1)	AUTORISATION	Articles 3 et 42(1) - *Loi sur l'éducation*
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PURPOSE

This policy:

1. helps to ensure the provision of quality, equitable educational services in a cost-effective manner;

2. promotes community well-being in decisions concerning the effective use of school facilities;

3. provides parents and community members with the opportunity for formal input into decision making regarding school use and school closure in their community.

This policy replaces Policy 409: Closure of Schools.

This policy applies only to schools administered under the Education Act; not to Community College buildings.

BUT

La présente directive vise à :

1. garantir la prestation de services éducatifs équitables et de qualité, et ce, de façon économiquement viable;

2. veiller à ce que les décisions concernant l'utilisation efficace des établissements scolaires favorisent le mieux-être de la collectivité;

3. offrir aux parents et aux représentants de la collectivité des mécanismes de participation aux décisions concernant l'utilisation et la fermeture des écoles de leur collectivité.

La présente directive remplace la Directive sur la fermeture des écoles (directive 409).

La présente directive s'applique uniquement aux écoles gérées en vertu de la *Loi sur l'éducation*, et non aux collèges communautaires.

MINISTER - MINISTRE

POLICY

The procedures specified in this policy are designed to maximize the use of resources designated for public education while being mindful of communities by:

1. determining when a school is no longer viable;
2. making good use of excess space through appropriate joint-use partnerships;
3. enabling alternative uses for entire facilities to be identified once a facility has been determined to no longer be viable.

PROCEDURES

School Use Review

Superintendents will conduct an annual assessment of educational programming needs for the district. Existing facilities will be reviewed based on these needs. Data from this review will be used to develop an overall district school use plan which will address the distribution of enrolment between schools, catchment area decisions and allotments for capital projects including new construction and renovations. Within this plan, some schools may be identified as either potential joint-use or alternate use candidates. Alternate use refers to the transfer of use of a school building when the building is no longer to be used for the delivery of public education. When a school is declared surplus to the needs of the Department of Education, its disposal will fall under section 12 of the *Public Works Act*, as is the case with other surplus provincial government buildings. All joint and alternate use considerations will take into account the likelihood, based on demographics, that a building or excess space within a school will be required for public education in the future.

DIRECTIVE

La procédure établie dans la présente directive vise à optimiser l'utilisation des ressources destinées à l'enseignement public, tout en prenant en considération le mieux-être des collectivités, et ce :

1. en déterminant les cas où le maintien d'une école ne présente plus une solution viable;
2. en utilisant de façon appropriée l'espace excédentaire au moyen de projets d'utilisation conjointe;
3. en permettant d'identifier des façons différentes d'utiliser l'ensemble des installations, après avoir déterminé que l'établissement n'est plus viable.

PROCÉDURE

Évaluation de l'utilisation des écoles

Les directions générales procèdent chaque année à l'examen des besoins selon les programmes d'enseignement offerts dans les écoles de leur district respectif. Les établissements scolaires existants sont évalués en fonction de ces besoins. Les évaluations servent à élaborer un plan général d'utilisation des écoles du district, et ce plan tient compte de la répartition de l'effectif entre les écoles, des décisions portant sur l'aire de recrutement et des montants qui sont affectés à des projets d'immobilisation, comme la construction de nouvelles installations et les rénovations. Le plan d'utilisation des écoles peut désigner certains établissements qui pourraient convenir pour une utilisation conjointe éventuelle ou pour une utilisation différente. Par utilisation différente, on entend l'utilisation d'un établissement scolaire à d'autres fins s'il a été déterminé que l'école ne servira plus pour l'enseignement public. Lorsqu'une école est déclarée un bien en surplus compte tenu des besoins du ministère de l'Éducation, sa cession sera effectuée conformément à l'article 12 de la *Loi sur les travaux publics*, comme pour tous les autres bâtiments du gouvernement

1. Joint-Use Projects

1.1 Purpose of Joint-Use Projects

The purpose of joint-use projects is to support initiatives which are useful to the community while ensuring that public education resources are used for public education. Under this policy, such projects are defined as medium or long-term partnerships with community or other organizations involving the ongoing use of part of a school facility which is no longer required by the public education system. The terms of joint use projects are generally expressed within license agreements or leases between the school district and the joint-use tenant.

Joint-use projects may be recommended when a school is found to have excess space but continues to be viable. Joint-use projects will not be considered for schools which are not viable. Should no joint-use project be implemented, the school will not be considered any less viable.

Activities which make use of educational facilities during hours when these are not required for educational purposes, fall under *the Community Use of Schools Policy (Policy 407)*. Compensation to the school for the use of facilities under the *Community Use of Schools Policy* is generally through exchange of services or facilities or user fees.

provincial déclarés biens en surplus. Toute possibilité d'utilisation conjointe ou autre tiendra compte de la probabilité que l'établissement scolaire puisse être requis ultérieurement pour l'enseignement public, en se fondant sur les données démographiques.

1. Projets d'utilisation conjointe

1.1 Objectif des projets d'utilisation conjointe

Les projets d'utilisation conjointe visent à appuyer les initiatives qui peuvent servir la collectivité et à faire en sorte que les ressources servent d'abord et avant tout à l'enseignement public. En vertu de la présente directive, ces projets sont des partenariats à moyen ou à long terme conclus avec la collectivité ou avec d'autres organismes participant à l'utilisation continue d'une partie de l'école dont le système d'enseignement public n'a plus besoin. Habituellement les conditions de ces projets d'utilisation conjointe font l'objet d'un contrat ou d'un bail signé par le district et l'utilisateur.

Des projets d'utilisation conjointe sont recommandés lorsqu'une école est encore viable et qu'elle dispose de locaux non utilisés. Les projets d'utilisation conjointe ne sont pas pris en considération lorsque l'école n'est pas viable. L'absence de projets d'utilisation conjointe n'implique pas que l'école soit considérée comme moins viable.

Les activités qui ont lieu dans les établissements scolaires pendant les heures où ils ne servent pas à des fins éducatives relèvent de la *Directive sur l'utilisation communautaire des écoles* (Directive 407). Le mode d'indemnisation de l'école pour l'utilisation des installations en vertu de la *Directive sur l'utilisation communautaire des écoles* se présente habituellement sous forme d'échange de services, d'installations ou de droits de location.

The Superintendent, in consultation with the DPAC, the principal and the SPAC of the school concerned, will decide whether any excess space in a school should be considered for a joint-use project. In some schools, this space may already be utilized for community use projects, to the satisfaction of the school and of the community. Nothing in this policy shall be interpreted as a requirement to implement a joint-use project when there are pre-existing, satisfactory arrangements.

1.2 Community Consultation Process for Schools Recommended for Joint-Use Projects

In the absence of an SPAC or DPAC response within specified deadlines it will be assumed that none is forthcoming and the process will proceed as stated.

Step 1

If it has been decided that a school has excess space which could be considered for a joint-use project, the Superintendent will publicize, in consultation with the DPAC, the location and nature of such space by September 15th of each school year. In addition, parents and staff members of the school in question shall be notified. The criteria for joint-use proposals will be available at the district office.

Step 2

Joint-use proposals will be accepted until February 15th of each school year, submitted in writing to the Superintendent's office. Within five working days of this date, the Superintendent will forward any proposals received and any proposals developed within the education system to the appropriate DPAC and SPAC chairpersons and make a copy available at the district

La direction générale, en consultation avec le CCPD, la direction et le CCPE de l'école visée, détermine si des locaux excédentaires dans une école peuvent être désignés pour un projet d'utilisation conjointe. Dans certaines écoles, ces locaux servent déjà à des projets communautaires, à la satisfaction de l'école et de la collectivité. La présente directive ne doit aucunement être interprétée comme une requête en faveur de la mise en œuvre d'un projet d'utilisation conjointe dans les cas où des projets satisfaisants existent déjà.

1.2 Processus de consultation communautaire concernant les écoles désignées pour des projets d'utilisation conjointe

Lorsqu'un CCPE ou un CCPD ne répond pas dans les délais prescrits, il est présumé qu'aucune réponse ne sera fournie et le processus se poursuit conformément à cette directive.

1re étape

Lorsqu'une école dispose de locaux excédentaires qui pourraient servir pour un projet d'utilisation conjointe, la direction générale, en consultation avec le CCPD, fait connaître l'emplacement et la description des locaux disponibles avant le 15 septembre de l'année scolaire. De plus, un avis est transmis aux parents et aux membres du personnel de l'école visée. Les critères pour la proposition de projets d'utilisation conjointe sont disponibles au bureau de district.

2e étape

Les propositions écrites de projets d'utilisation conjointe doivent parvenir au bureau de la direction générale avant le 15 février de chaque année scolaire. Dans les cinq jours ouvrables suivants, la direction générale fait parvenir les propositions reçues et celles qui sont élaborées dans le réseau d'enseignement, aux présidents du CCPD et du CCPE puis, elle s'assure

office for viewing by the general public. Authors of the proposals will be invited to present their ideas at a public, joint, SPAC-DPAC meeting which is to be held by March 1st. All SPAC and DPAC members and school staff members shall receive written notice of this meeting.

Step 3

DPAC, SPAC and school staff may prepare separate or joint statements, or no statement, to accompany the proposal(s) which will be forwarded to the appropriate Provincial Board of Education and to the Minister by March 15th.

The Minister will provide a copy of the Superintendent's recommendations to the Provincial Board by March 15th.

Step 4

The Provincial Board will make its recommendations to the Minister by March 31st. Subject to the Education Act, the Minister is responsible for final decisions regarding the operation of schools. The Minister may reject a joint-use proposal if, in the opinion of the Minister, the project is not in the best interests of the public education system.

The Minister will announce decisions concerning all submitted joint-use projects by April 15th.

1.3 Criteria for accepting joint-use projects:

- The over-riding considerations in accepting a joint-use project will be its compatibility with the education of the pupils in the school and the assurance of their security. Any agreement governing joint-use projects will be subject to termination if these criteria are not met.

qu'une copie des propositions est mise à la disposition du grand public dans le bureau de district. Les auteurs des propositions sont invités à présenter leur projet au cours d'une réunion publique du CCPE et du CCPD tenue au plus tard le 1er mars. Tous les membres du CCPE et du CCPD et les membres du personnel de l'école sont avisés par écrit de la tenue de la réunion.

3e étape

Le CCPE, le CCPD et le personnel de l'école concernée font parvenir les propositions, avec ou sans commentaires, à la Commission provinciale de l'éducation et au ministre au plus tard le 15 mars.

Le ministre transmet une copie des recommandations des directions générales à la Commission provinciale au plus tard le 15 mars.

4e étape

La Commission provinciale présente ses recommandations au ministre au plus tard le 31 mars. Conformément à la *Loi sur l'éducation*, le ministre prend les décisions finales concernant l'utilisation des écoles. Le ministre peut rejeter une proposition d'utilisation conjointe lorsqu'il est d'avis que le projet n'est pas dans le meilleur intérêt du système d'enseignement public.

Au plus tard le 15 avril, le ministre fera part des décisions concernant tous les projets d'utilisation conjointe qui lui ont été soumis.

1.3 Critères d'acceptation d'un projet d'utilisation conjointe

- Les facteurs essentiels sur lesquels repose l'acceptation d'un projet d'utilisation conjointe sont sa compatibilité avec l'éducation des élèves de l'école et la garantie de leur sécurité. Le non-respect de ces critères peut donner lieu à l'annulation de toute entente régissant un projet d'utilisation conjointe.

- The school's SPAC may reject a joint-use project if the SPAC is not satisfied that the safety of pupils is ensured, that the linguistic character of the learning environment is maintained or that the proposed project is of benefit to the community.

- Joint-use projects must respect the linguistic character of the school.

- Preference must be given to joint-use partnerships with non-profit organizations.

- All joint-use agreements must be constituted to ensure that no resources, either human or monetary, are diverted from the education system as a result of the project. Only commercial joint-use projects may be used to generate revenue for the public education system.

- Commercial joint-use projects must not compete unfairly with private sector ventures (i.e. provide space at less than market value).

- As long as it does not interfere with the daily operations of the school or divert resources from the school, joint-use projects may involve the sharing of services such as: clerical, custodial, information technology and vehicle and equipment maintenance.

- Joint-use projects shall not curtail pupils from using school grounds at any time or from using school facilities (other than those which are declared excess and concerning which there is a joint-use agreement which precludes use by pupils).

- Le CCPE de l'école concernée peut rejeter un projet d'utilisation conjointe s'il est d'avis que le projet ne garantit pas la sécurité des élèves, n'assure pas le maintien des caractéristiques linguistiques du milieu d'apprentissage ou ne présente pas d'avantages pour la collectivité.

- Les projets d'utilisation conjointe doivent respecter l'appartenance linguistique de l'école.

- La préférence doit être accordée aux projets d'utilisation conjointe présentés sous forme de partenariats avec des organismes sans but lucratif.

- Tous les projets d'utilisation conjointe doivent être sanctionnés par des accords, qui prévoient que le système d'enseignement ne sera privé ni de ressources humaines, ni de ressources monétaires à cause du projet. Seuls les projets commerciaux d'utilisation conjointe peuvent produire des recettes pour le système d'enseignement public.

- Les projets commerciaux d'utilisation conjointe ne doivent pas faire injustement concurrence à des activités du secteur privé (ex. fournir des locaux à un prix inférieur à la valeur courante).

- Un projet d'utilisation conjointe peut comporter le partage de certains services comme le travail de bureau, l'entretien des lieux, la technologie de l'information et l'entretien des véhicules et du matériel, pourvu qu'il ne nuise pas au fonctionnement quotidien de l'école et n'en détourne pas les ressources à son profit.

- Un projet d'utilisation conjointe ne doit pas empêcher les élèves d'utiliser le terrain de l'école en tout temps ou d'utiliser les installations de l'école (autres que celles qui ont été déclarées excédentaires et pour lesquelles une entente d'utilisation conjointe en empêche l'utilisation par les élèves).

- Terms for joint-use projects must be negotiated on an individual project basis.

- The school district must reserve the right to cancel any joint-use agreement, within the joint-use agreement, should there be an unforeseeable, urgent need to use the space for public education.

- All agreements must be adequately documented. The Legal Services Branch of the Department of Justice is available to provide drafting support in this regard.

Joint-use projects are subject to sections 45 and 46 of the Education Act.

2. School Closures

2.1 Considerations for School Closure

In making a recommendation that a school be considered for possible closure/alternate use, the Superintendent will consider variables which fall into the four general areas listed below, both for the sending and receiving schools. The variables listed are examples of the type of information which may be used to evaluate a school's overall standing compared with provincial norms when available. The goal of making such comparisons is to ensure pupils are provided with equitable educational services across the province.

Health and Safety (examples:)

- structural integrity of the building
- indoor air quality and water quality
- fire safety systems
- safety and security of school grounds / play area

- Les conditions applicables aux projets d'utilisation conjointe doivent être négociées cas par cas.

- Le district scolaire doit se réserver le droit d'annuler toute entente d'utilisation conjointe lorsqu'il se présente un besoin imprévu et urgent d'utiliser l'espace pour l'enseignement public.

- Toutes les ententes doivent être appuyées par la documentation adéquate. La Direction des services juridiques du ministère de la Justice peut fournir des services de soutien concernant la rédaction de tels documents.

Les projets d'utilisation conjointe sont assujettis aux articles 45 et 46 de la *Loi sur l'éducation*.

2. Fermeture d'écoles

2.1 Points à prendre en considération pour la fermeture d'une école

En formulant sa recommandation de prendre en considération la fermeture d'une école ou un projet d'utilisation différente, la direction générale doit tenir compte des variables regroupées sous les quatre rubriques indiquées ci-après, que ce soit pour les écoles qui ferment ou pour celles qui accueillent les élèves. Ces variables constituent des exemples de renseignements pouvant servir à évaluer la situation de l'école par rapport aux normes provinciales. Cette comparaison vise à s'assurer que les élèves ont accès à des services éducatifs équitables partout dans la province.

Santé et sécurité (exemples)

- l'intégrité structurale du bâtiment;
- la qualité de l'eau et de l'air à l'intérieur de l'établissement;
- les systèmes de protection contre les incendies;
- la sécurité et la protection du terrain de l'école et des aires de jeux;

- amount of time pupils spend in transit

Quality of Education (examples:)

- appropriateness of facilities for curriculum delivery
- increased educational opportunities as a result of consolidation (this would include availability of facilities and diversity of educational programs)
- enrollment per grade or multi-level class and pupil-teacher ratio at both the sending and receiving schools
- ability to meet the needs of all pupils, including exceptional pupils, currently enrolled at the sending school and the potential for service at the receiving school

Financial Considerations (examples:)

- operating costs including staffing, utilities and transportation costs
- condition of the building, considering short and long-term capital costs
- modifications required to the receiving school(s) to accommodate transferred pupils

Community (examples:)

- parental involvement and feasibility of continued parental involvement, particularly for elementary pupils
- community support (this could include sponsorships, donations, support of co-op programs, involvement in nutrition program, etc.)
- availability of, and pupil access to, extracurricular activities at the sending and receiving schools taking bussing considerations into account
- cultural and linguistic uniqueness
- the school's role in the community

- le temps requis pour le transport scolaire.

Qualité de l'éducation (exemples)

- la convenance des installations pour l'enseignement du programme d'études;
- l'accroissement des possibilités d'apprentissage en raison du regroupement (y compris l'accès à certaines installations et la diversité des programmes éducatifs);
- l'effectif scolaire par niveau ou par groupe à classes multiples et le rapport élèves-enseignant, à la fois pour l'école qui ferme ses portes et celle qui accueille les élèves;
- la capacité de répondre aux besoins de tous les élèves, y compris les élèves exceptionnels actuellement inscrits à l'école qui ferme ses portes, et les possibilités de prestation des services au sein de l'école qui les accueille.

Considérations financières (exemples)

- les coûts de fonctionnement comprenant la dotation du personnel, les services publics et le transport;
- l'état du bâtiment compte tenu des coûts d'investissement à court et à long terme;
- les modifications à apporter aux écoles qui accueillent les élèves transférés.

Collectivité (exemples)

- la participation des parents et la possibilité de maintenir leur participation dans l'école qui accueille les élèves, surtout dans le cas d'élèves du primaire;
- le soutien de la collectivité (projets de parrainage, dons, soutien accordé aux programmes coopératifs, participation à un programme de nutrition et autres);
- l'organisation d'activités parascolaires au sein de l'école qui ferme ses portes et de celle qui accueille les élèves, et l'accès à de telles activités, en tenant compte du transport par autobus;
- la spécificité culturelle et linguistique;
- le rôle de l'école dans la collectivité.

2.2 Community Consultation Process for Schools Recommended for Closure/Alternate Use

Superintendents are responsible for ensuring the SPACs, DPACs and communities affected by proposed school closures are fully informed and have the opportunity to be heard and to propose solutions for the use of their school facilities.

In the absence of an SPAC or DPAC response within specified deadlines it will be assumed that none is forthcoming and the process will proceed as stated.

Step 1

By September 15th, Superintendents will forward documentation containing the results of the annual review to members of affected SPACs (those considered for closure, their feeder schools and those likely to receive pupils in the event of closure) and their DPACs and will present the same at a joint meeting of the DPAC and affected SPACs for the purpose of discussion and input. Documentation will include the reasons why a school is being considered for closure and any supporting data. At this time, Superintendents will also forward review results to the applicable Provincial Board of Education and to Head Office.

Step 2

By October 15th, the Superintendent will hold a public meeting for every school for which closure is being considered. The purpose of the meeting will be to consider and to discuss the supporting documentation. This documentation will be sent to the presidents of all affected Home and School chapters and will be available for public viewing at the school district office one week prior to the meeting.

2.2 Processus de consultation communautaire pour les écoles visées par une recommandation de fermeture ou d'utilisation différente

Il incombe à la direction générale de s'assurer que les CCPEs, les CCPDs et les collectivités concernées soient bien informées et qu'elles aient l'occasion de se faire entendre et de proposer des solutions concernant l'utilisation de leurs établissements scolaires.

Si un CCPE ou un CCPD ne répond pas dans les délais prescrits, il est présumé qu'aucune réponse ne sera fournie et le processus se poursuit conformément à cette directive

1ère étape

Avant le 15 septembre la direction générale fait parvenir les résultats de l'évaluation annuelle aux membres du CCPE des écoles visées (celles dont la fermeture est recommandée, les écoles d'où proviennent les élèves touchés et celles qui pourraient accueillir les élèves en cas de fermeture) et aux membres de son CCPD. Ces mêmes résultats sont aussi discutés avant le 15 septembre lors d'une réunion conjointe du CCPD et des CCPEs affectés. La documentation présentée doit expliquer pourquoi la fermeture de l'école est recommandée et fournir toutes les données justificatives. De plus, la direction générale fait parvenir les résultats de l'évaluation à la Commission provinciale de l'éducation et au bureau central.

2e étape

La direction générale tient une réunion publique avant le 15 octobre concernant chaque école qui doit faire l'objet d'une fermeture. Cette réunion a pour but de permettre aux intervenants d'étudier les documents à l'appui de la recommandation et d'en discuter. Ces documents sont envoyés aux présidents de tous les comités de parents des écoles visées, et ils peuvent être consultés par le public au bureau du district scolaire une semaine avant la réunion.

Within five working days after the public meeting, the Superintendent will provide each parent of every child enrolled in the school with a ballot. Ballots will remain sealed after voting until representatives of all interested parties are gathered together to count them. Results of the parent poll will be publicly released within two weeks after the public meeting. If the majority of parents casting ballots wish to pursue options for keeping the school open, the process will proceed as specified in steps 3 through 5 below.

Should the parent poll indicate that the majority of those voting are not opposed to closing the school, planning for this process will begin. At this point, community groups, corporations or individuals may wish to begin developing proposals for alternate use projects in accordance with section 3 of this policy.

Step 3

By February 1st of the same school year, proposals for maintaining the school shall be submitted to the Superintendent in writing. Copies will be distributed to members of all affected SPACs and DPACs and will be available at the district office for viewing within five working days. The proposal(s) will then be discussed at a special or regular meeting of the affected SPAC, as appropriate given the timelines for this process. The authors of the proposal(s) will be given an opportunity to make a presentation at this meeting, By February 15th, the proposal(s) will be forwarded, with or without comment to the DPAC by the SPAC chairperson.

Step 4

The proposal(s) will be discussed at a special or regular DPAC meeting, as required. The authors of the proposal(s) will be given an opportunity to make a

Au plus tard cinq jours ouvrables après la réunion publique, la direction générale fournit un bulletin de vote aux parents de chaque élève inscrit à l'école. Après le vote, les bulletins de vote restent sous scellé jusqu'à ce que les représentants de toutes les parties intéressées puissent procéder au dépouillement. Le résultat du vote des parents est annoncé dans les deux semaines qui suivent la réunion publique. Si la majorité des parents qui ont voté veulent étudier des projets pour garder l'école ouverte, le processus décrit aux étapes 3, 4 et 5 est entamé.

Si le scrutin des parents montre que la majorité des personnes votantes ne s'opposent pas à la fermeture de l'école, la planification de la fermeture débute. Les groupes communautaires, les entreprises ou les particuliers peuvent commencer à élaborer des projets d'utilisation différente, conformément à la section 3 de la présente directive.

3e étape

Toute proposition visant à garder l'école ouverte doit être soumise à la direction générale avant le 1er février de la même année scolaire. Des copies des propositions doivent être distribuées aux membres de tous les CCPE et CCPD visés, et elles peuvent être consultées par le public au bureau de district dans les cinq jours ouvrables suivants. Le CCPE de l'école concernée étudie les propositions lors d'une réunion spéciale ou ordinaire, compte tenu des délais prescrits dans le présent processus. Les auteurs d'une proposition peuvent faire une présentation au cours de cette réunion. Le président ou la présidente du CCPE fait parvenir les propositions, avec ou sans commentaires, au CCPD au plus tard le 15 février.

4e étape

Les propositions font l'objet d'une discussion lors d'une réunion spéciale ou ordinaire du CCPD. Les auteurs d'une proposition peuvent faire une présentation au cours de

presentation at this meeting, Proposals will then be forwarded, with or without comment to the appropriate Provincial Board and to Head Office by the DPAC chairperson by March 15th.

The Minister will provide a copy of the Superintendents' recommendations to the Provincial Board by March 15th.

Step 5

After reviewing the information forwarded by the DPAC chairpersons and the Superintendents' recommendations, the Provincial Board will make its recommendations to the Minister by March 31st. Subject to the Education Act, the Minister is responsible for final decisions regarding the operation of schools and the overall health of the public education system. Given this, the Minister's approval is required for any project which is proposed as a solution to keeping a school open.

The Minister will announce decisions concerning all school closures by April 15th.

When a school is recommended for closure and the Minister decides not to proceed, this decision will not be reviewed during the following school year.

2.3 Assistance from the Interdepartmental Committee on School Facility Use

A standing interdepartmental committee will be formed to act as a resource to communities considering joint and alternate use projects. Membership of the interdepartmental committee will include representatives from the Department of Education, Supply and Services, the Geographic Information Corporation, Economic Development and Tourism, Health and Community Services and others as appropriate.

cette réunion. Le président ou la présidente du CCPD les fait parvenir à la Commission provinciale et au bureau central au plus tard le 15 mars, avec ou sans commentaires.

Le ministre fournit une copie des recommandations de chaque direction générale à la Commission provinciale au plus tard le 15 mars.

5e étape

Après avoir examiné les renseignements fournis par le président ou la présidente du CCPD et la direction générale, la Commission provinciale de l'éducation transmet ses recommandations au ministre au plus tard le 31 mars. Conformément à la *Loi sur l'éducation*, le ministre prend les décisions finales concernant l'utilisation des écoles et le bien-être général du système d'enseignement public. Par conséquent, l'approbation du ministre est nécessaire pour tout projet proposé comme solution pour garder une école ouverte.

Le ministre annonce ses décisions concernant les fermetures d'écoles au plus tard le 15 avril.

Lorsque la fermeture d'une école est recommandée mais que le ministre décide de ne pas la fermer, sa décision ne peut être remise en question durant l'année scolaire suivante.

2.3 Aide du Comité interministériel sur l'utilisation des établissements scolaires

Un comité interministériel permanent sera formé pour venir en aide aux collectivités qui veulent mettre sur pied des projets d'utilisation conjointe ou différente. Il réunira des représentants du ministère de l'Éducation, du ministère de l'Approvisionnement et des Services, de la Corporation d'information géographique, du ministère du Développement économique et du Tourisme, du ministère de la Santé et des Services communautaires et d'autres organismes, s'il y a lieu.

3. Alternate-Use Projects

3.1 Purpose of Alternate-Use Projects

Alternate uses for a school building will be sought when: (a) the school is no longer educationally viable and the Minister approves the closure or (b), the parents of the children attending the school are in agreement that the school be closed (as determined by following the procedures specified in this policy) and the Minister approves the closure.

The Interdepartmental Committee on School Facility Use, created under section 2.3 of this policy, will provide assistance at the request of community and other groups pursuing alternate use projects.

The main focus when considering alternate uses of school buildings will be to benefit the community in which they are located. Municipalities or other local government authorities may wish to organize a public consultation process to inform the community and to ensure that the alternate use project is supported.

3. Projets d'utilisation différente

3.1 Buts des projets d'utilisation différente

L'utilisation différente d'un bâtiment scolaire peut être prise en considération: a) lorsque l'école n'est plus viable et que le ministre approuve sa fermeture, ou b) lorsque les parents des enfants qui fréquentent l'école sont d'accord avec la fermeture de l'école (conformément à la procédure décrite dans la présente directive) et que le ministre en approuve la fermeture.

Le Comité interministériel sur l'utilisation des établissements scolaires, créé en vertu de la section 2.3 de la présente directive, aidera sur demande les collectivités et les autres groupes qui étudient des projets d'utilisation différente.

L'objectif poursuivi par la recherche d'utilisations différentes des établissements scolaires vise principalement à favoriser la collectivité dans laquelle les établissements sont situés. Les municipalités et les autres organismes d'administration locale peuvent organiser une consultation publique pour renseigner la population et pour s'assurer que le projet d'utilisation différente est appuyé par la collectivité.

3.2 Transfer of Ownership

If by April 15th it has been confirmed that a school is not viable and is not suitable for the delivery of community college or other post-secondary programs which may be offered by the Department of Education, transfer of ownership of the building to the Department of Supply and Services will begin. There will be no change to the operation of the school until the end of the school year.

As part of the process of transfer of ownership of a building to Supply and Services, the Interdepartmental Committee on School Facility Use will ensure that Supply and Services is made aware of any efforts by community or other groups which had made contact with the committee.

If no alternate use has been found within 18 months after April 15th, the building will be disposed of.

The procedures specified in this policy do not apply when a facility has been destroyed or damaged as a result of circumstances requiring immediate action (e.g. fire) or has serious structural or health and safety problems.

3.2 Transfert de propriété

En date du 15 avril, s'il est confirmé qu'une école n'est ni viable, ni appropriée soit pour la prestation de services par un Collège communautaire, soit pour tout autre programme de niveau postsecondaire offert par le ministère de l'Éducation, le transfert de la propriété du bâtiment au ministère de l'Approvisionnement et des Services débute. Aucun changement n'interviendra dans le fonctionnement de l'école avant la fin de l'année scolaire.

Lorsque le processus de transfert de propriété d'un établissement au ministère de l'Approvisionnement et des Services débute, le Comité interministériel sur l'utilisation des établissements scolaires informe le ministère de tous les efforts qui ont été déployés par les groupes communautaires ou autres qui ont communiqué avec le Comité.

Lorsqu'on ne trouve pas d'utilisation différente dans les 18 mois suivant le 15 avril, le bâtiment est mis en vente.

La procédure définie dans la présente directive ne s'applique pas dans le cas d'un établissement détruit ou endommagé en raison de circonstances exigeant des mesures immédiates (comme un incendie) ou si le bâtiment présente des vices de construction graves ou cause des problèmes de santé et de sécurité.

MINISTER - MINISTRE

Subject: **Effective Use of School Facilities**
Effective: September 1998
Revised: *June 1994; Repealed – July 1, 2001*

Policy 409 – Effective Use of School Facilities has been repealed as of July 1, 2001. This policy will be replaced with a policy on school closures to be developed in the near future.

ORIGINAL SIGNED BY

MINISTER

Subject: **Closure of Schools**
Effective: September 1998
Revised: *June 1994; May 10, 2002*

1.0 PURPOSE

This policy defines the parameters for processes in relation to school closures.

This policy replaces the school closure procedures stated in Policy 409 – *Effective Use of School Facilities*.

2.0 APPLICATION

This policy applies whenever a public school is to be studied for possible closure.

The policy does not apply when:

- a facility has been destroyed or damaged as a result of emergency circumstances (e.g. fire, structural failure); or
- affected parents agree to a proposed school closure.

In these two circumstances, a school may be closed without following the steps defined in this policy.

3.0 DEFINITIONS

Procedural fairness refers to the duty of administrative bodies to employ decision-making processes that provide real opportunity, to persons whose interests and privileges may be affected, to influence the decisions being made.

4.0 LEGAL AUTHORITY

Education Act

s.3.1 A District Education Council may, with the approval of the Minister, close a school established by the District Education Council under subsection 2(1) or any school for which responsibility is transferred to the District Education Council under subsection 3(2).

s.6(b.2) The Minister … may establish provincial policies and guidelines related to public education within the scope of this Act …

ORIGINAL SIGNED BY

MINISTER

s.6.1(a) A District Education Council may, in accordance with the needs of the pupils and the resources of the school district for which the District Education Council is established and in accordance with any provincial policies established by the Minister, subject to the approval of the Minister, provide for the development and delivery of instructional programs, services and courses unique to the character and economy of the community.

5.0 GOALS / PRINCIPLES

5.1 To ensure school closures reflect the Department of Education's commitment to providing New Brunswick pupils with equitable educational services.

5.2 To ensure school closures occur in a manner which respects the principles of procedural fairness.

6.0 REQUIREMENTS / STANDARDS

6.1 A District Education Council (DEC) shall advise the Minister of Education when it intends to study the possible closure of a school.

6.2 District Education Councils shall establish policy outlining the steps to be followed when school closure is proposed. DEC policy will ensure that, prior to an official decision by the DEC, persons affected by a possible school closure (i.e. parents of students attending a school being considered for closure, and schools likely to receive students in the event of a closure):

- are given sufficient notice and are fully informed of the steps to be followed, as set out in DEC policy;
- are provided with documents relevant to the proposed closure, such as internal and external studies and/or other documents prepared by the DEC;
- have adequate time to consider the information provided, seek advice, and consult with experts, should they wish to; and
- have adequate time to prepare and make a presentation to the DEC, and are heard impartially.

6.3 After reasonable public consultation, as outlined in section 6.2, the DEC shall make a decision regarding the proposed closure. Subsequently, the DEC shall inform the persons affected and the Minister of its decision stating its reasons, the results of the public consultation, and the plan of action if any.

6.4 When notified of an intended school closure, the Minister will review the DEC's decision in relation to the principles of procedural fairness, with consideration of whether all pertinent factors have been taken into account in the DEC's decision, and with regard to the interests of the public education system. The Minister may withhold approval if, in the

opinion of the Minister, procedural fairness has not been applied. The Minister will respond within 30 days.

6.5 When it is determined that the closure of a school will proceed, the DEC shall inform parents of pertinent reassignments of students. Sufficient notice must be provided to permit reassigned students and their families to participate fully in the programs and activities offered in their new schools. Students/families are not to be denied participation in such things as French immersion, Parent School Support Committees and other parent committees, extracurricular activities, due to application deadlines falling prior to receipt of the notice of reassignment.

6.6 A school which is approved for closure is deemed surplus and, upon closure, becomes the responsibility of the Minister. The DEC shall contact the Department to arrange a mutually agreeable date for the transfer of responsibility for the asset.

7.0 GUIDELINES / RECOMMENDATIONS

Considerations for School Closure

In making a recommendation that a school be considered for possible closure, the following variables should be considered, both for the school considered for closure and the school(s) which would receive the students in the event of closure. The variables listed are examples of the type of information which may be used to evaluate a school's overall standing compared with provincial norms when available. The goal of making such comparisons is to ensure pupils are provided with equitable educational services across the province.

Health and Safety (examples)

- structural integrity of the building
- indoor air quality and water quality
- fire safety systems
- safety and security of school grounds / play area
- amount of time pupils spend in transit

Quality of Education (examples)

- appropriateness of facilities for curriculum delivery
- increased educational opportunities as a result of consolidation (this would include availability of facilities and diversity of educational programs)
- enrolment per grade or multi-level class and pupil-teacher ratio at both the sending and receiving schools
- ability to meet the needs of all pupils, including exceptional pupils, currently enrolled at the sending school and the potential for service at the receiving school

Financial Considerations (examples)

- operating costs including staffing, utilities and transportation costs
- condition of the building, considering short and long-term capital costs
- modifications required to the receiving school(s) to accommodate transferred pupils

Community (examples)

- parental involvement and feasibility of continued parental involvement, particularly for elementary pupils
- community support (this could include sponsorships, donations, support of co-op programs, involvement in nutrition program, etc.)
- availability of, and pupil access to, extracurricular activities at the sending and receiving schools taking bussing considerations into account
- effects on culture and language
- the school's role in the community

8.0 DISTRICT EDUCATION COUNCIL POLICY-MAKING

8.1 District Education Council policy will further define the steps to be taken when a school is considered for closure.

8.2 District Education Councils will establish policy on placement of pupils and the organization of the schools in the district.

9.0 REFERENCES

None

10.0 CONTACTS FOR ADDITIONAL INFORMATION

Department of Education – Educational Facilities Branch
(506) 453-2242

Department of Education – Policy and Planning Branch
(506) 453-3090

ORIGINAL SIGNED BY

MINISTER

Subject: **Multi-year School Infrastructure Planning**
Effective: **September 1998**
Revised: ***June 1994, May 2002, December 2009***

1.0 PURPOSE

This policy defines the process for multi-year school infrastructure planning to ensure a strategic and long-term approach to major capital projects, capital improvement projects, the study of a school's sustainability and proposed grade reconfigurations.

This policy is a revision of Policy 409 – *Closure of Schools.*

This policy replaces Policy 401- *Naming of Schools* (repealed).

2.0 APPLICATION

2.1 This policy applies to school districts, District Education Councils (DECs) and the Department of Education.

2.2 This policy does not apply to instructional organization prescribed by the Minister under section 6(b)(i) of the *Act* (e.g. four-year high school program).

2.3 The public consultation requirements described in this policy do not apply when a facility has been destroyed or significantly damaged as a result of fire, structural failure or circumstances that present a significant or immediate health or safety threat or when affected persons agree to a proposed school closure or grade reconfiguration.

3.0 DEFINITIONS

Affected persons refers to individuals impacted by the potential outcome of a school sustainability study, including parents of students currently attending the school as well as parents of students transitioning into the school from feeder schools.

Capital Improvement Project refers to the replacement of existing building components or the addition of a building code improvement.

Grade reconfiguration refers to the addition or removal of an entire grade level or levels from a school.

Major Capital Project refers to the construction of a new school and the addition or major renovation to an existing school.

ORIGINAL SIGNED BY

MINISTER

Parent(s) includes guardian(s), as per the *Education Act.*

Student(s) refers to pupil(s), as defined in the *Education Act.*

Procedural fairness refers to the duty of administrative bodies to employ decision-making processes that provide real opportunity for persons whose interests and privileges may be affected to provide input. This includes certain requirements such as providing the opportunity to affected persons to be heard and for the school district to receive and consider the information before any recommendation is forwarded to the Minister.

4.0 LEGAL AUTHORITY

Education Act - section

6 The Minister...

(b.2) may establish provincial policies and guidelines related to public education within the scope of this Act, ...

5.0 GOALS / PRINCIPLES

5.1 Multi-year school infrastructure planning reflects the Department of Education's commitment to providing New Brunswick students with equitable educational services.

5.2 Recognizing that the organization of schools has budgetary, programming and infrastructure impacts, this policy provides a transparent process for multi-year school infrastructure planning.

5.3 The Department of Education recognizes schools are integral to the promotion and preservation of the local culture and community, especially in rural areas.

5.4 School sustainability studies and proposed grade reconfigurations occur in a manner which respects the principles of procedural fairness.

5.5 The naming of schools occurs in a consistent and transparent manner in consideration of the local community. This process is led by the DEC, in collaboration and in consultation with the local community, and the name is approved by the Minister.

6.0 REQUIREMENTS / STANDARDS

6.1 Development and submission of district multi-year school infrastructure plan

6.1.1 Each school district must prepare a district multi-year school infrastructure plan for submission to the Minister. The plan will comprise 5 years. The plan must be updated annually by June 30th, with the exception of the capital improvement project priority list which shall be provided no later than September 30th.

6.1.2 The district multi-year school infrastructure plan must include the following:

- a Facility Status Review of each school in the district as per the template included in Appendix A. This review will highlight any schools where sustainability may be an issue and a brief description of reasons why the school may be vulnerable (dedining enrolment, health and safety, etc.). Note: this is not a requirement to undertake a complete study of a school's sustainability, as per section 6.4 and 6.5. This is also not a commitment to close the school listed as potentially vulnerable to closure;
- the major capital project priority list;
- the capital improvement project priority list. The items included in this list are included in the *School Physical Plant Review* database. The objective of the capital improvement budget is to maintain existing infrastructure with a focus on health and safety projects; and
- an estimated timeframe for projects included in the multi-year school infrastructure plan.

6.1.3 The Department of Education will use the school district multi-year school infrastructure plans to create a provincial overview of infrastructure needs across the province and for capital budget planning and preparation.

DISTRICT INFRASTRUCTURE PLANNING

6.2 New schools

6.2.1 Requests for the construction of new schools must be identified in the multi-year school infrastructure plan as a major capital project priority.

6.2.2 All schools are assigned a unique, four-digit school number by the Corporate Data Management and Analysis Branch of the Policy and Planning Division at the Department of Education.

6.3 Naming of public schools

6.3.1 The following process applies to the naming of a new school and the renaming of an existing school, including schools housed in community centres and schools located on leased properties. This section does not apply to the naming of a school room (e.g. theatre, library, gymnasium or play area). This is the responsibility of the DEC.

6.3.2 Prior to the naming of a school, a naming committee will be initiated by the district. The school district will support the functions of this committee.

6.3.3 Requests from the public to the Minister to rename a school will be directed to the DEC, who will determine whether a naming committee should be established.

6.3.4 This committee will comprise a DEC member named by the DEC, a school district official named by the Superintendent and a representative from the Department of Education named by the Minister. The DEC will also name a representative of the local community to sit on the committee to ensure local interests are reflected in the process.

6.3.5 During consultation, the naming committee may not exclude categories of names from consideration (e.g. political, religious, living persons).

6.3.6 If the naming committee decides to initiate a call for names in order to assist in the development of recommendations for the Minister, it must be made clear to participants that the names resulting from the call will be considered as part of the recommendations for the Minister and not the final choice for the name of the school. As such, a "winning" name must not be publicly announced by the naming committee.

6.3.7 The committee will consult the community regarding the new name and provide three recommendations to the DEC. The DEC will forward the recommendations to the Minister in writing, including a brief overview of the consultation undertaken and the rationale for each recommendation.

6.3.8 The Minister will select a name from among those submitted by the DEC. A public announcement of the new name will be made by the Minister, jointly with the DEC.

6.3.9 If the recommendations include the name of an individual, this person, or their representatives, will only be notified of the recommendation if the Minister actually selects their name for the school. This notification will occur prior to the public announcement to ensure the individual, or their representative, agrees with the use of the name.

6.3.10 A school that has been officially designated a community school by the Minister of Education does not need to follow the process mentioned above in order to add the word "community" to the school's name. However, the school should note in its designation application to the Department its intention, the case being, to add "community" to its school name in the event its application for designation is successful.

6.4 Determining a school's sustainability

6.4.1 A DEC will advise the Minister in writing when it intends to study a school's sustainability. This study can include one of several outcomes: maintaining the status quo, repairing the school or closing the school and placing students elsewhere.

6.4.2 A DEC must consider the following criteria when studying a school's sustainability. This list does not preclude a DEC from considering other factors relevant to their local circumstances.

1. *Low/declining enrolments*: impact of declining or low enrolments on the learning environment (Is enrolment reaching a critical threshold or will it be dropping substantially over the next few years?). Enrolment trends and projections must be considered.
2. *Health and Safety*: the structural integrity of buildings; indoor air quality and water quality; circumstances that present a significant health or safety threat; fire safety systems and the safety and security of school grounds and play areas.
3. *Quality of Education Programs and Services*: the appropriateness of facilities for curriculum delivery and student services. This would include availability of facilities and diversity of educational programs and increased educational opportunities as a result of a closure, enrollment per grade or multi-level class and pupil-teacher ratio at affected schools, as well as the ability to meet the needs of all students, including students with exceptionalities.
4. *Transportation*: time spent in transit and cost of travel.
5. *Finances*: the operating costs including staffing and utilities, the physical condition of buildings, considering short and long-term capital costs and modifications required to school(s) to accommodate transferred students.
6. *Impact on the local community*: parental involvement and feasibility of continued parental involvement (particularly for elementary pupils), community support, the school's relationship with the community, the effects on culture and language, consideration of whether the school is the sole school in the community, especially at the elementary level.
7. *Impact on other schools*: impact on feeder schools and receiving schools.
8. *Economic development*: consideration of planned and future economic development projects in the community or surrounding area.

6.5 Public consultation on a school's sustainability

6.5.1 A study of a school's sustainability shall normally be completed within a twelve month period. Public consultation should not occur over the summer months.

6.5.2 The DEC must ensure that affected persons are informed through public notice (e.g. an ad in the local newspaper, a note sent home to parents of students attending the school in question, PSSC meetings, DEC meetings) of the DEC's intention to study a school's sustainability. The notice will include the timeframe for consultation and contact information to obtain details of the process to be followed, as set out in DEC policy.

6.5.3 The DEC will ensure that affected persons:

- are provided with information relevant to the proposal;
- have adequate time to consider the information provided; and,

- have adequate time and opportunity to make a presentation to the DEC (i.e. let their views be known either in writing or orally) and are heard impartially at an open DEC meeting.

6.5.4 There will be a minimum of three public DEC meetings on the possible closure – one meeting to inform the school community of the DECs' intention and the steps to be followed, a second meeting to provide the opportunity to make a presentation (in writing or orally) and a final meeting to provide the public with the results of the consultation, including an account of the factors considered, as per section 6.4 of this policy, and resulting recommendation being submitted to the Minister.

6.6 Ministerial approval of a school closure

6.6.1 A DEC will inform the Minister in writing of a recommendation to close a school, based on the results of the public consultation on a school's sustainability.

6.6.2 When notified of a recommended school closure, the Minister will review it in relation to the principles of procedural fairness, with consideration of the factors taken into account during the public consultation process. The Minister may approve the recommendation or withhold approval if, in the opinion of the Minister, procedural fairness has not been applied or relevant educational options have not been considered.

6.6.3 The Minister shall normally respond to a recommendation to close a school within a period of time no less than 30 days and not exceeding 60 days.

6.6.4 When the Minister has approved a school closure, the DEC shall inform parents of the relocation of students. Sufficient notice must be provided to permit relocated students and their families to participate fully in the programs and activities offered in the new school.

6.6.5 When a school is permanently closed, the unique, four-digit school number assigned by the Corporate Data Management and Analysis Branch of the Policy and Planning Division at the Department of Education is not used again for another school.

6.6.6 When a school has been approved for closure by the Minister is unoccupied and is no longer needed by the school district, it shall be deemed surplus by motion of the DEC. The DEC shall contact the Department to arrange a mutually agreeable date for the transfer of responsibility for the asset.

6.7 Grade reconfiguration

6.7.1 The duty to consult is less for grade reconfigurations than for school sustainability studies and so, the timeframe for consultation can be much shorter, based on the Superintendent's discretion. However, the school district must still

demonstrate that the process was consistent with the principles of procedural fairness when they inform the Minister of the proposed grade reconfiguration.

6.7.2 The Superintendent, on behalf of the DEC, will advise the Minister in writing when the school district intends to reconfigure grades and will then consult parents on the proposal.

6.7.3 After consultation, the Superintendent will inform the Minister of the school district's final decision on the grade reconfiguration.

6.7.4 Once the Minister has been officially informed of a reconfiguration, the superintendent shall inform parents of the relocation of students. Sufficient notice must be provided to permit relocated students and their families to participate fully in the programs and activities offered in the new school.

7.0 GUIDELINES / RECOMMENDATIONS

7.1 During public consultation, DECs should make every effort to engage the community at large, through a variety of means, to ensure local citizens are aware of the changes to the local school and are aware of the public consultation process.

7.2 It is recommended that DECs involve Parent School Support Committees (PSSC) in the consultation regarding the naming of schools, the study of a school's sustainability and proposed grade reconfigurations, to the extent practicable.

7.3 Appendix B provides an overview of the process for major capital projects.

7.4 Appendix C provides an overview of the school sustainability study process and grade reconfiguration process.

8.0 DISTRICT EDUCATION COUNCIL POLICY-MAKING

8.1 A DEC will establish a district policy outlining the steps to be followed when studying a school's sustainability and grade reconfigurations not inconsistent with this policy and the principles of procedural fairness.

8.2 A DEC will establish a district policy that is not inconsistent with this provincial policy to address a call for a new school name and public requests to name local schools.

8.3 The naming of a school room (e.g. theatre, library, gymnasium or play area) is a decision of the DEC, in consultation with the PSSC.

9.0 REFERENCES

Canadian Charter of Rights and Freedoms
Section 16.1 (1) and (2) - Official Languages of Canada
Section 23 – Minority language educational rights

Financial Administration Act - Section 5(1)

Related Department of Education policies:

Policy 101 – Financial Responsibilities of School Districts
Policy 403 – Disposal of School Buildings

Related *Education Act* sections:

2(1) A District Education Council may, with the approval of the Minister and for the purpose of providing public education, establish schools within the school district for which the District Education Council is established.

2(3) A school for which responsibility is transferred to a District Education Council under subsection 3(2) shall, for the purposes of this Act, be considered to be a school established by the District Education Council.

3.1 A District Education Council may, with the approval of the Minister, close a school established by the District Education Council under subsection 2(1) or any school for which responsibility is transferred to the District Education Council under subsection 3(2).

6 The Minister...

(a) shall establish educational goals and standards and service goals and standards for public education in each of the education sectors established under subsection 4(1),
(b) may prescribe or approve

(i) instructional organization, programs, services and courses, including special education programs and services, and evaluation procedures for such instructional organization, programs, services and courses, including special education programs and services,...

11(1) The superintendent concerned shall determine the placement of pupils in classes, grades, programs, services and schools according to the needs of the pupils and the resources of the school district.

...
11(4) A decision made by a superintendent under subsection (1) shall be made

(a)subject to any policies or directives of the District Education Council concerned, and
(b)only with respect to pupils who are enrolled in a school in the school district or who reside in the school district for which the superintendent is appointed or reappointed.

36.9(5) A District Education Council shall...
(h) prepare annually, for submission to the Minister, a report which identifies priorities respecting capital construction projects within the school district, ...

45(1) All school property is vested in the Minister.

45(2) A District Education Council shall, at all times, have management, care and control of all school property in the school district for which the District Education Council is established, until such time as the school property is declared surplus by the District Education Council.

45(3) A District Education Council shall determine the general location in which to locate a school established under section 2.

45(4) The Minister

(a) shall determine the sites of schools, school district offices and other school buildings,
(b) shall determine the physical plant standards for a safe and healthy school facility,
(c) may purchase, lease or accept gifts of lands or buildings for school or school district office purposes,
(d) in consultation with the District Education Council concerned, may construct and furnish schools, school district offices and other school buildings, and
(e) with the approval of the Lieutenant-Governor in Council, may lease, sell or otherwise dispose of any lands or buildings acquired under this Act

48(2)The duties of a superintendent, with respect to the school district for which the superintendent is appointed or reappointed, indude
...
(b.2)ensuring that school district and provincial policies are followed by school personnel, ...

10.0 CONTACTS FOR ADDITIONAL INFORMATION

Department of Education – Educational Facilities and Pupil Transportation Branch
(506) 453-2242

Department of Education – Policy and Planning Division
(506) 453-3090

ORIGINAL SIGNED BY

MINISTER

Print Form

New Nouveau Brunswick
DEPARTMENT OF EDUCATION

Facility Status Review

_____

(NAME OF SCHOOL)

_____

(SCHOOL DISTRICT)

_____

(DATE PREPARED)

1. **LOCATION:**
   - Full address

(Insert picture of the school)

2. **OVERVIEW:**

Brief description (5-6 lines) including:

- year school was built
- additions, if any and dates of addition(s)
- ownership (Province of New Brunswick or lease)
- grade levels
- status of enrolment (increase, decrease, stable)
- amenities
- language of instruction – French, English, French Immersion

3. **CATCHMENT AREA:**

Brief description of:
- the catchment area
- percentage of students being bussed to school

4. **FEEDER SCHOOLS:**

- school(s) that feed this school
- school(s) that this facility feeds

5. STUDENT ENROLMENT:

Enrolment by class and grade level

Note: The data in this section is available in the Summary Statistics, document prepared by the Corporate Data Management and Analysis Branch of the Department of Education. Please contact the Branch at 453-3090 should you require additional information.

Number of Students this school was built to accommodate: _____

6. STAFFING:

Educational staff and support staff (FTEs)

Note: The data in this section is available in the Summary Statistics, document prepared by the Corporate Data Management and Analysis Branch of the Department of Education. Please contact the Branch at 453-3090 should you require additional information.

7. OPERATIONAL COSTS:

Cost to Operate the School	
Description	**Cost (YEAR - *YEAR*)**
School Administration (total salaries)	
Education Staff (total salaries)	
Custodians (total salaries)	
Clerical (total salaries)	
Utilities (heat, lights, telephone, etc.)	
Minor Repairs	
Furniture	
Supplies	
List additional costs as required	

8. FACILITY AREA AND USAGE: *Size and usage of all areas in the facility*

Description	Number	Total Area	Usage*
Classrooms			
Art			
Music			
Technology and Industrial Arts			
Special Needs			
Resource Centre (library)			
Gymnasium			
Cafeteria			
Science Lab			
School Administration			
Student Services			
Storage			
Others (i.e. access centre; daycare, community space, etc.): Explain			

* Express as a percentage or, preferably, as a number of periods per week, i.e. 30 periods over 35 periods.

NOTE: If requested by Department of Education, a complete school utilization study may be undertaken to provide this data.

9. FLOOR PLAN

Provide a floor plan of the facility (can be a sketch or drawing showing the floor plan of the school)

10. CAPITAL IMPROVEMENT PROJECTS COMPLETED IN THE LAST 5 YEARS: *Provide list of projects completed*

Description	Year	Cost

11. CAPITAL IMPROVEMENT PROJECTS REQUIRED: ***Provide list of capital improvement projects required, based on School Physical Plant Review dat abase.***

Description	Estimated Cost

12. COMMENTS:

Provide comments on:

- general condition of the facility
- repairs that are critical
- status of the repairs
- recent inspection reports (fire marshal, roof, etc)
- the school property and land ownership around the facility. Is there room for expansion, etc.
- expected future of the facility considering trend in enrolment, age, size and current usage of the facility
- good or limited possibilities for expansion
- any recent concerns expressed by the school administration and/or community
- any additional relevant information

IMPLEMENTATION PROCESS FOR MAJOR CAPITAL PROJECTS

As per section 6.1 of Policy 409, the major capital project priorities list is submitted as part of the Multi-year Infrastructure Plan and updated annually.

The following process then occurs:

A. Development and announcement of Dept. of Education's (ED) major capital program	• Government allocates capital budget. • Minister makes official announcement of department's major capital program.
B. Location	• DEC determines general location of new school. • Minister determines specific site. • ED and the Department of Supply and Services (DSS) make arrangements for purchase/lease of land.
C. Establishment of a planning committee for an approved major capital project	• When educational specifications are required for a project, the Superintendent is requested by ED to establish planning committee. • This committee may include one DEC member, principal of the affected school, 2 district staff, PSSC chair from affected school, project manager named by the Educational Facilities and Pupil Transportation branch and the Superintendent. • Mandate: to assist the Educational Facilities and Pupil Transportation branch in the development of educational specifications based on the standard norms established in the *Facilities Planning Guidelines*.
D. Development and approval of educational specifications	• Planning committee develops proposed educational specifications, including community funded space. • Superintendent presents proposed specifications to DEC. • DEC, through Superintendent, submits recommended specifications to Minister for approval. • Minister sends acknowledgment of approval to DEC or requests additional information.

IMPLEMENTATION PROCESS FOR MAJOR CAPITAL PROJECTS

E. Conceptual architectural design	• DSS assigns project manager and architect. • Conceptual design developed by architect (using the approved specifications in consultation with DSS, ED and the planning committee). • Conceptual design presented to and approved by the planning committee. • The mandate of committee concludes after the design is approved.
F. Finalizing architectural design and tendering	• DSS & ED complete architectural design in consultation with district. • Once finalized, ED signs off on architectural design. • After budget is announced for construction, DSS proceeds with tendering and construction.
G. Naming of school	• DECs follow the process outlined in section 6.3 of policy 409.
H. Official opening and transfer of ownership	• Opening ceremony jointly organized and scheduled by ED and district. • When construction is deemed substantially complete by DSS, Minister transfers operation of school to DEC.

AN OVERVIEW OF THE SCHOOL'S SUSTAINABILITY STUDY OR A GRADE RECONFIGURATION APPROVAL PROCESS

As per Section 6 of Policy 409, the following process occurs when a DEC recommends a school's sustainability be studied:

A. DEC informs Minister

- Section 6.4.1 - the DEC informs the Minister in writing of its intentions to study a school's sustainability.

B. Required Criteria

- Section 6.4.2 - the DEC must demonstrate how the required criteria have been considered (Low/declining enrolments, health and safety, quality of education programs and services, transportation, finances, impact on local community, impact on other schools and economic development), and
- Provide this information to the public as part of the consultation process.

C. Public Consultation

- Section 6.5 outlines the requirements for public consultation.
- There will be a minimum of three public DEC meetings on the possible closure – one meeting to inform the school community of the DECs' intention and the steps to be followed, a second meeting to provide the opportunity to make a presentation (in writing or orally) and a final meeting to provide the public with the results of the consultation and resulting recommendation being submitted to the Minister.
- The DEC may arrange for as many meetings as necessary to appropriately consult on the study of a school's sustainability.
- Parents must be:
  - informed of process;
  - given relevant information;
  - given time to consider relevant information;
  - provided with opportunities to make a presentation; or written submission; and
  - heard in an unbiased manner.

AN OVERVIEW OF THE SCHOOL'S SUSTAINABILITY STUDY OR A GRADE RECONFIGURATION APPROVAL PROCESS

D. DEC recommendation and Minister approval	•DEC submits in writing its recommendation to close a school to the Minister, based on the consultation. •Minister reviews DEC recommendation and responds within 60 days. •If Minister approves closure, DEC informs parents of the relocation of students and of other relevant information.
E. Declaration of surplus	•If the district does not want the closed, unoccupied school building for other purposes, it is declared surplus by motion of the DEC and it is transferred to the Minister.

As per Section 6 of Policy 409, the following process occurs when a DEC recommends a grade reconfiguration:

A. Superintendent informs Minister	•Section 6.7.1 - the Superintendent informs the Minister in writing of the intention to reconfigure grades.
B. Public Consultation	•School district consults affected parents.
C. Superintendent informs Minister of final decision	•Superintendent informs the Minister in writing of the final decision to reconfigure grades. •DEC informs parents of the relocation of students and of other relevant information.

Subject: **Multi-year School Infrastructure Planning**
Effective: **September 1998**
Revised: ***May 2002, December 2009, March 2015***

1.0 PURPOSE

This policy defines the process for multi-year school infrastructure planning to ensure a strategic and long-term approach to major capital projects, capital improvement projects, the study of a school's sustainability and proposed grade reconfigurations.

This policy is a revision of Policy 409 – *Closure of Schools.*

This policy replaces Policy 401- *Naming of Schools* (repealed).

2.0 APPLICATION

2.1 This policy applies to school districts, District Education Councils (DECs) and the Department of Education and Early Childhood Development (EECD).

2.2 This policy does not apply to instructional organization prescribed by the Minister under section 6(b)(i) of the *Act* (e.g. four-year high school program).

2.3 The public consultation requirements described in this policy do not apply when a facility has been destroyed or significantly damaged as a result of fire, structural failure or circumstances that present a significant or immediate health or safety threat or when affected persons agree to a proposed school closure or grade reconfiguration.

3.0 DEFINITIONS

Affected persons refers to individuals impacted by the potential outcome of a school sustainability study, including parents of students currently attending the school as well as parents of students transitioning into the school from feeder schools.

Capital Improvement Project refers to the replacement of existing building components or the addition of a building code improvement.

Grade reconfiguration refers to the addition or removal of an entire grade level or levels from a school.

Major Capital Project refers to the construction of a new school and the addition or major renovation to an existing school.

ORIGINAL SIGNED BY

MINISTER

Parent(s) includes guardian(s), as per the *Education Act*.

Student(s) refers to pupil(s), as defined in the *Education Act*.

Procedural fairness refers to the duty of administrative bodies to employ decision-making processes that provide real opportunity for persons whose interests and privileges may be affected to provide input. This includes certain requirements such as providing the opportunity to affected persons to be heard and for the school district to receive and consider the information before any recommendation is forwarded to the Minister.

Trigger refers to measurable and objective criteria consistently applied to all schools. When a school meets or falls below the established thresholds, a sustainability study must occur unless there is an exemption to this process.

The criteria to be used are:

Student enrolment trigger - refers to a specific threshold based on the current enrolment in the school. For the purpose of this policy, the enrolment threshold is 100 students or less.

Percentage occupation trigger - refers to the current student enrolment as compared to the school's physical capacity. For the purpose of this policy, the percentage occupation threshold is 30 percent or less.

4.0 LEGAL AUTHORITY

Education Act - section

6 The Minister…

(b.2) may establish provincial policies and guidelines related to public education within the scope of this Act, …

5.0 GOALS / PRINCIPLES

5.1 Multi-year school infrastructure planning reflects EECD's commitment to providing New Brunswick students with equitable educational services.

5.2 Recognizing that the organization of schools has budgetary, programming and infrastructure impacts, this policy provides a transparent process for multi-year school infrastructure planning.

5.3 EECD recognizes schools are integral to the promotion and preservation of the local culture and community, especially in rural areas.

5.4 School sustainability studies and proposed grade reconfigurations occur in a manner which respects the principles of procedural fairness.

5.5 The naming of schools occurs in a consistent and transparent manner in consideration of the local community. This process is led by the DEC, in collaboration and in consultation with the local community, and the name is approved by the Minister.

6.0 REQUIREMENTS / STANDARDS

6.1 Development and submission of district multi-year school infrastructure proposal

6.1.1 Each school district must prepare a district multi-year school infrastructure proposal, approved by the DEC, for submission to the Minister. The proposal will comprise five years and must be updated annually by May 31st.

6.1.2 The district multi-year school infrastructure proposal must include the following, as a minimum:

a) a Facility Status Review of each school in the district (see Appendix A);
b) a list of schools that will be subject to a triggered sustainability study;
c) the major capital project priority list;
d) the capital improvement project priority list. The items on this list are included in the *School Physical Plant Review* database. The objective of the capital improvement budget is to maintain existing infrastructure with a focus on health and safety projects; and
e) an estimated timeframe for any projects included in the multi-year school infrastructure proposal.

6.1.3 EECD will use the school district multi-year school infrastructure proposals to create a provincial overview of infrastructure needs across the province and for capital budget planning and preparation.

DISTRICT INFRASTRUCTURE PLANNING

6.2 New schools

6.2.1 Requests for the construction of new schools must be identified in the multi-year school infrastructure proposal as a major capital project priority.

6.2.2 All schools are assigned a unique, four-digit school number by the Corporate Data Management and Analysis Branch of the Policy and Planning Division at EECD.

6.3 Naming of public schools

6.3.1 The following process applies to the naming of a new school and the renaming of an existing school, including schools housed in community centres and schools located on leased properties. This section does not apply to the naming of a school room (e.g. theatre, library, gymnasium or play area). This is the responsibility of the DEC.

6.3.2 Prior to the naming of a school, a naming committee will be initiated by the district. The school district will support the functions of this committee.

6.3.3 Requests from the public to the Minister to rename a school will be directed to the DEC, who will determine whether a naming committee should be established.

6.3.4 This committee will comprise a DEC member named by the DEC, a school district official named by the Superintendent and a representative from EECD named by the Minister. The DEC will also name a representative of the local community to sit on the committee to ensure local interests are reflected in the process.

6.3.5 During consultation, the naming committee may not exclude categories of names from consideration (e.g. political, religious, living persons).

6.3.6 If the naming committee decides to initiate a call for names in order to assist in the development of recommendations for the Minister, it must be made clear to participants that the names resulting from the call will be considered as part of the recommendations for the Minister and not the final choice for the name of the school. As such, a “winning” name must not be publicly announced by the naming committee.

6.3.7 The committee will consult the community regarding the new name and provide three recommendations to the DEC. The DEC will forward the recommendations to the Minister in writing, including a brief overview of the consultation undertaken and the rationale for each recommendation.

6.3.8 The Minister will select a name from among those submitted by the DEC. A public announcement of the new name will be made by the Minister, jointly with the DEC.

6.3.9 If the recommendations include the name of an individual, this person, or their representatives, will only be notified of the recommendation if the Minister actually selects their name for the school. This notification will occur prior to the public announcement to ensure the individual, or their representative, agrees with the use of the name.

6.3.10 A school that has been officially designated a community school by the Minister does not need to follow the process mentioned above in order to add the word "community" to the school's name. However, the school should note in its designation application to the Department its intention, the case being, to add "community" to its school name in the event its application for designation is successful.

6.4 Determining a school's sustainability

6.4.1 A sustainability study will be undertaken if a school falls below one of the triggers as defined in section 3 or if the DEC determines that a study is warranted.

6.4.2 A DEC will advise the Minister in writing when it intends to study a school's sustainability. This study can include one of several outcomes: maintaining the status quo, repairing the school or closing the school and placing students elsewhere.

6.4.3 Upon the mutual consent of the DEC and the Minister, a school may be exempt from a triggered sustainability study if the DEC has determined that a compelling circumstance exists. A school that has been subject to a sustainability study completed within the past four years is exempt.

6.4.4 A DEC must consider the following criteria when studying a school's sustainability. This list does not preclude a DEC from considering other factors relevant to their local circumstances.

1. *Low/Declining enrolments*: impact of declining or low enrolments on the learning environment (Is enrolment reaching a critical threshold or will it be dropping substantially over the next few years?). Enrolment trends and projections must be considered.
2. *Health and Safety*: the structural integrity of buildings; indoor air quality and water quality; circumstances that present a significant health or safety threat; fire safety systems and the safety and security of school grounds and play areas.
3. *Quality of Education Programs and Services*: the appropriateness of facilities for curriculum delivery and student services. This would include availability of facilities and diversity of educational programs and increased educational opportunities as a result of a closure, enrolment per grade or multi-level class and pupil-teacher ratio at affected schools, as well as the ability to meet the needs of all students, including students with exceptionalities.
4. *Transportation*: time spent in transit and cost of travel.
5. *Finances*: the operating costs including staffing and utilities; the physical condition of buildings, considering short and long-term capital costs and modifications required to school(s) to accommodate transferred students.

6. *Impact on the local community*: parental involvement and feasibility of continued parental involvement (particularly for elementary pupils), community support, the school's relationship with the community, the effects on culture and language, consideration of whether the school is the sole school in the community, especially at the elementary level.
7. *Impact on other schools*: impact on feeder schools and receiving schools.
8. *Economic development*: consideration of planned and future economic development projects in the community or surrounding area.

6.5 Public consultation on a school's sustainability

6.5.1 Public consultation should not occur during July and August.

6.5.2 The DEC must ensure that affected persons are informed through public notice (e.g. an ad in the local newspaper, a note sent home to parents of students attending the school in question, PSSC meetings, DEC meetings) of the DEC's intention to study a school's sustainability. The notice will include the timeframe for consultation and contact information to obtain details of the process to be followed, as set out in DEC policy.

6.5.3 The DEC will ensure that affected persons:

- are provided with information relevant to the proposal;
- have adequate time to consider the information provided; and,
- have adequate time and opportunity to make a presentation to the DEC (i.e. let their views be known either in writing or orally) and are heard impartially at an open DEC meeting.

6.5.4 There will be a minimum of three public DEC meetings on the possible closure – one meeting to inform the school community of the DECs' intention and the steps to be followed, a second meeting to provide the opportunity to make a presentation (in writing or orally) and a final meeting to provide the public with the results of the consultation, including an account of the factors considered, as per section 6.4 of this policy, and resulting recommendation being submitted to the Minister.

6.6 Ministerial approval of a school closure

6.6.1 A DEC will inform the Minister in writing of a recommendation to close a school, following the public consultation process. The DEC must demonstrate how the requirements of this policy have been applied.

6.6.2 Any recommendation as a result of a triggered sustainability study must be submitted to the Minister no later than January 31st of the year following the DEC's notice to the Minister of its intent to initiate the study, as per section 6.1 and 6.4.2.

6.6.3 When notified of a recommended school closure, the Minister will review it in relation to the principles of procedural fairness, with consideration of the factors taken into account during the public consultation process. The Minister may approve the recommendation or withhold approval if, in the opinion of the Minister, procedural fairness has not been applied or relevant educational options have not been considered.

6.6.4 The Minister shall normally respond to a recommendation to close a school within a period of time no less than 30 days and not exceeding 60 days.

6.6.5 When the Minister has approved a school closure, the DEC shall inform parents of the relocation of students. Sufficient notice must be provided to permit relocated students and their families to participate fully in the programs and activities offered in the new school.

6.6.6 When a school is permanently closed, the unique, four-digit school number assigned by the Corporate Data Management and Analysis Branch of the Policy and Planning Division at EECD is not used again for another school.

6.6.7 When a school has been approved for closure by the Minister is unoccupied and is no longer needed by the school district, it shall be deemed surplus by motion of the DEC. The DEC shall contact the Department to arrange a mutually agreeable date for the transfer of responsibility for the asset.

6.7 Grade reconfiguration

6.7.1 The duty to consult is less for grade reconfigurations than for school sustainability studies and so, the timeframe for consultation can be much shorter, based on the DEC's discretion. However, the DEC must still demonstrate that the process was consistent with the principles of procedural fairness when they inform the Minister of the proposed grade reconfiguration.

6.7.2 The DEC will advise the Minister in writing when the school district intends to reconfigure grades and will then consult parents on the proposal.

6.7.3 After consultation, the DEC will inform the Minister of the school district's final decision on the grade reconfiguration.

6.7.4 Once the Minister has been officially informed of a reconfiguration, the superintendent shall inform parents of the relocation of students. Sufficient notice must be provided to permit relocated students and their families to participate fully in the programs and activities offered in the new school.

7.0 GUIDELINES / RECOMMENDATIONS

7.1 During public consultation, DECs should make every effort to engage the community at large, through a variety of means, to ensure local citizens are aware of the changes to the local school and are aware of the public consultation process.

7.2 It is recommended that DECs involve Parent School Support Committees (PSSC) in the consultation regarding the naming of schools, the study of a school's sustainability and proposed grade reconfigurations, to the extent practicable.

7.3 Appendix B provides an overview of the process for major capital projects.

7.4 Appendix C provides an overview of the school sustainability study process and grade reconfiguration process.

8.0 DISTRICT EDUCATION COUNCIL POLICY-MAKING

8.1 A DEC will establish a district policy outlining the steps to be followed when studying a school's sustainability and grade reconfigurations not inconsistent with this policy and the principles of procedural fairness.

8.2 A DEC will establish a district policy that is not inconsistent with this provincial policy to address a call for a new school name and public requests to name local schools.

8.3 The naming of a school room (e.g. theatre, library, gymnasium or play area) is a decision of the DEC, in consultation with the PSSC.

9.0 REFERENCES

Canadian Charter of Rights and Freedoms
Section 16.1 (1) and (2) - Official Languages of Canada
Section 23 – Minority language educational rights
Financial Administration Act - *Section 5(1)*

Related Department of Education and Early Childhood Development policies:

Policy 101 – Financial Responsibilities of School Districts
Policy 403 – Disposal of School Buildings

Related *Education Act* sections:

2(1) A District Education Council may, with the approval of the Minister and for the purpose of providing public education, establish schools within the school district for which the District Education Council is established.

2(3) A school for which responsibility is transferred to a District Education Council under subsection 3(2) shall, for the purposes of this Act, be considered to be a school established by the District Education Council.

3.1 A District Education Council may, with the approval of the Minister, close a school established by the District Education Council under subsection 2(1) or any school for which responsibility is transferred to the District Education Council under subsection 3(2).

6 The Minister…

(a) shall establish educational goals and standards and service goals and standards for public education in each of the education sectors established under subsection 4(1),
(b) may prescribe or approve

(i) instructional organization, programs, services and courses, including special education programs and services, and evaluation procedures for such instructional organization, programs, services and courses, including special education programs and services,…

11(1) The superintendent concerned shall determine the placement of pupils in classes, grades, programs, services and schools according to the needs of the pupils and the resources of the school district.

…

11(4) A decision made by a superintendent under subsection (1) shall be made

(a)subject to any policies or directives of the District Education Council concerned, and
(b)only with respect to pupils who are enrolled in a school in the school district or who reside in the school district for which the superintendent is appointed or reappointed.

36.9(5) A District Education Council shall…
(h) prepare annually, for submission to the Minister, a report which identifies priorities respecting capital construction projects within the school district, …

45(1) All school property is vested in the Minister.

45(2) A District Education Council shall, at all times, have management, care and control of all school property in the school district for which the District Education Council is established, until such time as the school property is declared surplus by the District Education Council.

45(3) A District Education Council shall determine the general location in which to locate a school established under section 2.

45(4) The Minister

(a) shall determine the sites of schools, school district offices and other school buildings,
(b) shall determine the physical plant standards for a safe and healthy school facility,
(c) may purchase, lease or accept gifts of lands or buildings for school or school district office purposes,
(d) in consultation with the District Education Council concerned, may construct and furnish schools, school district offices and other school buildings, and
(e) with the approval of the Lieutenant-Governor in Council, may lease, sell or otherwise dispose of any lands or buildings acquired under this Act

48(2)The duties of a superintendent, with respect to the school district for which the superintendent is appointed or reappointed, include
…
(b.2)ensuring that school district and provincial policies are followed by school personnel, …

10.0 CONTACTS FOR ADDITIONAL INFORMATION

Department of Education and Early Childhood Development – Educational Facilities and Pupil Transportation Branch
(506) 453-2242

Department of Education and Early Childhood Development – Policy and Planning Division
(506) 453-3090

ORIGINAL SIGNED BY

MINISTER

Facility Status Review

_____

(NAME OF SCHOOL)

_____

(SCHOOL DISTRICT)

_____

(DATE PREPARED)

1. LOCATION:

- Full address

(Insert picture of the school)

2. OVERVIEW:

Brief description (5-6 lines) including:

- year school was built
- additions, if any and dates of addition(s)
- ownership (Province of New Brunswick or lease)
- grade levels
- status of enrolment (increase, decrease, stable)
- amenities
- language of instruction – French, English, French Immersion

3. CATCHMENT AREA:

Brief description of:

- the catchment area
- percentage of students being bussed to school

4. FEEDER SCHOOLS:

- school(s) that feed this school
- school(s) that this facility feeds

5. STUDENT ENROLMENT:

Enrolment by class and grade level

Note: The data in this section is available in the Summary Statistics, document prepared by the Corporate Data Management and Analysis Branch of the Department. Please contact the Branch at 453-3090 should you require additional information.

Number of Students this school was built to accommodate: _____

6. STAFFING:

Educational staff and support staff (FTEs)

Note: The data in this section is available in the Summary Statistics, document prepared by the Corporate Data Management and Analysis Branch of the Department of Education. Please contact the Branch at 453-3090 should you require additional information.

7. OPERATIONAL COSTS:

Cost to Operate the School	
Description	**Cost (YEAR - *YEAR*)**
School Administration (total salaries)	
Education Staff (total salaries)	
Custodians (total salaries)	
Clerical (total salaries)	
Utilities (heat, lights, telephone, etc.)	
Minor Repairs	
Furniture	
Supplies	
List additional costs as required	

8. FACILITY AREA AND USAGE: *Size and usage of all areas in the facility*

Description	Number	Total Area	Usage*
Classrooms			
Art			
Music			
Technology and Industrial Arts			
Special Needs			
Resource Centre (library)			
Gymnasium			
Cafeteria			
Science Lab			
School Administration			
Student Services			
Storage			
Others (i.e. access centre; daycare, community space, etc.): Explain			

***** Express as a percentage or, preferably, as a number of periods per week, i.e. 30 periods over 35 periods.

NOTE: If requested by Department, a complete school utilization study may be undertaken to provide this data.

9. FLOOR PLAN

Provide a floor plan of the facility (can be a sketch or drawing showing the floor plan of the school)

10. CAPITAL IMPROVEMENT PROJECTS COMPLETED IN THE LAST 5 YEARS: *Provide list of projects completed*

Description	Year	Cost

11. CAPITAL IMPROVEMENT PROJECTS REQUIRED: *Provide list of capital improvement projects required, based on School Physical Plant Review database.*

Description	Estimated Cost

12. COMMENTS:

Provide comments on:

- general condition of the facility
- repairs that are critical
- status of the repairs
- recent inspection reports (fire marshal, roof, etc)
- the school property and land ownership around the facility. Is there room for expansion, etc.
- expected future of the facility considering trend in enrolment, age, size and current usage of the facility
- good or limited possibilities for expansion
- any recent concerns expressed by the school administration and/or community
- information related to the criteria outlined in section 6.4.2 of Policy 409, if appropriate
- any additional relevant information

Does the school meet the following triggers, as described in Policy 409?

☐ Current student enrolment – 100 students or less

☐ Percentage occupation (= current student enrolment divided by the maximum physical capacity of the school x 100) – 30 percent or less

If yes, proceed to a sustainability study or an exemption to this process, as described in section 6.4 of the policy.

IMPLEMENTATION PROCESS FOR MAJOR CAPITAL PROJECTS

As per section 6.1 of Policy 409, the major capital project priorities list is submitted as part of the Multi-year Infrastructure Plan and updated annually.

The following process then occurs:

A. Development and announcement of the major capital program	•Government allocates capital budget. •Minister makes official announcement of department's major capital program.
B. Location	•DEC determines general location of new school. •Minister determines specific site. •EECD and the Department of Transportation and Infrastructure (DTI) make arrangements for purchase/lease of land.
C. Establishment of a planning committee for an approved major capital project	•When educational specifications are required for a project, the Superintendent is requested by EECD to establish planning committee. •This committee may include one DEC member, principal of the affected school, 2 district staff, PSSC chair from affected school, project manager named by the Educational Facilities and Pupil Transportation branch and the Superintendent. •Mandate: to assist the Educational Facilities and Pupil Transportation branch in the development of educational specifications based on the standard norms established in the *Facilities Planning Guidelines*.
D. Development and approval of educational specifications	•Planning committee develops proposed educational specifications, including community funded space. •Superintendent presents proposed specifications to DEC. •DEC, through Superintendent, submits recommended specifications to Minister for approval. •Minister sends acknowledgment of approval to DEC or requests additional information.

IMPLEMENTATION PROCESS FOR MAJOR CAPITAL PROJECTS

E.Conceptual architectural design	•DTI assigns project manager and architect. •Conceptual design developed by architect (using the approved specifications in consultation with DTI, EECD and the planning committee). •Conceptual design presented to and approved by the planning committee. •The mandate of committee concludes after the design is approved.
F. Finalizing architectural design and tendering	•DTI & EECD complete architectural design in consultation with district. •Once finalized, EECD signs off on architectural design. •After budget is announced for construction, DTI proceeds with tendering and construction.
G. Naming of school	•DECs follow the process outlined in section 6.3 of policy 409.
H. Official opening and transfer of ownership	•Opening ceremony jointly organized and scheduled by EECD and district. •When construction is deemed substantially complete by DTI, Minister transfers operation of school to DEC.

AN OVERVIEW OF THE SCHOOL'S SUSTAINABILITY STUDY OR A GRADE RECONFIGURATION APPROVAL PROCESS

As per Section 6 of Policy 409, the following process occurs when a DEC recommends a school's sustainability be studied:

A. DEC informs Minister	•Section 6.4.2 - the DEC informs the Minister in writing of its intentions to study a school's sustainability.
B. Required Criteria	•Section 6.4.4 - the DEC must demonstrate how the required criteria have been considered (Low/declining enrolments, health and safety, quality of education programs and services, transportation, finances, impact on local community, impact on other schools and economic development), and •Provide this information to the public as part of the consultation process.
C. Public Consultation	•Section 6.5 outlines the requirements for public consultation. •There will be a minimum of three public DEC meetings on the possible closure – one meeting to inform the school community of the DECs' intention and the steps to be followed, a second meeting to provide the opportunity to make a presentation (in writing or orally) and a final meeting to provide the public with the results of the consultation and resulting recommendation being submitted to the Minister. •The DEC may arrange for as many meetings as necessary to appropriately consult on the study of a school's sustainability. •Affected persons must be: •informed of process; •given relevant information; •given time to consider relevant information; •provided with opportunities to make a presentation; or written submission; and •heard in an unbiased manner.

AN OVERVIEW OF THE SCHOOL'S SUSTAINABILITY STUDY OR A GRADE RECONFIGURATION APPROVAL PROCESS

D. DEC recommendation and Minister approval	•DEC submits in writing its recommendation to close a school to the Minister, based on the consultation. •Minister reviews DEC recommendation and responds. •If Minister approves closure, DEC informs parents of the relocation of students and of other relevant information.
E. Declaration of surplus	•If the district does not want the closed, unoccupied school building for other purposes, it is declared surplus by motion of the DEC and it is transferred to the Minister.

As per Section 6 of Policy 409, the following process occurs when a DEC recommends a grade reconfiguration:

A. DEC informs Minister	•Section 6.7.2 - the DEC informs the Minister in writing of the intention to reconfigure grades.
B. Public Consultation	•School district consults affected persons.
C. DEC informs Minister of final decision	•DEC informs the Minister in writing of the final decision to reconfigure grades. •DEC informs parents of the relocation of students and of other relevant information.

Appendix D: A Mapping of the SSS Process

When people talk about *Policy 409* or about "going through a 409," they are typically talking about going through a school sustainability study. Indeed, as noted earlier, this research project began focussed on the goal of mapping out, in some detail, the school sustainability study (SSS) process as it is laid out in the pages of the policy and as it is implemented in practice. However, as its most recent title "Multi-year School Infrastructure Planning" suggests, *Policy 409* is broader in scope than determining the sustainability of particular schools. In addition to detailing the SSS process, it lays out (at least in broad strokes) the roles that the DECs, superintendents and District staff, and the EECD Minister and Department are to play with respect to prioritizing major capital projects (including recommendations for new schools) and capital improvements, and deciding on grade reconfigurations. As work on this project progressed, the need to rethink its focus somewhat became clear, for the SSS process, despite having its own distinct sections in the policy document, is not easily separated from *Policy* 409's other components: the processes of infrastructure planning and grade reconfiguration.

Use of this wider lens will be evident in the "mapping of the SSS process" that follows, beginning with the "lead up" to the DEC making a decision to launch a sustainability study of a particular school (or set of schools) right through to reaching a final decision following the public consultation. This mapping is followed by an additional mapping of the SSS process in those cases where the professional services firm Ernst and Young (EY) has been contracted to produce a multi-year infrastructure plan for a collection of schools and recommend or present various options (typically involving grade reconfigurations, school boundary changes, new builds, and school closures) for a DEC's consideration.

Making the decision to launch a school sustainability study [50]

Policy 409's three sections on sustainability (sections 6.4 – 6.6) provide little insight into the process through which the DEC arrives at a decision to launch a sustainability study of a particular school. However, an earlier section of the policy helps to shed some light on this process (*section 6.1*). It requires the district to submit annually to the EECD minister a "multi-year school infrastructure proposal" (MYSIP), a 5 year rolling plan focussed primarily on infrastructure planning, which is to include a major capital project priority list and a capital improvement priority list, as well as a Facility Status Review (FSR) for each school in the district.

District facilities staff complete or update the FSRs annually for each school in their district, typically in the early fall. Completed FSRs contain the information district staff require to compile and prioritize the capital improvements and major capital projects lists required for the

[50] This section draws primarily on interviews with those who had DEC experience and relevant documentary sources. Many of these documents are publicly available on district websites, but all are available from the author on request. Unless otherwise indicated, references to specific sections of *Policy 409* apply to the current (2015) version.

MYSIP.[51] They also provide information on a wide range of factors bearing on the question of a school's sustainability (e.g., current enrolments (by grade), staffing and operational costs, numbers of classrooms, and use of physical space, as well as an opportunity to include "information relevant to the sustainability criteria" outlined in *Policy 409* which the DEC must consider when studying a school's sustainability).[52] The district staff consolidate and assess the information from the individual FSRs and produce a review of the district's schools. As part of this review, the staff typically produce a summary report listing any schools where they judge sustainability to be a potential issue, typically highlighting from the FSRs information on enrolment patterns, operating costs, and the age and physical status of the building (re: capital improvements recently completed and those required, with their associated costs). This summary report is provided annually to the DEC and, while the individual FSRs would be available for DEC members to review, it is this summary report that typically serves as the basis for any deliberation by the DEC about the sustainability of particular schools.[53]

I was told that, until recently, DEC members engaged in minimal discussion about closing schools after receiving the district staff's report, so sustainability studies were relatively rare. Two individuals with DEC experience observed that, while it was the DEC's responsibility to review schools regularly, the DECs were occupied attending to other departmental priorities (e.g., changes to French Immersion, inclusive education, etc.) and "nobody was pushing that

[51] Writing from the vantage point of 2018, there appears to be a change underway in how capital improvements and major projects are prioritized. Over recent years, this prioritization has been determined by district facilities staff. The DEC reviews and approves the prioritized lists before they are submitted to the Minister. Those with DEC experience with whom I spoke indicated that they have tended to rely on the expertise of their facilities staff in setting priorities; however, there are indications that DEC members raise questions about prioritization (e.g., ASSD DEC Minutes, April 12, 2017). I was told that, more recently, the government has been moving towards using a form of "quadruple bottom line analysis" to establish priorities for school infrastructure spending in the province. It is unclear at this point what impact this might have on the role of district staff and the DEC in setting infrastructure priorities for their district. Though likely not a complete list, the following district minutes include references to this new approach to prioritization: AWSD (May 21, 2015; May 18/June 8, 2017), AESD (May 19, 2015; May 17, 2016).

[52] A blank copy of the Facility Status Review form is included as *Appendix A* to *Policy 409*. The form is designed to gather information to provide a descriptive overview of the school, its catchment area, feeder schools, student enrolment by class and grade level (using September enrolment data), breakdowns of staff and operational costs, a list of all areas/rooms in the facility and how they are used, a floor plan, a list of capital improvements completed in the last 5 years (including costs) and capital improvement projects required (with estimated costs). It includes room for comments (with suggested areas to comment on, e.g., general condition of the facility, critical repairs, expected future of the facility given enrolment trends, information relevant to the sustainability criteria, and (in the 2015 version of the policy) whether or not the school meets either/both of the trigger criteria (current enrolment of 100 students or fewer; percentage occupation of 30% or less)). There is also reference to "any recent concerns expressed by the school administration and/or community," but there appear to be no systematic procedures in place to obtain such information. The ASSD DEC minutes for May 11, 2016 record that the FSRs have a section for Principal comments, "but not all filled them out." The individuals with whom I spoke who had served as principals or PSSC Chairs had no recollection of being sent the FSRs for comment, suggesting that a school's FSR is not routinely passed along to the Principal or the Parent School Support Committee (PSSC) for review. However, as I was told, it is a public document and available on request.

[53] Of those interviewed, one community member and one individual with DEC experience explicitly cited as potentially problematic the possibility of the summary report prepared by district staff influencing in a particular direction a DEC's decision whether or not to launch a sustainability study of a particular school.

there's schools that need to be closed." This changed in 2014-2015. A general consensus among those interviewed was that a push to study and potentially close schools began at this time as governments sought to curtail costs as part of their efforts to address the province's financial situation. A review of school infrastructure by the Office of the Comptroller identified a number of schools around the province as under-utilized and worthy of consideration for closure. The government shared this list with the districts, conveying their expectation that the DECs undertake the necessary reviews of the schools.

Reports on schools being under-utilized based on their "functional capacity ratings"[54] began to appear in the media (e.g., "31 Anglophone West schools are under utilized," 2014) and also DEC meeting discussions. DEC meeting minutes from 2014 indicate that the need to consider the "rationalization" of under-utilized buildings informed DEC decisions to launch a number of SSSs (e.g., of Lorne Middle School and Pennfield Elementary in ASSD[55]; and of Bath Middle School, Coles Island School, and the Stanley Complex schools in AWSD[56]). The pace of SSS launches soon accelerated. Meetings were held between DEC Chairs and the EECD Minister in January/February 2015, as the government was engaged in a Strategic Programme Review aimed at achieving a $600 million improvement in the province's financial position. The Chairs subsequently returned to their districts with the message that more needed to be done to find efficiencies at the district level, including studying schools where under-utilization had been flagged as an issue.[57] This resulted in the launch of additional SSSs in three of the four Anglophone districts.

[54] Functional capacity ratings express the percentage of a school's maximum classroom space that is occupied by the school's current student enrolment. Taking grade configurations into account, a maximum number of students per classroom is determined, and then that number is multiplied by the number of classrooms to yield the school's "maximum capacity." The functional capacity is then calculated by dividing the current enrolments (typically as of the most recent September) by this maximum capacity figure. An additional adjustment of .8 is applied to the calculation for high schools, to reflect the different use of classroom space at that level. How the maximum capacity (in particular, the number of "classrooms") is calculated has proven contentious, and this will be discussed further below.

[55] ASSD DEC meeting minutes, August 20 and October 8, 2014.

[56] AWSD DEC meeting minutes, October 23, 2014. Bath Middle School and Coles Island School were each cited as having low enrolments (<50), a low functional capacity rating (both < 25%), and high cost per student (both over three times the district average). The two Stanley Complex schools were operating out of one facility and the study was to consider continuing to have them operate as separate schools or combining them. (ASD-W-EL7 "Closure of Schools" Report for October 23, 2014).

[57] The topic of sustainability studies made an immediate return to DEC meetings at this time in three of the four Anglophone School Districts. In Anglophone South, the DEC chair and superintendent had attended a meeting with the Minister in Fredericton "regarding the Budget/409s" shortly after the DEC meeting in mid-January (ASSD DEC minutes for January 14, 2015). The minutes of the next DEC meeting on February 11, 2015, recorded the following comments from the Chair, under "Chairperson's Report & Updates":

> DECs are keenly aware of the fiscal realities facing the Province of New Brunswick and the need to find more cost-effective ways of delivering Educational services for our students. DECs have always expressed a willingness to work with EECD to discuss strategies and are ready to take action to find real savings and efficiencies within the Districts.
>
> We have expressed our wish to be involved in the budget development process and the Department has respected that. As a result, the Council of DEC Chairs for the Anglophone District Education Councils have

held several meetings with Department officials over the past few months as we anticipate and prepare for the upcoming budget for fiscal year 2015 and also looking ahead to 2016.

In Anglophone South, we are very cognizant of the Government's financial situation and the stated plan to find savings of 600 million dollars. We understand that the final report of the task force looking at potential areas of savings will release its report by the end of 2015 and it is our hope to have ourselves in a position where the impact on Education will be mitigated as much as possible before cuts are mandated.

To that end, and in keeping with the government's position that school facilities need to be optimized, we will be taking a very hard look at all of our schools for low enrolments, aging and expensive infrastructure, and opportunities to combine student populations and close buildings where it makes sense to do so. Only by positioning ourselves in this way can we hope to limit the impact on programs and services. The Council believes discussions on school closures and Policy 409 reviews are critical to finding efficiencies in the system and we are committed to rationalizing our aging infrastructure.

Under the *Education Act*, DECs are responsible for identifying schools that may be considered for sustainability reviews. EECD policy requires a comprehensive review process involving public consultation with the school communities and stakeholders. The DEC completes the review process and makes a recommendation to the Minister. It should be understood that as a DEC we are most familiar with our infrastructure and the needs of our school communities and as such are prepared to make difficult choices in order to ensure that we provide the best educational experience for all students.

To that end, there will be more sustainability reviews that we will be looking at in the future.

The minutes record that, immediately following the Chair's comments, the Superintendent made a recommendation that the DEC study the sustainability of Brown's Flat and Norton Elementary schools, citing their enrolments and indicating possibilities for re-locating the students to other schools if need be. DEC members then put forward and passed a motion to study the two schools (no discussion on the motion is recorded).

In Anglophone East, though "Policy 409" appeared as an agenda item under new business, some DEC members, I was told, were surprised to discover they would be voting on whether or not to launch sustainability studies on two schools at their February 17, 2015 meeting, especially as there had been no prior discussion and no opportunity for thoughtful review of the schools' specific details. The minutes record the following:

> [The DEC Chair] advised that as part of the government strategic review, the Department of Education and Early Childhood Development has requested the school districts to find efficiencies. The Department of Education and Early Childhood Development (EECD) has set two deadlines, one being the end of April 2015 for implementation in September 2015 and the second being the end of October 2015 for implementation in September 2016. Chair Nichol stated that it would be advisable for the DEC to find the efficiencies rather than have the Department determine the efficiencies for us and that in discussions with the Superintendent and Director of Finance it was decided not to find efficiencies in programing but rather to look at infrastructure…. Under the first deadline of the end of April 2015, should a sustainability study recommend that a school be closed and the Minister accepts the recommendation, the District would find out in June 2015 and the District would have to operationalize the decision for September 2015. The Superintendent advised that there are only two possible scenarios which the District could turn around in that amount of time: closing Dorchester Consolidated and Riverside Consolidated and moving students to the nearest schools. This would have minimal impact on staffing at the new school as both schools have small number of students. Transportation is also already set up.

In the ensuing discussion, DEC members raised concerns about the impact of a closure on the communities and the amount of time students would have to spend on bussing to and from school. In response, it was suggested that gathering information on these issues could be left to the public consultation process once the sustainability studies were underway. In the end, the DEC voted to study each of the two schools.

While less detail appeared in Anglophone North's DEC minutes of February 20, 2015 compared to the February minutes of their Anglophone South and East counterparts, the issue of "Sustainability Study" did make an appearance under "New Business." Here, it was recorded:

> In an effort to identify areas where savings can be made in Anglophone North School District, [the DEC Chair] recommended conducting a sustainability study to review the viability of certain schools in the district. He noted that Croft Elementary, Harkins Elementary, Harkins Middle, Ian Baillie Primary and St.

By the end of February 2015, then, five more SSSs were underway, bringing to ten the total number of SSSs launched in the four Anglophone School Districts since October, 2014. In the discussions leading up to launching these studies, various numbers were already being attached to what constitutes "low enrolment" and "low functional capacity." However, revisions to *Policy 409* were underway to formalize and standardize the role these criteria would play in the sustainability study process. Announcing these changes in the Legislature in March, 2015, the Minister described these "trigger criteria" as clear thresholds that would establish "when sustainability studies must occur in addition to the routine school sustainability studies that districts undertake as part of regular infrastructure management." While the DEC would retain the authority to undertake a study of any school where it determines such study is warranted, henceforth a sustainability study would be automatically triggered for any school with an enrolment of 100 students or less or a functional capacity rating of 30% or less. The government presented this as bringing in "a consistent approach province wide" and providing "precise minimum indicators to proceed with a study."[58] According to media reports at the time, the new trigger criteria flagged 15 Francophone schools and 27 Anglophone schools for sustainability study, in addition to those already under study in the province.[59]

The 2015 policy states that the district is to include its "trigger list" of schools in the annual MYSIP, and then the DEC-approved MYSIP is to be submitted to the Minister by May 31st. However, in practice, the Department produces the lists of triggered schools, which the Minister then sends to the districts sometime in the spring. The policy makes allowance for exemption from a triggered sustainability study "if the DEC has determined that a compelling circumstance exists" and there is "mutual consent of the DEC and Minister," and includes the stipulation that "[a] school that has been subject to a sustainability study completed within the past four years is exempt" (*section 6.4.3*). Accordingly, each DEC reviews the list it receives and decides which schools to study and which to recommend for exemption (with reasons ranging from space or transportation issues with the receiving school(s) making closure unrealistic, to considerations of district staff/DEC workload[60]). Their decisions in this regard are then forwarded to the Minister by the May 31st deadline.

> Andrews Elementary are already slated to close following the construction of two new schools. However, a sustainability study of other schools will help to determine further cost savings and how improvements can be made to student learning.

Following this, a motion was approved to begin a SSS of the Dalhousie Middle School/Dalhousie Regional High School Complex "to determine the sustainability of the school complex operating as two schools in one building" (no discussion on the motion is recorded). As the minutes indicate, the ANSD DEC was equally aware of the heightened emphasis on finding savings at this time. However, I was told that this DEC was concerned about workload implications for staff, and so chose to spread out the timing of any SSSs they might decide to undertake.

[58] *Changes to Policy 409* (http://www2.gnb.ca/content/gnb/en/news/statement/renderer.2015.03.2015-03-27_2.html). The 2014-2015 EECD *Annual Report* indicated that *Policy 409* was revised "to include triggers for sustainability studies to provide a common provincial approach to address the question of the minimum criteria for a sustainability study" (p. 24).

[59] E.g., "New criteria puts [*sic*] more than 40 more N.B. schools under review for closure" (2015).

[60] Reasons for exemptions have included insufficient space at neighbouring schools to accommodate the students should the school close; challenges transporting students (young students in particular) over longer distances, and

Although the government introduced the trigger criteria with the intention of bringing an objective and consistent approach to identifying schools for study, there have been problems. Some schools, particularly in more rural areas, were built to accommodate fewer than 100 students, and so are triggered every year (e.g., Burton Elementary School in AWSD and Lawrence Station Elementary School in ASSD). Some have suggested that functional capacity, rather than enrolment, be used as the trigger criterion in those cases. However, the functional capacity criterion is not without its own challenges. Disagreements continue over the appropriate way to calculate the functional capacity of any particular school, often hinging on what space gets counted as classroom space.[61] In this regard, the AWSD Superintendent, in 2017, observed that the functional capacity value represents "an interpreted figure" that can change depending on the "interpretation of room definition and use" being employed.[62]

given road/weather conditions, to neighbouring schools; the need to factor in the impacts of recent school closures in the vicinity; an intention to include the particular school in a larger-scale study of a collection of schools at a future date; an intention to recommend a grade reconfiguration for the school; special circumstances (e.g., a triggered school having already been chosen for a pilot program); waiting for the outcome of other studies or the building of a new school; the fact that the school was recently studied and, in some cases, action was already underway; the functional capacity trigger did not take into account that space in the school was being used for other programs/services; considerations of district staff and DEC workload, given other demands on their time; in 2016, the upcoming May DEC elections and changing of the DEC membership, with the Minister sending word that he would consider exempting studies for this reason. This list of reasons has been drawn from the following DEC meeting minutes (available on the district websites): For ANSD: May 25, 2015; Feb. 20, 2017. For AESD: June 9, 2015. For ASSD: May 13, 2015; April 13, 2016; May 10, 2017; June 13, 2018. For AWSD: May 21, 2015; April 28, 2016; May 18, 2017; May 24, 2018.

[61] Often the functional capacity calculation has relied on the total number of classrooms as designated in the original blueprints for a school. However, in some schools, some of the original classrooms have been converted over time to other uses (e.g., libraries, computer labs, staff rooms, etc.), and members from various communities (e.g., North & South Esk) have argued this requires adjustment to the "total number of classrooms" figure used in the calculation. The ongoing challenges around determining a school's functional capacity and using it as a "precise" triggering mechanism are evident in the Anglophone West Superintendent's May 18/2017 report on sustainability of schools, which includes both a district and provincial functional capacity rating for certain schools based on different ways of counting "teaching stations." For example, the district functional capacity rating for Doaktown Elementary is cited as 28.75%, while the provincial rating for the school is 57.1%, attributed to differences in the "perceived number of rooms available for use." DEC Superintendent's "Monitoring Report, Policy number ASD-W-EL7: Sustainability of Schools" (May 18, 2017, p. 13), available at [http://web1.nbed.nb.ca/sites/ASD-W/DEC/DECMeetings/DEC-Superintendent%20Reports/2016-2017%20Superintendent%20Reports/ASD-W-EL7%20-%20Sustainability%20of%20Schools.pdf]

[62] To quote the Superintendent in full: "It should be noted that the functional capacity is a value that can vary depending on the interpretation of what classifies as an 'original classroom space' and what the rooms may actually be used for. As such, the functional capacity values presented represent an interpreted figure. These values could change based on a different interpretation of room definition and use." [DEC Superintendent's Monitoring Report, Policy number ASD-W-EL7: Sustainability of Schools (January 26, 2017, p. 2), available at http://web1.nbed.nb.ca/sites/ASD-W/DEC/DECMeetings/DEC-Superintendent%20Reports/2016-2017%20Superintendent%20Reports/ASD-W-EL7%20Superintendent%20Report%20-%20Sustainability%20of%20Schools%20-%20January%202017.pdf. The Superintendent goes on to point out here that the AWSD Facilities staff "has done some revised work in this area so new, current results may differ from historic results."]

In addition, problems have arisen over how to interpret *Policy 409's* stipulation that a school subject to a sustainability study completed within the past four years is exempt from study (*section 6.4.3*). Community members have tended to see this as reflecting government recognition that subjecting communities to the uncertainty and stress of too frequently repeated studies is unfair.[63] However, some DEC members and district staff have expressed the view that the DEC's prerogative outlined in *Policy* 409, to launch a SSS of any school where it believes such study is warranted overrides any four-year exemption. This view was evident at a recent DEC meeting in AWSD. The minutes record that, after the Chair had reviewed the list of schools previously approved for exemptions varying from 1-4 years, one councillor stated that "even though these schools have been approved to be exempted during the time frame, the Council can still decide to conduct a sustainability study" (AWSD DEC meeting minutes, May 24, 2018). [64]

Finally, some of those interviewed who had DEC experience expressed the concern that the introduction of the trigger criteria has had the effect of limiting the DEC's authority in deciding which schools to study. They noted that the work involved at the district level for the triggered studies has meant there is little by way of time and resources left over to pursue their own plans. In addition, they observed that having to contend with the triggering of individual schools is distracting to their efforts to develop more regional (vs. individual school level) infrastructure plans for their district.

[63] Community members also reasoned that, as the exemption statement in the policy refers to "a school" and not "a *triggered* school," the exemption would apply to all schools studied in the past four years (triggered or not). However, based on what some individuals with DEC experience said to me, there appears to be no clear consensus on this point.

[64] Those with DEC experience told me that, in practice, all studied schools that are not closed remain on the trigger list if either of the trigger criteria apply, even though they were recently studied, and that the DEC retains the prerogative either to study them again, if some change in circumstances warrants the study, or to request an exemption. For example, despite having been studied in 2015, Norton Elementary continued to appear on the ASSD trigger list each year until 2018-2019 (when its enrolment and capacity rating exceeded the trigger thresholds). As part of the 2015-2016 and 2017-2018 trigger school reviews, the ASSD DEC requested a one year exemption for Norton (ASSD DEC minutes for May 13, 2015 and May 10, 2017) with the 2015 request mentioning a plan to study Norton at some point with Apohaqui Elementary as part of a regional approach, and the 2017 request based on a general need for exemptions given the work involved in the SJ Central Schools Study (there is no explicit mention of Norton in the ASSD DEC minutes for April 13, 2016 when "Trigger Schools 2016-2017" were discussed). As one individual with DEC experience described it: "anybody who's been studied thinks they have four years grace, that they can't be touched again, but just because you've been studied doesn't mean you're safe from further study for four years come hell or high water." This interpretation is evident as well in AWSD where, in his report on exemptions to trigger studies, the Superintendent indicates that "[a] school that has been subject to a sustainability study completed within the past four years is exempt; the DEC may, however, launch a sustainability study at any time for any school, if the Council determines it is warranted (6.4.1)" (Policy number ASD-W-EL7: Sustainability of Schools, May 18, 2017, p. 9). Also in AWSD, the DEC recently considered launching a study of Burton Elementary when it showed up on their trigger list. However, they decided against the idea given that the school had been studied in 2011 and again in 2015, indicating that the 2015 study resulted in the school "being exempted for 4 years" (AWSD DEC minutes, May 18, 2017). Still, at the same meeting they reached agreement that, should their request for funding be approved for a Town of Oromocto School Study, Burton Elementary would be included in that study (and Burton Elementary has been discussed as a "possibly affected" school in the recent Oromocto Schools (K-8) study, released in April 2018).

Giving notice of a sustainability study and its timeframe

Policy 409 stipulates that, once a decision has been made to launch a SSS of a particular school, the DEC must notify the Minister and provide public notice to affected persons. The notice is to include the timeframe for the public consultation, which requires a minimum of three public meetings. Community members and school staff identified the issue of providing timely notice as a problem area. In some cases, parents, community members, and even school staff, have learned about the study first through the newspaper or radio. This was often described as particularly upsetting because the community had had no forewarning that a study was under consideration for their school and, as one individual mentioned to me, the news stories tended to frame the issue as one where the district/DEC "were looking to close the school," rather than study its sustainability. Common themes when community members recounted first learning about the study of their school were that "it came out of the blue," "it was a shock," and it was "insensitively handled given the significance of the issue to a community."[65]

It is not clear that the districts/DECs have arrived at a solution to address these concerns about notification. According to the detailed timeline documents AWSD and AESD have typically produced for their SSSs, the gap between the launch date and letters of notification being sent out to parents/guardians is typically 6 calendar days.[66] Within one to two weeks of the launch date, a special section of the district website is set up to house information (including notices) and provide for public commentary. Beyond this, there appears to be no formal communications plan for advising the broader school community about the launch of the study and subsequent public meetings. As one person with DEC experience indicated to me, relying on newspaper and radio notices and strategically placed posters to reach the broader community likely means the message reaches only a fraction of those concerned. This was confirmed by members of the broader community who expressed frustration at how difficult they found it was to learn when and where the public meetings about their school's sustainability would be held. As one observed:

[65] Relatedly, I was told this notification process in practice has proven difficult for principals and staff as well. There were cases where the media were reporting that their school was "under threat" of closure and school staff had not received any advanced warning or advice from the district. Not knowing what role, exactly, they were expected to assume in these circumstances tended to be experienced as adding stress to an already stressful situation.

[66] This is true for the SSSs that have been conducted since 2014 for Dorchester and Riverside Consolidated Schools (AESD), and Bath Middle School, Coles Island School, McAdam Elementary School, Millville Elementary School, and Nackawic Elementary/Middle/High Schools (AWSD). The gap was only one calendar day for two AWSD SSSs: Burton Elementary School and Kingsclear Consolidated. The gap in ANSD has varied from one and two calendar days (for Napan Elementary, and Tide Head/Lord Beaverbrook/Campbellton Middle School, respectively) to 16 and 24 calendar days (for North & South Esk Schools and Janeville Elementary, respectively). As of this writing, I do not have comparable data for ASSD. See the Burton Study Timeline, as an example (http://web1.nbed.nb.ca/sites/ASD-/sustainability/Burton/Burton-2015-Files/Section%202%20-%20Documents%20to%20Support%20Study/2.2%20%20Burton%20Study%20Timeline.pdf).

> To me, it's a community thing. It's not just the parents and the kids that go to the school. Because these schools are community schools and they mean a lot more than just the 9 to 3 o'clock kind of thing. But as a community person, I haven't received any information.

This has led some community members to call for their district/DEC to develop a strengthened communications strategy that includes consideration of the role social media could play in the timely dissemination of SSS-related information to a school's community.[67]

I was told that, when deciding on the timeframe for public consultation to include in the initial notifications, the DEC considers a number of factors in addition to what is stipulated in the policy. These include past practice (e.g., how much time between meetings appears to have worked well in past studies), the need to schedule around activities/events at the school, the need to avoid the Christmas/New Year period, and the current workload of district staff. As Appendix E indicates, there has been considerable variation in the scheduled timeframes for the SSSs conducted between October 2014 and May 2017, with the number of calendar days between the launch of a study and the DEC's decision about the school at the third public meeting ranging from a low of 59 days in the Dalhousie SSS (ANSD) and a high of 252 days for McAdam, Millville and Nackawic schools (AWSD). The average number of calendar days between launch and decision for the five non-triggered studies launched in February 2015 was 69.2 days. The same average for the first eight triggered studies launched after the new version of Policy 409 came into effect in March 2015 was 204.9 days.[68] These last two figures suggest that the increased pressure in early 2015 to find greater efficiencies and the introduction of a timeline for triggered schools in the revised policy have influenced how the timeframe for public consultation has been scheduled. In addition, the original timeframe set for the Kingsclear Consolidated SSS for early 2017 had a launch to decision time of 98 calendar days, suggesting non-triggered schools may be subject to a more expedited study process than the triggered schools. As the policy stipulates that the timeframe for public consultation is to reflect the need for affected persons to "have adequate time to consider the information provided," this variability in the time allotted for study raises questions about how, and how fairly, "adequate time" is being determined.

The districts typically make a point of stating in their initial correspondence the intended focus for each of the three public meetings, as outlined in the policy. This frames the public

[67] While all four Anglophone districts have a website, how quickly and extensively the website is used to make SSS information publicly available varies across districts. Three of the four districts (all but ANSD) include twitter, and one (AESD) facebook, as a means of contact on their webpage. These media do not appear to have figured to any significant degree in communications around the SSS process until recently, with AESD livestreaming on facebook in November/December 2018 the PM#2 proceedings for the Tantramar Region collection of schools and the joint PM#3 proceedings for this group of schools along with the Irishtown/Elmwood Drive area of Moncton collection of schools.

[68] The five non-triggered studies were Brown's Flat and Norton (ASSD), Dorchester and Riverside (AESD) and Dalhousie (ANSD). The eight triggered studies were Lawrence Station (ASSD); Napan, Tide Head, North& South Esk, and Janeville (ANSD); and Burton, McAdam, and Millville (AWSD).

consultation as three separate meetings where each of the three parties involved in the study (district, community, DEC) will have their chance to take the floor. The first meeting involves a presentation of facts/information about the school by district staff in line with (but not limited to) the eight sustainability criteria laid out in *Policy 409*. The second focusses on presentations by members of the public, where community members have the opportunity to present information on the sustainability of their school "to be considered in the decision-making process." The third meeting is the DEC public meeting, where the DEC will discuss the study and vote on a final recommendation, reflecting one of the three outcomes (status quo, repair, close) specified in the policy. What is less clearly flagged in the information provided is that, under the policy, three public meetings is a <u>minimum</u> requirement.

<u>Preparing for and holding Public Meeting #1 (PM#1)</u>

Policy 409 provides guidance on what PM#1 is to accomplish (sections 6.5.3 and 6.5.4, *Appendix C*). The DEC is to inform the school community of its intention to study their school, providing them with the information relevant to their school and what is being proposed. In addition, the DEC needs to keep in mind their obligation to "demonstrate how the required [sustainability] criteria have been considered" and "provide this information to the public as part of the consultation process" (*Appendix C*). Finally, the DEC must provide the public with information about the steps to be followed through the public consultation process.

The district staff are typically charged with pulling this information together in the form of a powerpoint presentation for PM#1.[69] This can be a particularly taxing period for district staff if, combined with their regular duties, two or more SSSs are taking place over the same period of time (which has happened and continues to happen in some districts[70]). Typically, the presentations follow a template, beginning with a brief description of *Policy 409* that highlights the particular passages pertaining to SSSs, and reviews the purpose of the three public meetings and the three possible outcomes. I was told efforts are made at the outset to establish the desired tone for the public consultation, with district staff and DEC members

[69] According to the timeline documents on specific SSSs provided by AESD and AWSD, the district superintendent typically, and within a week or so of the launch vote, "assembles district staff team to organize process of putting together data for Public Meeting #1 and in line with (but not limited to) the essential categories of a sustainability study" (referring to the eight sustainability criteria, *section 6.4.4*). As an example, the 2011 "Burton Sustainability Study Preparation Plan" (AWSD) outlined the roles of nine district staff team members in preparing for PM#1. Eight of these members, working in various teams of two, were each assigned to certain of the sustainability criteria, and tasked with producing information on their assigned criteria for the PM#1 powerpoint presentation. The ninth member was responsible for logistics, securing a location for the meeting and notifying parents and the broader community. A copy of this plan is available through the AWSD website: http://web1.nbed.nb.ca/sites/ASD-W/sustainability/Burton2011/Section-2-General/Burton%20Sustainability%20Study%20Preparation%20Plan.pdf.

[70] For example, in May, 2018, the AWSD DEC approved SSS for four elementary schools (Forest Hill, Liverpool, McAdam Avenue, and Nashwaakis) with the potential to combine the four into two new schools. The first public meetings for the four SSSs were all took place between September 25 and October 16, with the final meeting scheduled for January 24, 2019 (http://web1.nbed.nb.ca/sites/ASD-W/sustainability/Pages/default.aspx).

conveying to community participants at this point that the meetings "are set up as an exchange of ideas and not meant to be controversial."[71]

In terms of content, three of the Anglophone districts (AWSD, ANSD, AESD) have adopted a similar approach to PM#1, framing the material to be introduced as "a presentation of facts" organized around the eight sustainability criteria. This framing reflects an intention to provide a descriptive overview of the school that is "not slanted" in any way.[72] However, there is some variation across the three districts in their coverage. For example, in its SSSs on Dorchester and Riverside, AESD did not single out any specific material on "impact on other schools" or "economic development." It did, however, follow its initial listing of the eight required criteria with a number of "other considerations" that, while not elaborated in the text of the presentation, are flagged as warranting attention: provincial and departmental finances, district global budget, programs and staff, and other facts raised by communities and parents. AWSD has routinely included lists of community partnerships and special events taking place at the school that encourage collegiality/student spirit, as well as information on "students perceptions" and "student voice." Finally, ANSD incorporates greater consideration of all three possible SSS outcomes into its PM#1 presentations, assessing something of the pros and cons of status quo and repair, as well as close, in the case of the particular school under study.

ASSD's approach to the PM#1 presentation has been somewhat distinct from that of the other three districts, appearing to draw greater guidance from the section of *Policy 409* that retains the older policy language of taking "the proposal" to public meetings "on the possible closure" (*section 6.5.4*). Here the process is depicted less as a DEC studying the sustainability of a school with three possible outcomes, and more as a DEC offering a proposal in favour of the closure outcome from the outset of the study. This orientation was particularly evident in the PM#1 presentations for the first two studies ASSD undertook in 2014-2015 (Lorne Middle School, Pennfield Elementary School). Both were titled "Proposal for School Closure and Consolidation."

Each presentation's opening description of the SSS process indicated that the purpose of the first of two "public information sessions" was to "deliver the proposal to the public," and the second meeting was intended "to allow the public an opportunity to ask questions about the proposal, voice their concerns and provide feedback." Similar to those of the other three districts, the ASSD presentations included general information, as outlined under the policy,

[71] As one individual with DEC experience observed, "It doesn't mean people don't get upset, cry, and whatever they want at the meetings, but the last thing you want to do is get into a debate with somebody." This orientation towards respectful exchange is evident in a point about the public meetings that AWSD has routinely included on an early slide in their PM#1 presentations: "not designed as an 'Us-Against-Them' process; public meetings are not designed to facilitate debate between two parties." Similarly, the initial letter crafted by AESD and AWSD indicates a public comment section and opportunity to post questions will be made available on the district website "for respectful, constructive comments on the study."

[72] This phrase is taken from the 2011 "Burton Sustainability Study Preparation Plan," available through the AWSD website: http://web1.nbed.nb.ca/sites/ASD-W/sustainability/Burton2011/Section-2-General/Burton%20Sustainability%20Study%20Preparation%20Plan.pdf.

about the public consultation process and the sustainability criteria to be considered. However, in ASSD's case, the presentations were not organized on the basis of the sustainability criteria. Following a brief descriptive overview of the school, information was provided on enrolment trends, staffing FTEs, capital improvements completed and required (with their associated costs), and facilities costs, but without being explicitly linked to the required sustainability criteria (in this case, low/declining enrolment, health and safety (building assessment) and finances). The rest of the presentation was devoted to presenting the specifics of the proposal to close the school and relocate the students elsewhere (or preferred proposal, if more than one had been considered). From this point in each presentation, the school under study disappeared from view as the focus shifted to detailing the attributes of the school that would receive the students should the proposal to close the school be recommended and approved.

The PM#1 presentations for subsequent SSSs in Anglophone South have generally followed a similar pattern, but with some changes. "School Sustainability Study" of a particular school has replaced the title "Proposal for School Closure and Consolidation" of a particular school. Some "quick facts" about the district are typically included (total number of schools, district level enrolment trends, the overall budget, and the number of permanent employees, along with a list of major challenges facing the district, identified as "fiscal reality, aging infrastructure, declining enrolment"). The financial costs data have been expanded, and transportation information relevant to the proposal has been added.

From late 2015, the ASSD PM#1 presentations began to include a "summary of factors that support recommendation to close" (e.g., Lawrence Station) and with this addition, the ASSD PM#1 presentations have begun to make more explicit connections to the eight required sustainability criteria. However, as the title suggests, it was initially a selective summary, highlighting only those criteria for which the gathered information was judged to support a closure outcome. Low/declining enrolments, quality of education programs, and finances are the three that have typically been featured. However, with the more recent SSSs conducted as part of the 2017-2018 multi-school Saint John Central City Schools study, this is now titled "summary of factors that determine a school's sustainability" and often covers all eight criteria. Low/declining enrolments and quality of education programs continue to figure prominently as factors deemed to negatively impact a school's sustainability. However, the finances criterion that typically identifies areas where cost savings are anticipated should the school close (e.g., in operating expenses, capital improvement cost avoidance, etc.) has appeared in some cases (e.g., M. Gerald Teed) but not in others (e.g., Hazen White/St. Francis and St. John the Baptist/King Edward). Although the district emphasizes that the quality of education programs is strong across the district, still the PM#1 presentation has frequently flagged this as a criterion supporting a closure outcome based on a view that a larger school can offer more programming and services or "a true middle school experience." Some information relevant to the particular school is included on "impact on local community" and "economic development" and a conclusion typically drawn that "impact would be minimal."

Reflecting on this variation in PM#1 presentations across districts and over time allows three observations to be made at this point. First, while the districts have increased their PM#1

coverage of the eight sustainability criteria over time, some criteria are typically given shorter shrift than others. This is particularly true of "impact on local community" and "economic development." As *Policy 409* stipulates, these are important considerations that need to be taken into account when studying a school's sustainability. While district staff and community members are able to gather some relevant information in the short span of time they have during a SSS, providing a well-rounded assessment of a criterion like "impact on local community" would require information on multiple indicators (e.g., impacts on people's sense of belonging, social isolation, preservation of local culture and identity, community participation and capacity, etc.). Although the FSR forms allow for comments to be added pertaining to the sustainability criteria, there do not appear to be any systematic procedures in place to gather such information. This suggests a need to identify indicators that would allow for the meaningful assessment of such criteria and to commit to providing the time and resources necessary to pull together the required information.

Second, while there has been and continues to be variation in the range and amount of information provided in the PM#1 presentations, the overall volume has generally been considerable and increasing. This raises the question of how much information is too much and how much is too little. I found it difficult not to question, while ploughing through some of the longer PM#1 presentations, what significance to attach to all of this detail. What, if anything, are "Hot water is heated with a 100 gallon hot water tank" and "Exterior finish is wood shingles" meant to tell us about the sustainability of a school in terms of its health and safety, or perhaps its finances? How are the lists of special events connecting school to community to be used in assessing sustainability? How can the school's provincial assessment results be fairly and meaningfully used in a SSS, given how variable they can be from year to year, against the district and provincial averages? It is understandable that, wanting to be sure to meet the responsibility to provide information on the required criteria to the public (*section 6.4.4* and *Appendix C*), the district includes as much information as possible in the PM#1 presentation that may be relevant to the study. The danger of weeding through the information initially is that they might weed out pieces of information that some community members want to review. However, community members frequently described attending these presentations as "overwhelming," watching slide after slide, filled with lots of text and numbers, flash by in relatively quick succession. "Death by powerpoint" best summed up the experience for one.

On the other hand, there can be the problem of providing too little information. Focussing on the "factors that support the recommendation to close," without providing information on the factors that support the status quo or repair outcomes risks creating the impression that the outcome has been pre-determined and the process has been slanted to that end. For community members, this raises the concern that the DEC is reaching a decision based on a partial or distorted view of their school. Judging from the additions and revisions that the districts have been making to the structure of the PM#1 presentations over time, it appears that achieving the right balance remains a work in progress.

The final observation, alluded to earlier, is that there is a tension between "sustainability" and "closure" in both policy and practice. As noted in the historical review (Appendix B), *Policy*

409 has borne, in some of its previous versions, the title *Closure of Schools*, but this focus on closure has been challenged or rethought at least twice, first in the 1998 version of the policy with its language of "viability," and later in the 2009 and 2015 versions with their language of "sustainability." While the words "viability" and "sustainability" have not been formally defined in the policy, they appear to encourage a perspective that is not narrowly focussed on the question of "to close or not to close." Still, the most recent versions of the policy have retained earlier policy language conveying that the sustainability study process is one of reviewing a "proposal to close" the school under study. In practice, this has meant that, at least in some cases, the PM#1 presentation has framed the process more as a study to close the school than a study to assess its "sustainability" and the relative merits of the three possible outcomes (status quo, repair, close).

Once presentation preparations are complete, attention turns to the actual meeting.[73] District staff run the meeting and make the presentation in some districts while in others the DEC Chair may take on a moderating role. I was told by some with DEC experience that the expectation is that DEC members are there to listen and speak little if at all. In line with the emphasis on "respectful exchange," the meeting typically proceeds with the staff reviewing the presentation for the audience, and any questions reserved until the presentation is complete. Some community members mentioned they were told questions at the first public meeting were to focus on the process, that questions about the content of the presentation could await the second meeting; however, in practice, in at least some SSSs, questions on both process and content have been posed.

A common response from the community members I spoke to, when asked about the question and answer session, was to note that many in the community were too overwhelmed or too much in shock to ask a question. One noted that it likely would have been helpful to have had the presentation posted ahead of the meeting, to give people some time to reflect and formulate questions. However, it was noted that some in attendance did raise questions: Some asked about how various figures presented were calculated (e.g., the number of classrooms used for the functional capacity ratings, bus riding times, enrolment projections, capital investment costs, etc.). Some sought clarification on how to interpret certain information (e.g., how crucial certain of the capital improvements listed as required really were). Some requested additional information (e.g., a breakdown of anticipated cost savings, including FTE savings, should their school close; the incidence of out of zone transfers over

[73] The extent to which the DEC is involved with the preparation of the PM#1 presentation varies somewhat across the districts. Generally, the DEC has little involvement and there is no practice of the DEC reviewing or approving the presentation prior to the public meeting. Some individuals with DEC experience mentioned having the opportunity to offer suggestions about content, but conveyed this input was typically minimal. Anglophone North has the most distinct approach regarding the DEC's role in this regard, as they follow a practice of DEC members having nothing to do with the presentation prior to its being revealed during PM#1. The rationale is that, if the DEC has not yet seen the detailed information gathered on the sustainability criteria for a given school, they are not entering the public consultation phase of the SSS process with any preconceptions about whether or not a school is sustainable or should close. They will learn the information and work through it at the same time as the school community. I was told that, in this way, it is hoped that the DEC's impartiality and willingness to look at a school's sustainability with an open mind are affirmed.

time; etc.). Some questioned the scope of the study (e.g., suggesting it might be better to study catchment area boundaries as well, or consider possibilities other than simply status quo/repair/close). Some of these questions required further research by district staff before they could be answered.

At the end of PM#1, the public were reminded that the second public meeting would give them an opportunity to present information to the DEC and that there were various ways they could submit comments or questions to the district. I was told that the public were usually encouraged to forward any questions they had about what had been presented and that district staff would provide them with whatever additional information they required.

However, despite the district/DEC efforts to frame the public consultation as a collaborative effort to gather the information the DEC needs to make an informed decision, many community members had come to the view by the end of PM#1 that the process was "adversarial," "confrontational." The structure of the public consultation in some cases appears to lend itself to this view, with the district first informing the community why it might be feasible to close their school and the community being invited back a few weeks later to "respond" to what the district put forward. As one community member described it, rather than being "we're working together to look at the sustainability of your school," it was "we think maybe you should close, you go away and put together a case why you think you shouldn't." The language of "sides" pervaded people's accounts. For one community member, the process pitted the district/DEC against "our rural way of life." Another described her reaction after the first public meeting:

> For me, it was very much us and them. They are the DEC, we are the community, and there was no overall ***us***. It was a clear division. "This is what we want to do," and then the community was pushing back.

Community members spoke of "being in the fight of our lives," needing to "arm ourselves with information" in preparation for the second public meeting with the district/DEC. Individuals with DEC experience referred to "hearing *both sides*, both from *the community* as well as *us*" (emphasis added), and some similarly evoked an image of two adversaries engaged in struggle, describing attending meetings with community members as "going into the lion's den," "taking the heat," and "getting out alive." Some community members remarked that the DEC members remained aloof, with one observing, "None of them had reached out to talk to us, to make themselves a person to us." Some serving on the DEC through the SSSs spoke of how difficult it was go through the process of arriving at the public meetings, committed to taking a serious look at the school in terms of the sustainability criteria, listening to all that was said, and reaching an informed decision, only to be met with anger and distrust.

<u>Preparing for and holding Public Meeting #2 (PM#2)</u>

As outlined in the policy *(sections 6.5.3* and *6.5.4*), the second meeting is to provide the opportunity for community members to make a presentation to the DEC. The DEC's responsibilities are to ensure affected persons have the information relevant to "the proposal"

(or, more broadly, to studying the school's sustainability) and that they have "adequate time to consider the information provided" and "adequate time and opportunity to make a presentation to the DEC…and are heard impartially at an open DEC meeting." Thus the DEC's responsibility extends beyond the information that was disseminated at PM#1 to include providing whatever additional relevant information community members may require as they work on their presentations for PM#2.

Although there is no requirement that the PSSCs become involved in the SSS process, it appears that they do in most cases. In at least some cases, districts appear to have taken *Policy 409's* (*section 7.2*) recommendation to involve PSSCs to heart, and have contacted the PSSC shortly after the decision to launch a study to determine if they would like a DEC representative and/or the superintendent to attend a PSSC meeting to review information, talk about the process, and address questions.[74] In other cases, it is the PSSC that has reached out to the DEC/district staff. Then, in still other cases, there has been no direct contact until PM#1. However, once involved, PSSC members find that their work intensifies considerably as they prepare for PM#2.

District staff remind the PSSC and parents/guardians that they will be provided with any information they require to develop their presentations. Requests for information can be sent in through regular mail, and often a special email address is set up as well to accommodate such requests. Typically, a staff member is assigned the task of reviewing the incoming mail and directing each query to the staff member best equipped to answer. AWSD has also included a public forum on its website, where community members can post queries. If requested, district staff/DEC members will meet with those preparing PM#2 presentations.[75]

The main task community members face following PM#1 is how to prepare for PM#2.[76] Some decided to make their own presentations to the DEC (e.g., as former students, former principals/teachers, parents of children with special needs, long-time residents who understood

[74] Involving PSSCs in consultations on proposed grade configurations and naming of new schools is also recommended in this section of the policy. That consulting with the PSSCs is recommended but not required likely reflects the volunteer nature of the PSSCs and the definition of their duties under the *Education Act*.

[75] While principals are also to respond to community member requests with whatever information they can provide, they and the teaching staff are expected to remain neutral and not become actively involved in community efforts to demonstrate the sustainability of their school. A number of community members commented on the role of the principal and teaching staff at their school, expressing at least initial surprise at their lack of participation, but understanding how they were "caught in the middle." There is an acknowledgement in the ASSD DEC meeting minutes for December 9, 2015, that the teaching staff are in an awkward position. While they can make submissions directly to the Chair, the expectation is that they do not stand up in a public forum. The minutes record the DEC Chair's comment "the only instruction they receive would be to answer in facts only, not their opinion. This stand is taken by the NBTA [New Brunswick Teachers Association]." From what I was told, negotiating a position of neutrality was difficult and stressful for many of the teaching staff, and a few community members recounted stories, often with a chuckle, of how one of their teachers opted to leave neutral ground at some point in the SSS to offer the community support.

[76] Overall, the documents produced for the PM#2 phase of the public consultation are less publicly available than those for PM#1. I was able to access PM#1 documents for all of the SSSs taking place between October 2014 and May 2017, but had no PM#2 documents for seven of those SSSs.

the history of both school and community, etc.).[77] However, typically the PSSCs (sometimes with Home and School Associations) and/or "save our school" coalitions formed by concerned community members became the focal point for developing a collective response for presentation at the second public meeting.[78] Most of these used the eight required sustainability criteria to structure their presentations – some to use the same structure to respond to what the district had presented in PM#1, others because they were told by a district staff/DEC member to focus on the eight required criteria as they are the criteria used to assess a school's sustainability under the policy. This led to debate within some groups about whether it would hurt or help their cause to go beyond the eight criteria and their associated possible outcomes (status quo, repair, close) and present alternative options for saving their school (e.g., how excess space in their school might be utilized). Some thought their best chance lay with staying close to what they had been told to do, and so argued for limiting their presentation to responding to just what the district had presented at PM#1 on the criteria. Others believed sharing ideas, suggestions, and recommendations that went beyond the eight criteria offered the stronger approach. Given these different views, it is not surprising that community presentations varied in their scope.

Typically, a core group formed to address each of the eight criteria. In some communities, this group was fairly large, with varied skill sets that helped them to tackle the various components of preparing their presentation. In other communities, two or three individuals bore the main responsibility for researching and writing up a commentary on all of the criteria. Understandably, the demands of this undertaking weighed particularly heavily on these individuals. One such community member observed, thinking back to the short five weeks they had to prepare, "they come to your school, they give you 'that's what you have to do,' and you're left with that, and I remember thinking, how can they give us this work, with no help, no resources?" One PSSC member in another district pointed out, "so much of it is left to the parents to present and plan and prove, you're asking, or the DEC or the district is asking the parents to go above and beyond in ways that are not outlined in the roles and responsibilities of what they expect a PSSC to do." It is extra work, with much to learn in a short timeframe. Community members typically reported being on a steep learning curve as they familiarized themselves with the particulars of *Policy 409* and the SSS process, worked through the details of the district's presentation, and sorted out whom to approach for additional information. Their experiences led some to note that relying on communities to have sufficient time and resources to put together, within a brief timeframe, the sort of thoughtful and constructive response required for the SSS introduces a source of unfairness into the process. From this view, some communities will fare better than others when it comes to saving their schools, not

[77] The community response (part 1) at the November 2015 PM#2 for the Janeville Elementary School SSS mentions that district employees were not allowed to be part of the community response, which meant that nine parents of current students were unable to participate.

[78] While the focus in what follows is on the PM#2 presentations, the "focal" community groups also organized other activities. They arranged community surveys, letter-writing campaigns, community rallies. They took part in media interviews. They arranged bus tours for DEC members and the media to illustrate transportation issues (e.g., Riverside in AESD, Janeville in ANSD). They also networked with other communities that were experiencing or had experienced a SSS.

because their schools are more sustainable, but simply because they have had more resources available to make their case in a thorough and timely manner.

I was told that, typically (in SSSs conducted outside the triggered school timeline), communities have between 4-6 weeks between PM#1 and PM#2, with some allowance made for the Christmas period. As shown in the timeline chart in Appendix E, there has been considerable variation across SSSs in the number of calendar days between the first and second public meetings – the time for the communities to prepare their presentations. While the average number of calendar days between the first and second public meetings across this period was 59.2, this fell to 32.6 days for the SSSs launched in February 2015, and was 61.9 days for the school sustainability studies triggered that year.[79]

Those working in these core community groups indicated they found this part of the process to be very difficult and stressful, requiring a considerable sacrifice in family time, and often sleep, to get together to plan, organize and produce their presentation on time. They did it, they said, out of love for their school and their community. As one person noted, the process is "not one you would want to drag on" because it can be agonizing. Still for many, the timeframe was unnecessarily rushed.

A number of community members explicitly linked the "time crunch" they experienced during this period to a common concern – the challenge of accessing information from district staff in a timely manner. As one individual observed, "we were able to get the majority of what we needed, but it didn't always come easy " They understood that this was sometimes due to the miscommunication that can occur with a process relying on brief email exchanges, and surmised that district staff workload likely played a role as well. However, they found it frustrating when requests for additional information (on what seemed, to them, basic topics like current enrolments, bus routes/schedules, out of zone transfers, how the number of classrooms were counted and functional capacity calculated, a breakdown of anticipated savings if the school were to close, etc.) went unacknowledged and unanswered for a week or more, requiring one or more follow-up requests. They also pointed out their efforts to access information were impeded by the lack of references to supporting documents in the PM#1 presentations, which made it more difficult to trace where some of the numbers came from (e.g., capital improvement projects and costs).[80] In addition, I was told of some instances

[79] I have made **no** adjustments for the Christmas period or for March break in these calculations, though one might assume that the ability to prepare for a public meeting presentation is reduced over such a period. On the one hand, I was told that more time is scheduled between PM#1 and PM#2 when the Christmas period intervenes. However, I was also told that, since the community members then have 8-9 weeks in between the two meetings, this "gives them more than ample time to prepare."

[80] The Facility Status Reviews (FSRs) and Multi-year School Infrastructure Proposal (MYSIP) documents provide much of the information presented at PM#1. However, these documents are rarely referenced as source documents in the PM#1 presentation. It is likely that most PSSC and other community members at the start of the SSSs have had no familiarity with them. However, AESD's current *Policy 1.5 Facilities* is helpful in addressing this; it states "To ensure all schools are informed of their current facility review the Council will send to the PSSCs the facility status review upon completion of the review each year." It also states that once the capital improvement projects list has been prepared and prioritized by district staff, it will be "evaluated through the principals (who will

where delays had occurred because of sensitivities around releasing certain information (e.g., the number of out of zone transfers that had been approved).

In crafting a "core presentation" to deliver at PM#2 for their school, the PSSCs and community groups adopted different approaches to "setting the stage" for what they had decided to cover. Some described the history of the school and its roots in the community (e.g., Kingsclear). Some drew attention to district/department/government commitments to rural communities, and to *Policy 409*'s principle recognizing the integral role schools play in the promotion and preservation of local culture and community, "especially in rural areas" (e.g., Norton). Some highlighted concerns with *Policy 409* itself ("targets small schools for closure," "an attack on a rural way of life") or how the SSS process was being implemented (with the community having much less time to prepare than district staff had had) (e.g., Janeville).

Whatever their opening approach, they turned fairly quickly to review their school in light of the eight required sustainability criteria. In doing so, they made a number of points that challenged the information presented at PM#1. For example, with reference to the low/declining enrolment criterion, some observed that the PM#1 presentation on their school implied enrolment declines observed over time reflected a demographic decrease in youth population. However, they pointed out this failed to acknowledge and document the role catchment boundary changes, grade reconfigurations, out of zone transfers, and/or changes to French Immersion entry points had played in those declines (e.g., Lorne, Kingsclear, Pennfield, McAdam, Millville, Napan). Others offered evidence to call into question why their schools were being singled out for review when their enrolment trends and capacity ratings were similar to or even better than some other schools (e.g., Pennfield, Brown's Flat, Kingsclear). Still others challenged the PM#1 enrolment projections, arguing they were based on out of date data (e.g., Norton, Hazen White/St. Francis) or had neglected to count certain families inside/outside the catchment area who wished to send their children to the school (e.g., Janeville). Finally, some worked through the details of how classrooms were being counted to illustrate their concerns about the way functional capacity ratings were being calculated (e.g., North & South Esk).

When it came to health and safety, a number of communities simply made the point that their schools were indeed safe (e.g., Brown's Flat, Kingsclear, McAdam, Janeville, Napan, North & South Esk). I was told by those with DEC experience that there tends to be no question during a SSS about the school's health and safety, for any pressing health and safety concerns that may arise at a school would be addressed by the districts in short order. It is likely for this reason that much of the district's focus on the health and safety criterion for the SSSs, as reflected in their PM#1 presentations, has come to rest on the list of needed capital

in turn share the information with their respective PSSCs for information purposes) and through the Department of the Fire Marshall, before initial presentation to the District Education Council for approval. PSSC Chair and Principal will indicate, by yearly signing off on the projects list, that they have seen it." As PSSC representatives periodically make presentations at the monthly DEC meetings to convey information or express concerns, a PSSC could take advantage of this opportunity to bring any concerns about the information recorded on their school's FSR to the DEC's attention.

improvements and their associated costs. The logic would appear to be that these capital improvements, though not needed right now, will be necessary at some point in the future if the school is to continue to provide a healthy and safe environment, and, consequently, it is important to ask "Does it make sense to take on the cost of these improvements to ensure the sustainability of this school, or is the cost too prohibitive?"

This focus arguably shifts attention more towards financial considerations and away from any broader examination of a school's sustainability in terms of "health and safety." Not surprisingly, much of the community's discussion of this criterion focussed as well on the status of their schools in terms of capital improvements completed and outstanding. Some highlighted that compared to other schools, their school was younger and/or required minimal capital improvements (e.g., Brown's Flat, M. Gerald Teed, Janeville, McAdam. North & South Esk). Where their school had been assigned a lengthier and more costly list of outstanding needed capital improvements compared to others, some community members pointed out that this could be linked at least in part to the minimal (and in some cases, zero) capital investments their school had received over recent years (e.g., Dorchester, Hazen White/St. Francis, Kingsclear, Norton). Others noted that the outstanding capital improvements listed for their school had been rated by the district as "low priority" (e.g., Millville, Napan). Where accessibility had been flagged in PM#1, some communities observed this had not been an issue in their schools and/or that less expensive solutions were available to strengthen their school's accessibility than those indicated on the district's capital improvements list (e.g., Dorchester, Janeville, Millville, Pennfield). In other cases, community presenters sought to set the record straight about their school's physical status and what was needed, pointing to errors they had identified in the PM#1 presentation (e.g., the Burton PSSC pointed out that the district's 2015 PM#1 presentation had listed the school as having "no gym" and yet the architectural drawings included in the same presentation verified a basement floor "gymnasium"[81]).

Community members in Dorchester were perhaps unique in drawing attention to some of the health benefits of the existing infrastructure, citing material on the benefits older schools provide with their windows, natural light and green views. Still, a number of communities moved away from an exclusive focus on physical infrastructure to highlight some of the health and safety advantages of smaller schools located in rural communities (e.g., Janeville, Millville); the health advantages of schools, particularly those in lower income neighbourhoods, organized to provide breakfast programs and nutritious snacks (e.g., St. John the Baptist/King Edward); and the mental health challenges that confront some students having to change schools and move to a larger school (e.g., Kingsclear, Pennfield). In this regard, community presenters emphasized that the health and safety advantages afforded by smaller size, community support, and a stable environment could not be assumed simply to follow the students to a new location. They put the onus on the district and DEC to demonstrate how these advantages would be preserved at the receiving school, or how their loss would be addressed.

[81] The district amended this for their PM#3 presentation to read "there is not a full-sized gymnasium."

When it came to the "quality of education programs and services" criterion, many of the community presentations offered some interpretation of the provincial assessment data on their school, often in response to its inclusion in the district's PM#1 presentation. Some observed that the data demonstrated their school compared favourably with other schools and/or the district and provincial averages (e.g., Norton, McAdam, Millville, Napan, Janeville, North & South Esk). The Burton PSSC demonstrated how the assessment results are best considered across a range of nine or so years, to counter the variability introduced by small class sizes.[82] While noting that their school compared favourably, the Dorchester group highlighted how difficult it can be to draw conclusions from these data and elaborated on their contention that such scores do not reveal the whole story about quality of education. Typically, the community presentations drew attention to the various ways their schools delivered quality education to their students (citing as evidence testimonials from current and former students, the range of activities and events on offer, teacher support for extracurricular activities, alumni and community support for school initiatives and equipment/playground needs, etc.).

Perhaps the most common theme on this criterion across the community presentations was to challenge what appeared to be a dominant assumption in the PM#1 presentations, that larger schools trump smaller schools when it comes to quality of education. Community members observed that a simple counting of a small school's features that flags the lack of a full gym or cafeteria misses how teachers innovate with indoor and outdoor space to offer a range of physical activities and how communities organize to provide healthy food options (e.g., Pennfield, Dorchester, Napan). They pointed out how the use of a mobile cart carrying computer equipment to where the students are can lead to pedagogical outcomes as favourable as those achieved in designated computer labs (e.g., Burton, Pennfield), and they offered examples of how teaching staff and communities work together to counter any perceived lack of access to art or music (e.g., Dorchester). Across various PM#2 presentations (e.g., Coles Island, Dorchester, Pennfield, Norton, St. John the Baptist/King Edward, Burton, Kingsclear, Millville, Janeville, Napan), community members drew on various studies and their own experiences to provide a wealth of material detailing advantages of small school and class size (e.g., the benefits of lower student/teacher ratios to teacher-student relationships and to learning; the responsiveness of smaller schools to students with special needs, exceptional learners, and those from disadvantaged and minority backgrounds; the scale to counter isolation and anonymity and facilitate students developing a sense of belonging to their school community; lower drop-out rates; etc.).

Where transportation was an issue, the PM#2 discussions typically centered on how closing the schools would negatively impact travel safety as well as bussing times and costs. For example, Coles Island community members pointed to the dangers of increased exposure to driving hazards (e.g., transport truck traffic and highway speeds) and what increased travel time would mean for "little ones with little bladders." Similarly, the Janeville community provided details to underscore the dangers unpredictable stormy winter weather conditions combined

[82] This can be due to how students on individual education plans (IEPs) are included in the calculations, and the disproportionate effect this can have on the results in smaller sized classes.

with decreased snow plow services would pose to transporting elementary students from Janeville to Bathurst. Presenters from both communities highlighted how the increased travel time would affect a student's time spent on the bus and, consequently, their time available for family and free-time activities.[83] Community members from McAdam and Riverside raised questions about how the bus travel time data were calculated, casting doubt on their accuracy. Some PSSCs/community groups had not obtained requested transportation data in time for the PM#2 presentation, so used the opportunity to raise questions they thought needed to be addressed to properly assess the transportation criterion (Pennfield, Norton): If our school were to close, what is the bussing plan? Are additional drivers/busses required? What are the costs? What are the impacts on how long our children will be riding the bus? Finally, the PSSC/community groups presenting on Hazen White/St. Francis and St. John the Baptist/King Edward schools in Saint John pointed out how the PM#1 presentations focussed on *driving* times to the new school, apparently not realizing that many in these communities had no access to a vehicle. They were able to draw attention to the walking times children would face, the hazard having to cross busy streets posed to young children, and the adverse impact the increased distance was likely to have on parents' ability to reach the school in a timely fashion.

For many community members, the finances criterion was regarded as particularly important, and also a challenging one to address given the information available to them. Many believed that the key reason their school was under study and being considered for possible closure was a financial one. In interviews, they indicated that they, too, were well aware of the fiscal challenges facing New Brunswick and the need to get the most value out of every education dollar. Given this awareness, they went on to offer a typical comment: "I don't want my school to close, but if there is a good, solid case for closing it, then I can accept that." What was a sore spot for many was that they did not believe the district had made a good, solid case in what had been presented to the community in PM#1.

In this regard, a number of areas of common concern regarding the finances criterion emerged in what those interviewed had to say and what was presented at PM#2. One was that they had not been provided at PM#1 with a clear, detailed breakdown of anticipated cost savings, information some assumed would (and should) have been available to the DEC prior to making the decision to launch the SSS. While there was some variation across the districts in the cost data provided at PM#1, they all tended to provide a breakdown of facilities, staffing and instructional costs as well as cost estimates for needed capital improvements. However, only rarely have anticipated cost savings been detailed.[84]

[83] Similar PM#2 arguments were made by the Brown's Flat community in their response to the proposal to close their school and bus their children to Westfield, and by the Riverside Consolidated School community in response to the proposal to close their school and bus their children to Hillsborough. The Napan and Millville communities similarly provided detail on how closing their school would affect the "time spent on bus" of their children.
[84] For example, ASSD included a brief reference to areas of anticipated savings in the Lawrence Station SSS, and AESD provided a breakdown of "potential consolidated cost savings" in the PM#1 presentations for Dorchester and Riverside.

Typically, communities understood the implication from the PM#1 presentation of capital improvement cost estimates and facilities/instructional/staffing costs to be that savings would be realized if their school were to close, particularly on the staffing and one-time capital improvement cost avoidance sides. But the question of "how much?" remained. Community members, in interviews and across the PM#2 presentations, pointed out a number of issues that had yet to be addressed. As the school receiving their students would likely need to increase its teaching FTE complement to accommodate the increase in enrolment, how much in staffing costs would actually be saved? How much of the instructional costs would simply transfer with the students to the new school? Is it safe to assume most of the facilities costs associated with the school would count as "savings" if the school closed (which AESD appeared to assume for Dorchester and Riverside), or would some of the costs (e.g., heating) remain?[85] What additional facilities costs are incurred at the school receiving the students?[86] What is the impact on transportation costs? Are the investments the community has made in technology and playground facilities for the school taken into account? Are the anticipated savings of such a magnitude (as a percentage of the district's or department's budget) that it makes sense to close down a community's school, particularly in a rural area? From the communities' perspective, judging the sustainability of a school against the finances criterion without those questions answered did not make good sense.

A related concern pertained to the accuracy of the cost estimates attached to the list of required capital improvements and the question of whether or not all the listed improvement projects were necessary.[87] In a number of communities, individuals with construction expertise were able to review the items on the list and provide revised estimates. For example, in Dorchester, this brought the list of 21 required capital improvement projects estimated to cost $1,837,000 down to 9 projects with an estimated cost of $196,000. Some of the reduction in numbers of projects and costs was due to the community identifying certain projects as unnecessary (e.g., interior renovations and alterations to offices), others that could be completed by volunteer labour (e.g., interior finishing of a gym floor),[88] others that could be addressed more cheaply (e.g., alternatives to a $250,000 lift for addressing accessibility), and one that had already been completed (roofs, $122,000).[89] For community members, the

[85] One community member pointed out to me that they knew this was an issue, but had run out of time before they had learned the details. The DEC minutes reveal that, at some point after a school is closed, the DEC can vote to declare the building surplus and ownership of the building transfers over to the Department of Transportation and Infrastructure (and that department would then assume any ongoing facilities costs associated with the building). This would appear to represent a saving only on the EECD ledger, not the province's overall, though that would depend on whether the building was subsequently sold or repurposed.

[86] Kingsclear offers an example where projected enrolments at potential receiving schools are such that portable classrooms may need to be added, with these being variously priced between $190,000 - $225,000 across SSS documentation. The AWSD DEC minutes of May 18, 2017 cite a price tag of $100,000 - $150,000.

[87] Those with DEC experience explained that these cost estimates are provided by the province, not by the districts.

[88] There can be issues around using volunteer labour, pertaining both to insurance coverage and union contracts.

[89] Perhaps in response to questions (e.g., raised by Millville) about how necessary some of the "required" capital improvements are, AWSD is now routinely including an indication of the priority attached to each project on the list (e.g., Kingclear PM#1 presentation), clarifying that this is not a list of immediately required expenditures.

concern here is whether the cost estimates tend to be over-estimates that then help to paint an unfairly negative picture of their school's sustainability. Interestingly, it is not only community members who have raised questions about how capital improvement projects are costed. For example, the AWSD minutes of September 27, 2011 indicate some DEC members were expressing concern about the estimates provided by the (then) Department of Supply and Services for proposed capital improvement projects; the minutes record "There was general displeasure stated on the estimates given by DSS vs the actual costs...."[90]

Turning to the "impact on other schools" criterion, many of the PSSCs/community groups focussed on drawing attention to considerations that were not included in the PM#1 presentations. For example, Kingsclear highlighted how relocating their students would only add to the overcrowding problems at the proposed receiving schools. Pennfield pointed out that a closure would bring more disruption to schools dealing with a recent grade reconfiguration and would likely result in more requests from the Pennfield area to have their children attend school in St. George rather than the proposed school in Black's Harbour. McAdam highlighted some of the infrastructure changes that would be required at the receiving high school to accommodate the McAdam elementary students, and raised the issue that the availability of existing gym, library, computer lab, and playground/field facilities may be reduced with the increased enrolment at the receiving school. Janeville emphasized that the benefits of smaller schools they had documented (e.g., stronger academic success) would be lost with the increased size of the receiving schools. They added this increased size would require either more teachers or an increased use of combined classes (which, they noted, would contradict the district's claim that one positive outcome of closure and consolidation would be a decreased incidence of combined classes). Fort Folly First Nation, in their submission to the Dorchester SSS, observed that, while the district had identified problems with access to specialists in art, music, and physical education at Dorchester, they had not shown how these problems would be addressed in terms of the resources available at the receiving schools. Some PSSCs/community groups (e.g., Napan) emphasized that their school was doing a good job preparing their students for their transition to the next step (e.g., middle school), and a "status quo" outcome would not negatively impact these other schools.

Reading across the PM#2 presentations reveals a range of points that PSSCs/community groups made to establish how deeply impacted their community would be if their school were to close. Many referenced the various and numerous connections between their school and community (activities, events, fundraising and donations, etc.) to underscore the value they

[90] Communities flagged some additional issues requiring attention when considering the finances criterion. For example, while cost per student and cost per square meter calculations may provide a more valid way of comparing schools, the Norton community observed that any such comparisons need to consider differences in average seniority of the teaching staff across schools. They noted that, admittedly, the costs at a school with a more senior teaching staff will be higher, but questioned whether this should count against the school's sustainability. The Brown's Flat community presented a review of research calling into question the assumption that closing small schools realizes the intended cost benefits (as Irwin and Seasons (2012) have pointed out, there has been a dearth of research evidence to help us assess the extent to which the projected cost savings assumed to follow a school closure are realized).

attached to their school given its central role engaging youth, bringing people together, strengthening community ties, and providing a source of pride and identity (e.g., Burton, Coles Island, Dorchester, Janeville, Kingsclear, Nackawic, Napan, Norton, Pennfield). Those from rural communities typically highlighted something of how their school/community connections engage their children in the history and culture of the area, helping to sustain a rural way of life (e.g., Janeville on the "downshore"). A number touched on financial impacts, citing, for example, the likelihood of losing population and failing to attract new families and workers to the area, with a consequent reduction in property values, tax revenue, and, potentially, employers (e.g., Pennfield, Brown's Flat, Norton, Dorchester, Napan, Burton, McAdam); the loss of the school as a purchaser of goods and services in the community (e.g., Pennfield, M. Gerald Teed); and the increased strain on child care and elder support services that can accompany the separation of families (where younger and older members are less able to provide support to each other) (e.g., Brown's Flat).[91] Some highlighted the disconnect that would be introduced with the closure of their school between parents/community and the school their children then attended, given the added travel distance (e.g., Dorchester, Hazen White/St. Francis, St. John the Baptist/King Edward). The PSSCs/community groups representing Hazen White/St. Francis, and St. John the Baptist/King Edward also drew attention to how integral a part the schools in their communities were playing in initiatives to address poverty.

Finally, when they came to the economic development criterion, many PSSCs/community groups sought to draw the DEC's attention to relevant matters that had not been covered in the district's PM#1 presentation. For example, the McAdam and Dorchester communities provided details of their economic development initiatives, and conveyed how a school closure would adversely affect their ability to take advantage of the growth opportunities they were pursuing. Others presented data on increases in building permits and new housing starts within their catchment areas as evidence of growth, and/or pointed to current and future economic developments in housing, tourism, mining, and construction (e.g., Norton, McAdam, Millville, Kingsclear, Nackawic) that held promise for attracting young families and boosting enrolments. The closure of their school, they noted, would put this growth in jeopardy. The PSSC/community groups representing St. John the Baptist/King Edward pointed out that their area had been identified as one the City of Saint John wanted to grow, so closing the school would be at odds with the City's growth strategy. Community members attached to some of the SJ Central City schools noted that the PM#1 presentations provided lists of local businesses and then, in their "summary of factors that determine a school's sustainability," stated "impact would be minimal" in terms of economic development, based on the observation that the nearby businesses would not be that far away from the proposed receiving school. This raised the concern for them that "minimal impact" was simply being assumed, as there was no evidence of the businesses having been contacted to get their assessment of what impact the school's closure might have on them.

[91] Some communities discussed the financial impacts they identified would follow from their school's closure under "impact on the community," while others (e.g., Napan) did so with reference to the "economic development" criterion. Given the descriptions of the two criteria offered in *Policy 409*, I have included discussion of financial impacts under "impact on the community."

A number of communities wound up their presentation by summarizing the ways in which their school demonstrated its sustainability in light of the eight required criteria, and concluding on this basis that a status quo outcome was warranted (e.g., Norton, Millville, Napan, Janeville). This was sometimes accompanied by an expression of the community's willingness to work further, and in collaboration with the district, to enhance their school's sustainability (e.g., Janeville).[92] However, others, either in conclusion or in connection with some of the criteria, introduced alternative options, or possible outcomes, for consideration. Some described, in greater or lesser detail, how a change to the catchment area boundaries would have the effect of increasing enrolments at their school, perhaps even allowing French immersion to be offered, while relieving overcrowding pressures at other schools, perhaps, in some cases, even eliminating the need for a new school (e.g., Brown's Flat, Kingsclear, Dorchester). Some suggested that, rather than review their school in isolation, it should be studied with neighbouring schools to allow consideration of how grades, catchment area boundaries, and out of zone transfer policies might best be configured to optimize the utilization of space and minimize negative impacts on communities (e.g., Pennfield, Dorchester, McAdam). The Dorchester community added that, given *Policy 409*'s stipulation that "whether a school is the sole school in the community" be considered in relation to "impact on the local community" (*section 6.4.4*), other options, including looking at consolidating schools in multi-school communities, should be explored before closing schools in sole-school communities. Finally, some recommended that further consideration be given to community school or "hub school" models and to revenue generation through converting space to alternative uses, e.g., a seniors complex (Coles Island), day care or after-school care (Dorchester, Pennfield), and housing of government/departmental services (Coles Island, Dorchester (Fort Folly First Nation)).[93]

In order to make a presentation to the DEC at PM#2, community members must register by a certain date a week or so before the meeting, providing information about themselves and the technology and time required for their presentation. District staff then produce an agenda, outlining the order of presentations and the time allotted for each. This format has each participant make their presentation, uninterrupted, in the order agreed upon and laid out in the agenda. This process generally appears to work well. However, in some cases, particularly where there has been a larger number of presenters, community members have suggested that two meetings be held to accommodate all the presentations. No one I spoke with could remember PM#2 ever being extended to an additional meeting (though the policy indicates that three meetings is just a minimum, and *Appendix C* of the policy makes clear that "[t]he DEC may arrange for as many meetings as necessary to appropriately consult on the study of a school's sustainability"). Instead, the districts in some cases have opted to cut back on the number of minutes allowed each presenter. Some community members described having to negotiate with the district staff for more time or opting to ignore the time limits on the night of

[92] A few (e.g., Pennfield, Kingsclear) included some points they wanted the district/DEC to consider should the recommendation be to close (e.g., transportation concerns and bussing suggestions, date of closure, choice of school to attend, what would happen to school assets purchased by the community).

[93] Ideas here included health or social services, forestry's use of school office and parking facilities, and the movement of district offices into under-utilized school space where this had not yet occurred.

the meeting. I was told by those with DEC experience that no one who had something to present would ever be cut off from speaking for either failing to register or going over their allotted time, with one noting that doing so would call the fairness of the proceedings into account. Accordingly, the districts' preferred strategy for dealing with these presentation time issues has been to extend the meeting (to over 3 hours in some cases) to ensure everyone has the opportunity to have their full say.

Describing the meeting itself, the PSSC/community members I spoke with indicated they were very satisfied with what they had been able to pull together and present in the time they had. Some were disappointed and concerned to find that not all DEC members were in attendance.[94] A few mentioned feeling some concern about being heard, one noting that some DEC members appeared "more focussed on their phones" through part of the meeting. However, others described DEC members taking notes and appearing attentive throughout. Based on what I was told, the typical pattern once the presentations had concluded was for the district staff member or DEC Chair moderating the meeting to thank the presenters, request a copy of the presentations, and provide information on next steps. A number of community members indicated they were disappointed there was no opportunity for questions and answers, no feedback, "no dialogue" with the DEC at this point.[95] Those who had offered alternative options for consideration had a particular interest in hearing what the DEC had to say in response. This left some community members wondering whether they had, indeed, been heard and understood, and for them, the time waiting between PM#2 and PM#3 had them on tenterhooks.[96]

[94] The minutes of the DEC meetings immediately preceding PM#2 indicate that some DEC Chairs are now reminding DEC members of the importance of attending the second public meeting. In ANSD, it appears this reminder is more strongly worded, with the meeting minutes recording that the chair "reminded Council members that their attendance is required at the public meeting" (e.g., August 17, 2015).

[95] Again, there was some variation in proceedings. One community member I spoke with described having a helpful Q&A segment with the DEC after the PM#2 presentations.

[96] One individual with DEC experience mentioned to me that community members can continue to make submissions for the DEC's consideration right up to when the DEC members meet to vote on a final decision, and documentary evidence suggests this has been the case in at least two of the districts (AWSD and ASSD). However, none of the community members interviewed mentioned doing this, or even being aware that they could do so. It may be that, after their PM#2 presentations, community members have little more to add at this point in the process. However, it may also be that there is some misunderstanding about the period within which comments may be submitted, and a need to communicate this opportunity more clearly to the school community. Invitations to attend PM#3 that AWSD has sent out to parents/guardians a week or so before the meeting of the final vote have not included a reminder. ASSD routinely included a comment in their PM#1 presentations for the SSSs conducted in 2014-2015 that feedback could be submitted "throughout the process." However, it was announced at a DEC meeting held shortly after the PM#2 for two of those schools (Lorne, Pennfield) that "the process is now complete" and all documents related to the two studies had been posted for the DEC to review, with the next step being a meeting to review concerns raised and determine the final outcome (ASSD DEC minutes, February 11, 2015). The final outcome in those cases was determined a month later at PM#3, the following DEC meeting, on March 19, 2015.

The DEC decision-making process and Public Meeting #3

While community members are generally in "wait mode" after PM#2,[97] the DEC members are faced with the task of reflecting upon the materials generated through the public consultation, discussing what they have learned, and then making a decision on the outcome. These materials are made available to the DEC members on the district website, either publicly or through a password protected portal. *Policy 409* lays out some provisions that inform the DEC members' deliberations at this point. They are to decide on one of three outcomes ("maintaining the status quo, repairing the school or closing the school and placing students elsewhere," *section 6.4.2*). They are to consider (at least) the eight required sustainability criteria and demonstrate how they have been considered (*section 6.4.4*, *Appendix C*). Looking ahead to what is typically the purpose of PM#3, they are "to provide the public with the results of the consultation, including an account of the factors considered" (*section 6.5.4*).

The decision making process varies somewhat across the four districts. Anglophone North is perhaps the most distinct in this regard, with the DEC typically meeting to make their decision immediately or shortly after PM#2. Only the DEC members and their secretary are in attendance at this working meeting (no additional district staff), and a decision is reached through a consensus vote. In response to public concern raised during the Napan SSS, the ANSD DEC allows only those members to vote who were in attendance to hear the public presentations at PM#2.[98] While a motion is put forward at PM#3 and a formal vote taken, effectively the outcome is simply being announced, as the decision was made at the prior working meeting.

In the other three Anglophone districts, the DECs typically hold one or two working meetings (more if needed) once members have had a chance to review information gathered to this point in the SSS process. Meetings may be scheduled at various points between the second and third public meetings, in some cases shortly before PM#3. In some of these districts, and with a view to assisting the DEC members in their deliberations, the staff prepare a review document summarizing what has been done, in terms of the process, and what has been learned in relation to the required criteria. In AWSD and ASSD, district staff are typically available for these working meetings to answer questions and provide clarification. One individual with DEC experience described these meetings as providing an opportunity for DEC members first to share what they have heard and "make sure everyone is on the same page" (for example, in terms of reaching agreement on how to interpret the various criteria), and then to have an open discussion about the outcomes in light of what was learned. Whether or not a straw vote is taken at these meetings has varied across the three districts, with ASSD described as avoiding taking a straw vote, AWSD as taking a straw vote in some cases but not in others, and AESD as having members voice their views and/or voting inclinations and work towards a

[97] There were exceptions to waiting. Some community members had contact with the media and/or politicians between the second and third public meetings, to argue for their school but also to express their concerns about the SSS process.

[98] The ANSD DEC also requires that a majority of members be in attendance at PM#2.

consensus. Having encouraged their members to attend PM#1 and especially PM#2, the DECs in these three districts allow all members a vote on the final outcome regardless of their attendance at the public meetings. As explained to me, the rationale here is that all of the materials gathered through the first two public meetings are made available to DEC members for review, that DEC members take seriously the responsibility to make an informed decision, and that DEC members who believe they are not sufficiently informed prior to having to vote can opt to abstain.

In addition to questioning DEC members being allowed to vote when they have not attended PM#2, community members raised four concerns about the DEC decision-making process. The first was whether the DEC members had sufficient opportunity to acquire more than a surface-level familiarity with their school and sufficient time to do a thorough and thoughtful review of everything the community had presented, given the timeframe. This was of particular concern when two or more SSSs were underway in a district at the same time. For example, in AESD, Dorchester and Riverside were reviewed over the same (roughly) two month time period, with 8 calendar days allowed between PM#2 and PM#3 for Dorchester, and 14 calendar days for Riverside, with seven of those days overlapping between the two (see SSS timeline chart, Appendix E). Community members questioned: Given that DEC members are volunteers, some with day jobs and other commitments, does this afford them the time to wade through and absorb the volume of information produced? And when a DEC has two or even more SSSs overlapping in time, are the members able to keep all the significant details sorted and clearly in view? That this is an issue for the DECs appears to be confirmed by the recent Kingsclear SSS in AWSD. In the meeting notes produced for Kingsclear's PM#1, under "public comments and questions," a district/DEC response to a question about the timing of the study is recorded as follows: "This is our only study we are focused on now and we will do it well. In the past we have done 3-4 studies a year that caused us to be bogged down in studies. Timeline is a factor that the Council has to think about."

A second concern community members raised about the DEC decision-making process centred on how DEC members weighted the eight required criteria. A common question here was whether the study was really "just all about the money," or whether the quality of education for the students and impacts on the local community carried their fair weight. It appears that in at least some cases, when it came down to a final decision, it was the anticipated cost savings in light of the province's fiscal situation – the weight of the "finances" criterion – that inclined DEC members towards the closure outcome. For example, the AWSD DEC meeting minutes for March 19, 2015 record that, during the PM#3 discussion resulting in the vote to close Coles Island School, a DEC member expressed support for rural schools and recognized community concerns about bussing students further distances. However, this member went on to conclude "we have to keep in mind the financial state of our Province, and we are all just trying to do our part."[99] Similarly, in Anglophone South, the DEC's decision has

[99] The third public meeting of the SSS consultation process is typically scheduled with a regular DEC meeting, where the SSS is one agenda item. I was told that this is done primarily to save DEC members from having to attend an additional meeting. As a result, PM#3 tends to be more thoroughly documented in the DEC's regular

been framed in terms of a need to be realistic, to opt for "the lesser of three evils" and to attempt "to mitigate the cutting of programs and people by closing under-utilized facilities" – "Fredericton will make these decisions for us if we don't advocate for the students" (ASSD DEC meeting minutes, March 19, 2015). The need to identify and realize financial savings has been a common backdrop to the SSSs taking place in recent years across the districts. At the level of the individual SSS, this has meant operating costs along with outstanding capital improvements and their associated costs have come under particular scrutiny. For some DEC members, calculations anticipating sizable cost savings have helped to tip the scales in favour of a closure decision.[100]

One element of the "quality of education programs and services" criterion, the larger school/smaller school contrast touched upon earlier, also garners considerable attention in the SSSs, but has tended to be weighted differently by the districts than by the communities. In district documents, the quality of education programs and services a smaller school is able to provide, while strong, is typically presented as not matching the breadth and overall depth of what larger schools are able to offer. For community members, it is the smaller size of their schools that underwrites the quality of education their students are receiving. In district documents, an opportunity for students to move to a larger school, with all it has to offer, is offered in support of the case for closure of the school under study. For community members, the opportunity for their students to experience the benefits of a smaller school supports the case for the school's sustainability. What remains unclear is how DEC members have assessed these opposed positions on school size and therefore how they have weighted the quality of education criterion when contemplating a possible closure outcome.

It is evident in the written documentation of certain SSSs that the transportation criterion has at times carried considerable weight inclining DEC members to favour the status quo option (e.g., Riverside, Janeville). Typically, this has happened once they have learned, through community led tours or additional information provided by community members or district staff, that a proposed closure would require elementary aged school children to take long bus rides on roads known to be hazardous or to walk long distances and traverse busy streets. Indeed one individual recounted that, in the Riverside case, had the detailed travel time and road information been available at the outset, the SSS would never have been launched.

The criteria that DEC members appear to find particularly challenging to weigh as they deliberate the final outcome are "impact on the local community" and "economic development." I was told that, although district staff typically gather some information relevant to these criteria at the PM#1 stage, the districts/DECs rely to a great degree on

meeting minutes than is the case with either PM#1 and PM#2. These minutes typically report on any discussion the DEC members have regarding the SSS and its conclusion, and shed some light on their decision-making.

[100] As the DEC meeting minutes reporting on PM#3 discussions reveal, other DEC members appear to have attached less weight to such calculations in their decision-making. Some have expressed doubts that any cost savings derived from closing a school would save people and programs from being cut. Others have taken the stance that a larger scale study should be undertaken and other alternatives considered before closing an individual school.

community members to provide them with the information needed to assess them. As noted earlier, community members have obliged, providing a wealth of concrete examples to demonstrate how their school plays a key role attracting new families (with school-aged children) to their community; how school/community connections provide unique opportunities for youth to learn and celebrate their community's history and way of life; how continued parental involvement with their child's school will be challenged by the greater distance to the proposed receiving school; and how local businesses will be adversely affected by the loss of consumer spending by the school, its staff and students, and/or by the greater challenge of attracting and retaining workers and their families in a community with no school. In addition, they have provided information about various economic initiatives in their communities that hold promise for enrolment growth and/or may be negatively impacted by the school's closure.

DEC members appear, at least at times, to be divided on how to assess these criteria. Meeting documentation shows that, as they deliberate and work towards a final decision, some DEC members draw explicit attention to the fact that the school is the sole school in the community, and encourage their DEC colleagues to consider what the school's closure would mean for the community. Some make reference to *Policy 409*'s principle recognizing schools' integral cultural and community role. Judging from their recorded comments, DEC members generally recognize and accept that losing a school removes one of the pillars that support community belonging and well-being. For some, this may prove decisive. However, one issue some DEC members struggle with in this regard pertains to where a DEC's responsibilities are seen to lie. Under the *Education Act*, a DEC's primary responsibilities center on establishing, implementing, and monitoring an education plan and expenditure plan for the district. The focus is on making the best use of available resources to deliver the strongest possible educational programs and services to students within the district. Given this mandate, some DEC members view enrolments (whether low or projected to decline), finances, and the quality of education programs and services as the criteria deserving primary weight in a SSS. For them, considering "impact on the local community" is understood more in terms of assessing how a community's engagement with their school might be transferred along with the students to the receiving school than with assessing what impact a school closure would have on the cultural and economic viability of the community. Considering "economic development" is understood in terms of assessing the impact economic developments in the community might have on future enrolments, not assessing how the school closure might impede a community's/municipality's growth plans. As one individual with DEC experience mentioned to me:

> The challenge is we don't have a line item in our budget called economic development. We have to be concerned with the educational aspects of it. I can't look at a community and say we're going to spend millions of dollars keeping a building going just because you've got some business that would fail if it goes out. That's not my job."

For this individual, the prospect that a closure decision would result in the loss of a community program that supports student learning carries weight in the final decision-making where the

prospect that a closure decision would result in the closure of a day care centre down the road does not. However, as this individual acknowledged, not all DEC members draw the same conclusions about how to assess and weight these criteria.[101]

A third concern community members have raised about the decision-making process centres on the potential for incorrect or misleading information to sway the final decision. For example, what if the DEC attached weight to declining enrolment projections, and those projections were inaccurate? In the Burton 2015 SSS, community members were able to go back to the 2011 SSS conducted on their school and point out that the enrolment projections the district put forward in 2011 under-estimated the actual enrolments in subsequent years. This they attributed to a unique feature of their community, their connections to Base Gagetown, which they believed complicated the task of projecting enrolments. Similarly, community supporters of Hazen White/St. Francis School noted that the enrolment projections supporting the proposal to close their school were based on outdated information, failing to include the impact of the arrival of Syrian newcomer families.

Across various PM#2 presentations, community members have drawn attention to problems they saw with the information provided in the district's PM#1 presentation. They questioned the lack of detail (e.g., on how "classrooms" were being counted in functional capacity calculations; how enrolment projections, projections for possible bus routes/times, and anticipated cost savings were being calculated). They referred to personal experiences as well as studies challenging assumptions that larger schools, a full "middle school experience," and single-grade classes necessarily offer students a better educational opportunity. They pointed out where evidence had not been provided to demonstrate, for example, what savings would result from closing the school or why the advantages of a new building were judged to outweigh the advantages of taking care of existing assets. They flagged and corrected errors in the data (e.g., regarding current year enrolments; current bus schedules/times; their school's physical features, e.g., presence of a gym). They raised questions about how information was being interpreted (e.g., enrolment declines due, not to loss of population, but grade reconfigurations or changes to French Immersion entry points; lists of needed capital improvements that did not include an indication of their urgency/priority; data on operating costs without comparison data). They highlighted where their district had neglected certain of the eight required criteria (in particular impact on the community and economic development) as well as information that supported sustaining vs. closing their school, and they attempted to fill in the gaps.

[101] Judging from the available SSS documentation, the remaining two criteria (health and safety, impact on other schools) have generally played a less prominent role in the final decision-making. As noted earlier, one individual with DEC experience mentioned to me that once a health and safety issue is identified in a school, it is addressed as quickly as possible; so if there are no health and safety issues with a school, then this criterion would carry no weight. Another framed it differently, that being in good physical shape with no health and safety issues adds some weight to the "sustainable" side of the ledger. Impact on other schools has typically been considered in terms of whether or not the receiving school has the physical capacity to absorb the students of the school under study. Usually, the district has assessed this prior to the launch of the SSS, though it can happen that capacity challenges for receiving schools are identified only once the SSS is underway (e.g., Kingsclear).

The outstanding question for community members here, as they thought about the DEC members coming to a decision about their school, was simply "Do they have the correct information?" I was told by those with DEC experience that district staff make every effort to ensure that DEC members have the most up to date information available to them at this stage in the process, and that any discrepancies between information provided by the district at PM#1 and the community at PM#2 have been accounted for satisfactorily. However, for community members, this has often remained an unknown, leaving them to wonder whether their school's sustainability is being judged incorrectly, and unfairly.

Finally, community members expressed concern that additional issues they raised for consideration, beyond examining the eight required criteria, may not be taken into account during the final decision-making. For example, some argued that it was premature to make a decision about their school under *Policy 409* without first conducting a catchment area review of schools in the region (e.g., Kingsclear). Others argued that time be given to allow other options to be considered (e.g., altering the grade configurations with neighbouring schools, studying revenue-generating ways of using excess space in the school) so that a longer term sustainability plan for their school could be developed (e.g., Pennfield, Dorchester).[102]

As the DEC members sit down to deliberate, district staff are involved in preparations for the actual meeting. In three of the Anglophone districts (ANSD, AWSD, and ASSD), this involves putting together a summary report that is presented by the DEC Chair at the third public meeting.[103] While similar in some respects, the AWSD and ANSD reports differ in some noticeable ways.

In AWSD, this "executive summary" is produced as a powerpoint presentation and follows a fairly standardized format for each SSS. The presentation typically begins with a series of slides (many filled with an abundance of words in a relatively small-sized font) describing something of the SSS process to this point: the date the study was launched, whether or not the school is a triggered school, the meetings and communications that make up the "public consultation," and the three possible SSS outcomes under *Policy 409* and what each would mean for this particular school. This is followed by a series of slides bearing the title "Public Consultation and

[102] As events unfolded, it appears these arguments may have been persuasive in Dorchester, but not in Pennfield.

[103] AESD does not appear to have produced a summary report for either of the two SSS conducted in 2015 (Dorchester, Riverside). As both resulted in "status quo" outcomes, there is no onus on the DEC to provide a full report to the Minister. However, it is recorded in their April 21, 2015 minutes that "it was decided by consensus that a policy 409 report be produced for all schools subjected to a sustainability study at the completion of the study." The ASSD DEC March 19, 2015 minutes indicate that the summary highlights "the public consultation meeting dates at the school, the numbers/groups who attended and comments/questions raised during these meetings." From what I have been told, the ASSD reports have some features similar to those in the AWSD reports (detailing of process features) and others that overlap with the ANSD reports (format for presenting what was learned about each of the required criteria). This would appear to be confirmed by the "Summary of *Policy 409* Consultations" reports posted to the ASSD website for the most recent Hazen White/St. Francis SSS (January – April 2018). To date, I have not obtained a copy of an ASSD summary report from any of the SSSs conducted from 2014-2017. What follows draws on the documentation provided by AWSD and ANSD.

Application of Procedural Fairness," where there is an emphasis on highlighting how the SSS unfolded in ways consistent with the policy's requirement of procedural fairness. Details are provided on how the Minister and parents/guardians were kept informed, how relevant information was provided to the public and for the DEC's consideration, and what was presented by the district at Public Meeting #1. This summary of what was presented at PM#1 typically comprises about half of the total content of the executive summary, with one-two slides on each of the eight required criteria describing what the district presented on each.

While much of what is covered here repeats in summary form what was covered during the PM#1 presentation, some modifications have been made to reflect community input or information district staff produced before PM#2 in response to community queries. However, there is also some evidence of lingering discrepancies between the information presented by the district and that presented by the community. For example, while the district repeats the enrolment projections for Burton Elementary (2015) that they included in their PM#1 presentation, they add the observation "It is noted that being adjacent to a Canadian Forces Base makes it more difficult to project enrolment for the future due to military postings and where new families choose to live." This acknowledges a point Burton community members made at PM#2, noted earlier, that the enrolment projections the district made in the 2011 Burton SSS had underestimated the actual enrolments, which the community members attributed to not having considered Burton's military connection. Nevertheless, despite this acknowledgement and despite the trend line for 2008 – 2015 enrolments showing a slight increase (PM#1 presentation, slide 4), the PM#3 summary still states as a conclusion that "enrolment at [Burton Elementary School] is projected to decline slightly."[104]

Once the information covering PM#1's review of the eight criteria has been presented, the Executive Summary turns to PM#2. Typically this meeting is summarized on one slide, and a brief descriptive overview is provided of the content. For example, in Burton's case, it was noted that the PM#2 presentations "touched on the eight criteria outlined in Policy 409…. Major concerns centered around loss of the school as the heart of the community, loss of small class sizes, and loss of the opportunity to learn in their own community elementary school." Key themes are highlighted, but not in the same detail as was provided in the PM#1 summary. Once again, lingering discrepancies are in evidence. When describing the community submissions presented at PM#2, the Burton 2015 PM#3 Executive Summary includes the statement "Two presentations challenged the numbers presented by the Superintendent throughout the study, presenting an alternative view." As a summary statement on the process, this invites the public, and indeed the DEC, to question which "facts" or "alternative views" are to prevail when it comes to making a decision.

[104] The online profile for Burton Elementary School indicates enrolment at the end of the 2017-2018 school year was 37 students. At the time of the 2015 SSS, the projected enrolment for 2018 was 44 students. That the actual enrolment is below the projected enrolment could be seen as supportive of this earlier "enrolment decline" projection. However, drawing such a conclusion is complicated by an unknown here, i.e., the possible negative impact that two sustainability studies in four years (2011, 2015), followed by further DEC discussion about studying Burton again, may have had on parents' decisions to enroll their children in the school.

Still under the heading of "procedural fairness," the next two slides detail the opportunities provided for the community to engage in the SSS process, and describe the PM#3 process (which includes the presentation of the executive summary) and next steps (making a decision, and communicating that decision). The summary then concludes with what appear to be two standard slides: The first, on "DEC Reflections and Considerations," underscores the steps the DEC has taken to reach a decision in line with *Policy 409* requirements (taking time to review documents, asking questions of district staff, meeting in working sessions to discuss and reflect on the information). The second, on "Minister's Responsibilities" indicates that, if the DEC recommends closure, the Minister, in accordance with the policy, will review the report submitted by the district (which includes the vast majority of documentation accumulated through the SSS), and assess it for procedural fairness, reaching a decision between 30-60 days; then the superintendent will notify parents/guardians and school staff of the conclusion.

Describing being in the audience at PM#3, one community member observed:

> One thing that we were kind of a little surprised to see was that there was less information taken out of ours, and it was just mainly verbally discussed versus being on record. It was their slides that tended to be more on record.

This person went on to say that the verbal recap of their presentation was generally good, "though we did feel that they kind of missed the mark on some of the points we were trying to raise." They were pleased that the subsequent opportunity for discussion during the meeting allowed them the chance to provide some clarification on these points. However, they remained concerned about how the greater weight accorded the PM#1 presentation and any unresolved points of disagreement might have figured in the DEC's decision-making.

In contrast to the AWSD summary report, which devotes considerable space to detailing how the SSS process unfolded for the school under study, in addition to summarizing what was learned regarding the eight required criteria, the ANSD reports have been focussed entirely on the latter. The ANSD reports are formatted as a text document (not a powerpoint presentation) and have varied between 3-7 pages in length. Each report begins with a short statement outlining the possible outcomes under consideration for the particular school(s) under study. In some cases, this has been immediately followed by a statement indicating the particular outcome the DEC decided to recommend; in other cases, the recommendation appears at the end of the report. The rest of the report takes the form of a chart with the eight required criteria appearing in the left column, and the right column listing the specific "points to consider" on each criterion that emerged from the SSS and informed the DEC's decision.

As the final report for Napan Elementary School illustrates, these entries incorporate points the district made at the PM#1 presentation (e.g., that enrolments are projected to increase), points the community raised at PM#2 (e.g., that, while there are outstanding capital projects, none are considered priority projects at this time), and recent updates on information previously presented (e.g., that student-teacher ratio has recently changed and is closer to the ratio other elementary schools have in the district). Rather than simply summarize information

presented at the two public meetings, the entries also provide insights into the conclusions the DEC reached about each criterion (e.g., for Napan, that closing the school at this time would result in about $300,000 in savings, would take the heart out of the community, and may put the 32 businesses currently operating in Napan at risk, should people moving to the area not choose Napan as a place of residence because of the lack of a school). Although the question of what weight the DEC ended up attaching to each criterion remains, the report is clearly tailored towards meeting the DEC's responsibilities under *section 6.5.4*, "to provide the public with the results of the consultation, including an account of the factors considered, as per *section 6.4* of this policy" (i.e., as per the required criteria and any other factors).

The two districts illustrate two different approaches to producing a SSS final report. AWSD has used the opportunity to underscore the efforts made to ensure procedural fairness, and to provide an overview of what was presented at the first two public meetings, with some effort to reconcile discrepancies between the two. Greater detail is provided on the information presented by the district at PM#1 than to the information presented by the community at PM#2, but beyond this, there is little indication of what conclusions the DEC might be drawing regarding the eight criteria. In contrast, the ANSD final report offers no explicit commentary on the procedural fairness of the process, nor does it review what was presented at the first two public meetings. Rather, it is more narrowly focussed on providing "an account of the factors considered," and in so doing provides insights into what exactly the DEC was focussed on for each of the eight criteria when it came to deciding a final outcome for the particular school under study. The differences between the two reports suggest they may have been crafted with a different sense of intended (primary) audience. The community members in attendance at PM#3 appear to be the audience in mind for the ANSD report. However, the AWSD executive summary appears to have been put together with a broader audience in mind, one that included not just the community members at PM#3, but the Minister who would evaluate the procedural fairness of the SSS before approving any recommendation to repair or close the school.

These final reports are presented at PM#3, by the Superintendent in AWSD and by the DEC Chair in ASSD and ANSD. In ANSD, once the DEC's recommendation has been read out, a formal motion is put forward to approve it. Judging from the ANSD DEC minutes for these PM#3 meetings, no comments or discussion on the motion have preceded the final vote. In the other three districts, the PM#3 minutes indicate that at least some of the DEC members in attendance at PM#3 speak to the motion before the final vote. Their comments here provide the community members in attendance with some insight into what considerations were front and center in each DEC member's mind as they voted, whether in favour of recommending closure (e.g., the amenities available at a larger school, the need to choose people and programs over facilities) or against (e.g., the need for a multi-school plan, the dangers of longer bus rides over hazardous roads).[105] In AESD, DEC members took the opportunity to comment on the community's presentations and on the process (with one member suggesting that

[105] Some community members expressed disappointment that some DEC members chose not to speak and provide an indication why they voted the way they did.

Dorchester should have been studied as part of a collection of schools, not on its own). In recommending status quo for Riverside, they noted that community members had good ideas about strengthening their school's sustainability and encouraged them to pursue them given that their school may be subject to future sustainability study.

I was told, and the DEC minutes confirm, that community members in attendance at PM#3 have an opportunity to speak when the chair opens the floor for public comments.[106] However, it is not clear that this opportunity has been made available in every case, for some community members reported they were not given this chance ("we couldn't speak, it was just them voting"). It is only the DEC members who are allowed to speak to the actual motion. One community member noted it would be helpful to know what the motion is before having an opportunity to speak, for then one could direct one's comments most appropriately to the motion under consideration. However, community members who spoke before a motion had been made still appreciated the opportunity to re-emphasize some key points before the DEC voted.

Aftermath and Minister's role

Once a DEC has voted to recommend closing a school, it must inform the EECD Minister and "demonstrate how the requirements of this policy have been applied." The Minister then reviews the submitted materials and decides whether to approve the DEC's recommendation. I was told that, for the approval process, the district staff prepare a "binder" of materials from the SSS, including those from the public consultation phase and the final report, and this is then forwarded to the department. In accordance with the policy, this binder of materials must show how the requirements of *Policy* 409 have been applied through the SSS process. Upon receipt, department staff vet the submitted materials and may contact the district if they see a need for additional information. They then submit the binder, along with their recommendation whether or not to approve the closure recommendation, to the Minister for review.[107] In certain cases, community members have contacted the Minister during this period to express outstanding concerns about the SSS process and indicate why the decision to close their school should not be approved.

The binder consists of a considerable volume of the documentation produced through the SSS. Collectively, these documents provide evidence of the district/DEC's efforts to meet the requirements of the policy (and thus "procedural fairness"). In this regard, they typically include copies of the letters sent to inform parents/guardians at various stages in the process; a copy of the timeline (required under *section 6.5.2*); copies of meeting notices placed in newspapers or posted in public places; a copy of the PM#1 presentation (providing relevant

[106] The point in the meeting where the floor is opened for public comments has varied. For example, in ASSD, it has typically happened before a motion is put forward and a vote taken on a SSS outcome, but in AESD, for the studies of Dorchester and Riverside in 2015, the time for public comments occurred immediately after the DEC had moved and approved "status quo" for each school.

[107] This part of the process was described in *Her Majesty the Queen in Right of the Province of New Brunswick…v. Kennedy et al.* (2015).

information to the public, as required under *section 6.5.3* and in accordance with section *6.4.4* on the required criteria); copies of all submitted PM#2 documents; copies of the final report (or executive summary) presented at PM#3, etc.[108] As noted earlier, the final reports presented at PM#3 typically respond to the policy requirement to "provide an account of the factors considered" in light of the eight sustainability criteria, and, at least for AWSD, provide a summary addressing how procedural fairness was applied. Thus the binders, with the final reports included, address two of the criteria against which the Minister will review their recommendation: "*principles of procedural fairness*, with consideration of *the factors taken into account during the public consultation process*" (emphasis added) (*section 6.6.3*). The meaning of the third criterion referenced in that section, that consideration of "relevant educational options" needs to have been demonstrated, is less clearly specified in the policy.

So how exactly does a Minister proceed to conduct a review of a SSS closure recommendation? To date, I have not been able to obtain any first-hand information on how, in practice, a Minister assesses that the process has followed the principles of "procedural fairness," that the required criteria have been taken into account, and that relevant educational options have been considered. What exactly do they look for when reviewing the DEC's decision "in relation to the principles of procedural fairness, with consideration of the factors taken into account during the public consultation process" (*section 6.6.3*)? How do they decide whether those affected have been provided with "real opportunity…to provide input" (*section 3.0*)? How do they judge whether the district's timeframe for consultation provided community members with adequate time to consider the information provided and prepare their presentations (*section 6.5*)? What do they look for to determine whether "relevant educational options" have been considered? Are they only to ensure that the study included some consideration of each of the eight required criteria and of "relevant educational options," or are they to ensure that these were considered impartially and based on clear evidence, with discrepancies between district and community presentations resolved (i.e., that the public was "heard," *section 6.5*)? These are the sorts of questions community members have of the Minister's review process.[109]

For a number of those with DEC experience, the concern has been more that the Minister has the authority to overturn a DEC decision to close a school. The worry here appears to be that a Minister may withhold approval, not because of procedures being improperly followed or the eight criteria not being fully taken into account, but because of political pressures or the Minister simply looking at the information and arriving at a different conclusion than did the DEC members. This concern likely informs the Council of DEC Chairs' request to the Minister that this "veto authority" be removed from *Policy 409* and instead that proposals not meeting the Minister's requirements be returned to the districts for revision and resubmission (ANSD

[108] A quick browse through the materials posted to the AWSD website for any of the SSSs they have conducted over recent years will provide an indication of how extensive the binder documentation is (currently archived at http://web1.nbed.nb.ca/sites/ASD-W/sustainability/Pages/2014-15-Sustainability-Studies.aspx).

[109] Some insights into what is likely involved in this review process may be gleaned from a review of court cases in Canada that have looked at school closure and procedural fairness (*The Canadian Legal Literature Institute* database: https://www.canlii.org/en/#search/linkedNoteup=).

DEC meeting minutes, November 17, 2014). Nevertheless, as one person with DEC experience mentioned to me, the ministerial veto may be useful in some cases where, for example, the government may know of some economic initiative that is not yet public knowledge but could have a bearing on the school's enrolment projections and, had this been known, might have altered the DEC's decision.

The district notifies parents/guardians as soon as the Minister's decision has been received. Where a recommendation to close a school has been approved, *section 6.6.5* indicates: "Sufficient notice must be provided to permit relocated students and their families to participate fully in the programs and activities offered in the new school." A concern in this regard was raised in the recent Kingsclear SSS. The third public meeting, where the DEC was scheduled to make a decision on the SSS outcome, was scheduled for May 4 (2017). Community members noted that, with the Minister having between 30-60 days to make a decision, they might be learning their school would close only after the end of the current school year. This would mean they would have no time to visit the receiving school and help their children acclimatize to this change until just before the school opened again in the fall. While there is apparently provision for the Minister to conduct an expedited review, this did not alleviate parental concerns that the process seemed rushed and out of step with the requirements of the policy in this regard.

A variation on the SSS process: the introduction of Ernst & Young (EY)

Although the focus in the preceding sections has been on "mapping the SSS process," the information already presented on various studies, conducted in different districts and at different points in time, illustrates a fair degree of variation in how "the" SSS process takes shape. It is very much a work in progress. For example, having learned from earlier studies the sorts of questions community members are likely to ask (e.g., about bussing times or the priority attached to needed capital improvements) and working through how to measure certain of the sustainability criteria (e.g., economic development), district staff have expanded the information routinely included in their PM#1 presentations. The recent involvement of the professional services firm Ernst & Young (EY) has proven to be an additional source of variation.

Since 2015, EY has been contracted to study certain collections of schools in three of the four Anglophone districts so far, and develop recommendations for DEC consideration.[110] I was told that the Alward government had committed funds to EY for consulting fees over a period

[110] To date, the following studies, contracted to EY, have been conducted in the Anglophone School Districts: For AESD, the Moncton North End study (August 2015), Tantramar Region study (2017), and Irishtown/Moncton – Elmwood Drive Area study (2017). For ASSD, the Grand Bay-Westfield and Morna Heights Schools study, and the Saint John Central (Inner) Schools study (August 28, 2015 and Sept. 30, 2015 with Sept. 2016 addendum, respectively). For AWSD, the Leo Hayes High School Overcrowding study (August 28, 2015), South Fredericton Elementary Schools study (October 24, 2016), and Oromocto Schools (K-8) study (April 12, 2018); the AWSD DEC meeting minutes for March 29, 2018, refer to additional facility (or "feasibility") studies that are to be conducted in the Chipman/Minto area and Florenceville/Carleton North area (though it is unclear in the minutes whether these will be contracted to EY or done in-house).

of time to look for efficiencies, and that a certain amount remained on the contract when the government changed. Apparently, some of this was then directed to EECD, and the department advised the districts that it would pay for EY to engage in some more in-depth infrastructure planning. This appears, effectively, to have involved contracting out some of the higher level elements of the multi-year school infrastructure proposal (MYSIP) process (*Policy 409*, *section 6.1*). District staff continue to compile information from the annual updating of the Facility Status Reviews (FSRs) for each school, and to produce MYSIP documentation for the DEC's approval. However, from what I was told, district staff have frequently been challenged, given demands on their time, to go beyond a focus on individual schools to analyze the information gathered from a collection of schools in an area and come up with a broader plan for the region.[111] The EY opportunity has provided the districts/DECs with a means of expediting this part of the planning process. Generally, those with DEC experience observed that EY do a thorough, professional job, providing a good starting point to take to the public when dealing with the complexities of considering several schools at once, and delivering a solid foundation for making recommendations to the Minister.[112]

With this focus on a collection of schools, the multi-year infrastructure planning reports prepared by EY appear to respond to a concern community members have raised regarding the restrictiveness of the individual school focus of most SSSs. Specifically, they have suggested that studying a community of schools, rather than a lone school, would allow a wider range of options for the effective and efficient use of school space to emerge, and this in turn would lead to better planning decisions. For example, in ASSD, community members in Brown's Flat observed that, had their school been studied as part of the larger Grand-Bay/Westfield/Morna Heights Schools study (completed by EY in August, 2015), consideration may have been given to

[111] The AESD *Policy 409 School Review* (Monitoring Report) from June 11, 2014, illustrates that district staff have produced such higher level planning documents. This review looked at schools in six communities within the district (Tri-County, Riverview, Tantramar, East End, West End, and North End), considered the schools that were over- and under-capacity as well as their enrolment projections, and offered various "scenarios" for the DEC to consider, involving possible consolidations, closures and grade reconfigurations as well as the possible need for new construction, modification or boundary changes. In addition, the multi-school Northside Fredericton Elementary Schools Study has recently been completed by AWSD staff. It recommended new school construction with the potential closure of two existing schools (McAdam Avenue Elementary School and Nashwaaksis Memorial School), pending sustainability study (AWSD DEC meeting minutes, Feb. 22, 2018). Sustainability studies for these two schools commenced in September 2018, with a final decision to be made at the DEC meeting scheduled for January 24, 2019.

[112] While most of those with DEC experience I spoke to conveyed that the EY studies provides a solid foundation for decision-making about school facilities, one offered a more cautious view. This individual described the process as one where EY "applies formulae and predictions to pull out the numbers," and the district/DEC is tasked with doing "all the other things EY can't measure" with EY putting everything together at the end. However, in this person's experience, it turned out in the end that "they just forgot our part." The result is a final report that can fail to address certain realities, e.g., neglecting to consider how a proposed grade reconfiguration would require small children to cross busy streets or how the particular needs of students being well served in a smaller school would be met with the recommendation to close that school and transfer the students elsewhere. This individual questioned whether the EY approach worked as well in assessing smaller vs. larger schools, and observed that, while the EY reports were of some value (giving the DEC a place to start and lending greater credence to DEC recommendations in the eyes of the EECD), "how much I don't know."

shifting the catchment area boundaries to make better use of existing school capacity in the region (including the Brown's Flat school), rather than opting for a new school. Similarly, participants in the recent Saint John Central (Inner) City Schools study observed that there may well have been a role for Lorne Middle School among the various options being considered for the remaining seven schools in the area.[113] In Dorchester, community members offered several suggestions of how boundary changes within the district would allow better use to be made of school space, alleviating overflows at some schools while increasing enrolment at schools with lower capacity ratings (like Dorchester Consolidated), and reduce the need for new construction. Indeed, following the Dorchester and Riverside SSSs, the AESD DEC members engaged in some discussion about studying lone schools vs. a community of schools, and appear to have moved towards a more "community of schools" approach since (AESD DEC meeting minutes, June 9, 2015). Reflecting on EY's involvement producing a multi-year infrastructure plan for a community of schools, some community members expressed optimism that this would allow for an independent, objective, and thorough examination of options.

So what has been the EY process and how has EY's involvement in multi-year school infrastructure planning been connected to the SSS process? In relation to *Policy 409*, EY's involvement has occurred prior to the DEC making a decision to launch a SSS for a particular school (or schools). Their contract lays out what the district/DEC want the infrastructure review to accomplish.[114] In some instances, this has referred generally to reviewing a range of possible options on a particular set of schools. For example, in AWSD's South Fredericton Elementary Schools study, EY was mandated "to explore options with respect to building a new school (K-5 or K-8), the potential of school boundary rezoning, opportunities for consolidation, renovations and additions to existing schools and/or grade reconfiguration." In other instances, the district/DEC have provided EY with a more specific set of guidelines. For example, in ASSD, EY was asked to review the seven SJ Central Schools to achieve grade reconfigurations to K-5 and 6-8 to the extent possible, with K-5 to have approximately 400 students, and 6-8 to allow for a full middle school program; vacate leased premises if possible; provide spaces for Early Childhood facilities; achieve a diverse student body in each school, with continued community partnerships; and ensure sufficient green space and parking.

[113] The words of one DEC member, speaking to the motion to close Lorne Middle School at the March 19, 2015 ASSD DEC meeting, point in this direction: "There is a greater plan to be looked at. This is premature." EY submitted its report on the SJ Central Schools in September 2015, with a recommendation to build a new 6-8 middle school for Saint John's inner city. An addendum was added in 2016 (to explore options to include the possible closure of Centennial School), and the report was made public in September 2016.

[114] From what I was told it appears that, at least in some cases, the EECD department has been involved in initial consultations with the district and EY to define the study's scope. In 2015, the then Chair of AESD was reported in the media as saying that the DEC had proposed building an extension at Northrup Frye to address over-capacity problems there, but the department questioned that proposed solution and hired EY to find the best option to fixing the overcrowding problem in Moncton's North End (Choi, 2015). The same appears to be the case for the Leo Hayes High School Overcrowding study in Fredericton (discussed at the AWSD DEC meeting held December 17, 2015). In others, the DEC appears to have been more involved in the early stages, helping to establish the guidelines for the study (e.g., SJ Central (Inner) Schools study, ASSD).

EY personnel draw on the information provided by district staff (e.g., on each school's enrolments and trends, functional capacity, physical condition, required capital improvements) to develop detailed enrolment projections, "Facility Condition Index" scores, and assessments of each school's space in light of EECD Planning Guidelines for Educational Facilities. This information is supplemented with what the EY personnel learn when they conduct site visits for each school. These visits are arranged by district staff and, from what I was told, have taken place, at least in some cases, without the principals or PSSC chairs being notified. Based on all the information gathered, EY produces a very detailed report (in powerpoint presentation format) describing each school and the option(s) being recommended for the DEC's consideration. In most cases, these have included a recommendation to build a new school (or schools) with options to consolidate, close and/or change the grade configuration or catchment area boundaries of particular schools in line with the proposed new construction.

What happens once EY has completed their report has varied across the districts in two ways. The first pertains to how and to whom the EY report is released. In AESD and AWSD, EY personnel have presented the details and recommendation(s) from their study in a public meeting. In addition to DEC members and district staff, community members from all affected schools have been welcome to attend, and there has been an opportunity to ask questions. At the next DEC meeting after this public meeting, the DEC members have made a decision about how to proceed with the study's recommendation(s). In contrast, in ASSD, EY personnel have presented their findings and recommendations at a regular meeting of the DEC. This has afforded DEC members the opportunity to ask questions and discuss the various "scenarios" EY put forward for their consideration. In both cases involving an EY study in ASSD to date, the DEC has reached a decision about how to proceed at this meeting. The second notable variation in the process across districts pertains to how the sustainability studies subsequently launched by the DECs in response to an EY recommendation have been organized. In some cases, the DECs have opted to conduct a separate sustainability study on individual schools identified for possible closure (e.g., AWSD with Kingsclear, ASSD with the Saint John Central Schools Study). In others, they have chosen a combined sustainability study of the collection of schools identified for possible closure, reconfiguration, etc. (AESD with the Irishtown/Moncton Elmwood Drive Area study and the Tantramar Region study). This cross-district variation will be evident in the following overview of the EY studies recently conducted in the Anglophone districts.

In AWSD, the recent South Fredericton Elementary Schools study proposed a number of recommendations which included some catchment area boundary changes, grade reconfigurations and the closure of three schools aligned with proposals to build two new schools in the area. When the DEC met after the study was presented at the public meeting, they decided to pursue first the proposed recommendation to build a new school in the Hanwell area, and voted to add a new Hanwell area school to the major capital list as priority #2 (AWSD DEC minutes, October 27, 2016). As this recommendation was aligned with the proposed recommendation to close Kingsclear Consolidated School (KCS), the DEC engaged in discussion at its next meeting about launching a SSS of KCS (AWSD DEC minutes, November 24, 2016). It was noted that KCS would be on the triggered school list for May, 2017, and a motion

was put forward to launch a SSS on the school for completion by April 2017 so as to get started early on the work involving the Hanwell school recommendation. The DEC decided against the motion at that point, preferring to wait for the Superintendent's Sustainability of Schools report (ASD-W-EL7) to be presented at the January 26, 2017 DEC meeting. Having considered and discussed the Superintendent's report, the DEC voted at the January meeting to launch a SSS of KCS.

From this point, the SSS process unfolded more or less as it would for any lone school study, but a few wrinkles did appear. Parents/guardians of KCS students were notified of the study, the purpose of the three public meetings, and the three possible outcomes ("Opening letter," dated January 27, 2017). They were told that KCS would be officially identified as a trigger school for having an enrolment below 100 later in the spring, and that the DEC had decided to start the SSS process at this time. No mention was made in this initial letter or subsequent letters of the EY study and its proposed recommendations for a new school for the Hanwell area and for KCS's closure.[115] The February 3, 2017, letter to KCS parents/guardians provided the timeframe for the study, with PM#1 scheduled for March 2, PM#2 for April 4, and PM#3, where the DEC would vote on one of the three possible outcomes, for May 4. At the February 23 DEC meeting, the DEC representative for KCS put forward a motion to delay the KCS study so that its timeframe would be consistent with other triggered schools (beginning in May 2017, with meetings in fall 2017 and decision in January 2018). The representative argued the current timeframe was unfair, as it was rushed compared to other triggered schools, and was taking place at a time when KCS's opportunity for engagement was constrained as they did not currently have a principal. This motion was defeated, with DEC members observing that the study did not mean the school would close, that the current timeframe fit in with the DEC's timeline, that this study was in support of a new school in the Hanwell area, and that carrying out the study now would be a benefit as more studies were anticipated for the fall.

The first public meeting followed the usual PM#1 presentation format, with district staff covering the pertinent SSS sections of *Policy 409*, information on the eight required criteria for the Kingsclear school, and details on what materials were posted to the district's website for the SSS and how to participate in the public consultation. This presentation included what appears to have been the first explicit mention of the broader EY plan. The three possible SSS outcomes under the policy were presented with the closure outcome elaborated to include three possibilities for consideration: close KCS and move the students to the new Hanwell area school if/when it is built, close in June 2018, or close in June 2017. At the second public meeting, the PSSC addressed the eight required criteria, making a case for sustainability (highlighting the importance of considering catchment area boundary adjustments, the addition of French immersion, and evidence of neighbourhood growth). In addition, they argued that, if closure were the recommendation, 2017 and 2018 closures were problematic given that the

[115] This is not the case with the more recent Northside Fredericton Elementary Schools Study conducted by AWSD staff. Here, the initial letter sent to parents of McAdam Avenue Elementary School, dated May 24, 2018, advises that the school has been identified not only as a trigger school based on an enrolment of 100 or fewer students, but also "on a Major Capital Projects list as priority #3 for the consideration of a new school combined with Nashwaaksis Memorial School."

potential receiving schools were already above optimum capacity. Following a working meeting on April 20, the DEC voted at their regular meeting later that day to remove the options of closing KCS in June 2017 and June 2018 from consideration.

At PM#3 on May 4, the Superintendent presented the executive summary for the KCS sustainability study, and the DEC members in attendance considered issues around cost savings, KCS's needed capital improvements, and capacity at the receiving schools and the need for/cost of portable classrooms. They approved a motion to table a decision on the outcome of KCS's sustainability study to February 2018 (there is no indication in the minutes why that particular month was chosen). At its February 22, 2018 meeting, the DEC voted to table discussion around Kingsclear Consolidated School once more, this time to October 2018 (again, no detail is provided in the minutes to shed light on the reasoning for this further delay in making a decision about the school). By October, a new provincial government was in place, but there was still no decision about a new school for the Hanwell area. At the October 18 meeting of the DEC, the PSSC Chair provided an update on the school, making a number of points in support of KCS remaining open. First, with the Hanwell School still a number of years from reality, there was nowhere to move the KCS students if the school were to close. Second, KCS's sustainability would not be in doubt if a French Immersion program were allocated to the school. Finally, there were a number of recent developments in the area that boded well for future enrolments. Following some discussion, the DEC voted in support of a "repair" outcome, opting to recommend investment in specific capital improvements for the school (AWSD DEC meeting minutes, October 18, 2018).[116]

Needless to say, those who had argued KCS was a sustainable school were pleased that the DEC's decision promised not simply to keep the school open but to strengthen its sustainability. Still, they found the process difficult, and concerns remained that, without strong and determined school advocates, a school sustainability study launched under the shadow of a possible new school may be at greater risk of focusing narrowly on whether or not to close, to the neglect of examining how the school's sustainability might be enhanced.

Presented with the results of EY's Grand Bay/Westfield/Morna Heights study at their October 14, 2015 meeting, the ASSD DEC selected primary and back-up scenarios from the results, and decided to proceed first with the primary scenario recommending that three schools close (Grand Bay Primary, Inglewood School and Morna Heights School) and a new school be constructed. As a result, a motion was passed at the same meeting to launch SSSs for the three schools recommended for closure under this scenario. The minutes record that any other options learned through the SSS consultation processes would be considered, in addition to the selected EY scenarios. The subsequent PM#1 presentations (for Grand Bay Primary and Inglewood combined, and Morna Heights separately) provided the usual information about *Policy 409*, the SSS process, and relevant details about the particular school(s) (enrolments, capital improvements required, bussing arrangements, etc.), and presented the EY scenarios,

[116] The new provincial government announced in December, as part of its capital budget for 2019-2020, that a new school would be built in the Hanwell area.

highlighting their implications for the school(s). Both PM#1 presentations concluded with a summary of factors (linked to the eight required criteria) supporting a recommendation to close the school(s) under study. The relative advantages of smaller vs. larger schools emerged as a theme across the PM#2 and PM#3 meetings, with many of the DEC members at the final meeting expressing the view that a new school to replace the three older schools would offer students better educational opportunities. While one member raised a concern about the planning approach, noting a need "to look at all our plans as a whole," the DEC's final decision was to recommend closing the three schools pending the construction of a new elementary school centrally located within their boundaries (ASSD DEC meeting minutes, January 14, 2016).[117]

The recent SJ Central (Inner) City Schools study in ASSD was set up to follow more or less the same pattern, but there were some differences. EY presented the results of their study to the DEC in September 2016, recommending a new middle school be built in central Saint John, and proposing the possible closure of four of the seven central city elementary schools and possible grade reconfigurations for the remaining three (ASSD DEC meeting minutes, September 14, 2016). The minutes record that, when it came time to make a decision about next steps, the DEC Chair asked Council for comments and whether they were ready to make a motion, and explained that the process for studying the inner city schools would be "to present information to the community and ask for their feedback." The Superintendent added that other options that may be presented during the consultations would be considered, and it was mentioned that there would be "two public sessions per school over the next few months with a decision to the Minister in March." While the precise wording of the subsequent motion is not recorded, the minutes refer to a motion being made (and then approved) that "we begin the study of the inner city schools in Saint John." It is noteworthy here that, although what is described has some parallels with *Policy 409*'s stipulations regarding public consultation during a sustainability study, *Policy 409* is not explicitly invoked, nor is it explicitly stated that formal sustainability studies are to be undertaken for the four schools proposed for closure. It appears that, in grappling with how to align a multi-school plan (involving a network of proposed closures and grade reconfigurations) with *Policy 409*'s focus on the study of individual schools, the DEC opted to begin "a study" of the seven schools that would allow for community input on the EY recommendations.

This tension between the demands of a multi-school vs. single-school study is evident as well in the initial notice the DEC sent out to parents/guardians of students at all seven schools (dated September 28, 2016). It begins by framing the process the DEC launched as "a long term, multi-year infrastructure planning process to ensure students have access to safe and healthy learning environments." It highlights the DEC's mandate under *Policy 409* "to submit a long range, multi-year infrastructure plan for the district, including facility status reviews,

[117] As of December, 2018, the government has yet to approve this recommendation for a new school in the Grand Bay/Westfield area. In its prioritized major capital project list for 2019-2020, the DEC has also listed it below a new school for the Saint John central peninsula, a recommendation which came out of the more recent SJ Central City Schools Study (discussed immediately below).

school sustainability studies and major capital priority projects." However, there is no explicit mention of any intention, in accordance with *Policy 409*, to conduct sustainability studies of the four schools EY recommended for closure, or to consult with the other three schools regarding the proposed grade reconfigurations.[118] Instead, the process is described as having begun with the Ernst & Young study and continuing now through "a series of school community meetings" to discuss the EY recommendations for a new middle school and several grade reconfigurations "that will optimize district-owned facilities and vacate leased facilities." A link to the full EY report is provided and parents/guardians are invited to review the report, consider its recommendations in the context of their community, and participate "in the planning process." Typical of the policy's SSS process, there is reference to a first meeting, to be followed several weeks later by a second meeting that offers parents/guardians "a chance to ask questions and provide feedback," with each school having its own first and second meetings. However, the notice provides each parent/guardian with a meeting schedule for all seven schools (not just their own school), conveying the issue under examination is bigger than any one school. Overall, what is announced in this initial notice about the process under way does not describe the typical *Policy 409* sustainability study of an individual school. Instead, it extends to parents/guardians an invitation to participate in a joint discussion of a multi-school, longer-term infrastructure plan that involves their school. While *Policy 409* does lay out what is required of a DEC when developing its district's long-range infrastructure plan for submission to the Minister each year, it does not include any formal process for gathering public input either during the planning activity or on the resulting plans (which is not to say it is precluded).

It appears, then, that the DEC may well have been trying to work through, at this point, how to adhere to *Policy 409*'s public consultation requirements while stretching them beyond assessing an individual school's sustainability to allow consideration of the contours and details of a broader plan and how that individual school might fit within it. This is no longer in evidence, however, by the time of the first public meeting. Here, the district's PM#1 presentation for each of the schools proposed for closure in the EY report followed the same template used previously for the sustainability study of individual schools. *Policy 409* requirements for determining a school's sustainability (pertaining to the trigger criteria, the sustainability criteria, and public consultation) were highlighted at the outset. Information was presented on the seven schools from the EY report, along with the specific EY recommendations. This was followed by information summarized from the EY report pertaining to the proposed closure of the particular school under consideration, and details about the school gathered by the district and linked to the sustainability criteria. The presentation concluded with a "summary of factors that determine a school's sustainability," conveying that, on balance, the proposal to close the school offered a number of potential advantages and no tangible disadvantages. The SSS was framed with a focus on interrogating the individual school's sustainability against the presumed advantages of the changes proposed by the plan, providing the school communities with little opportunity to step back and

[118] Even though "the duty to consult is less for grade reconfigurations than for school sustainability studies" under *Policy 409* (*section 6.7.1*), the DEC decided to follow the sustainability study format, with three public meetings, for those schools as well.

comment on the merits of the broader plan for their communities or the broader SJ Central area.

The PM#2 presentations for the schools facing possible closure provided an assessment of their school's sustainability against the eight required criteria. However, some of the presenters raised concerns about the appropriateness of the process, suggesting a need for consultation across the school communities rather than in isolation from each other. As one community member described it:

> They said there were eight criteria that they would look at that are in the policy, you know, and so those were factors that they would be considering, like the low/declining enrolments, the health and safety, you know, like's there's eight particular ones, transportation, finance, the whole bit. So, as a person looking at a particular school, because that's what we felt that we had to do. We didn't feel like the meeting was open to, like what other suggestions were there besides their suggestion. We had to defend our school. So then we looked at each of those criteria and indicated why we felt our school should stay, and continue to be as part of the community and the whole thing. So the whole process made me feel that they were deliberately separating us…. So we tried to get in contact with all the different parent support groups and say "Look, you know what? This is what they're doing to us. Like we need to, we should be coming together and trying somehow to tell them that this process isn't good for this big plan, that it should be, everybody should be coming together and talking about the strengths and the weaknesses and what would be best and what wouldn't work.

Some highlighted the need for such a planning process to consider more thoroughly the impacts of any proposal on children living in poverty. Some began to offer suggestions of alternative scenarios to consider, other than the EY recommendations. After the round of PM#2 presentations, a group of community members organized a brainstorming meeting of PSSC representatives from the seven schools (with representatives from five of the schools attending) to develop viable alternatives. These were subsequently presented at a special closed session with the DEC (February 23, 2017), and then again at the regular public DEC meeting on March 15, 2017. At the PM#3 meeting (May 10, 2017), the DEC decided that, based on the public input they had received, they could not proceed with the EY recommendations, and planned to take the summer to consider all the information gathered through the public consultation and return in the fall with "a more specific proposal" for consideration.

Some community members expressed a willingness to meet with the DEC during this planning stage to provide input into the process of developing a new proposal. However, the DEC proceeded by having EY conduct a second review of the seven schools, exploring potential scenarios the DEC derived from the public consultation. The DEC also asked that EY provide options only, not recommendations. Based on the options EY subsequently presented, the DEC proposed recommending a new K-8 school for the central peninsula, which would involve closing Prince Charles and St. John the Baptist/King Edward Schools, and a new K-5 school to

replace Centennial and Hazen White/St. Francis Schools.[119] With a proposal to close directed at these four schools, sustainability studies of each individual school were launched and conducted between October 2017 – January 2018 for Prince Charles and St. John the Baptist/King Edward, and February – April 2018 for Centennial and Hazen White/St. Francis. The PM#1 presentations followed the same format, focussing on examining each school in light of the closure proposal. The "summary of factors that determine a school's sustainability" included at the end of the presentation for each school highlighted the advantages that a new and larger school was expected to bring to the students and their community, without explicitly questioning the school's sustainability in light of any of the required criteria.

In terms of community response, these proposals met with greater positive support, though some community members did voice outstanding concerns. Some expressed concern about where a new school would be located, viewing the location as crucial to determining how well the school would be able to serve the needs of the community's students and their families. Some continued to question whether the supports currently in place at their school would transfer seamlessly to a new school.[120] Others questioned whether sufficient attention had been paid to options that would build on the strengths of their school, rather than close it down. In the end, however, based on their assessment of the sustainability considerations and the public feedback overall, the DEC voted in favour of recommending the two proposed new schools and four proposed closures to the Minister. Community involvement did not end here. A task force was formed to bring representatives from the school communities, the city, the district, and the EECD and Transportation and Infrastructure departments together to discuss what a new school should look like to best address student and community needs in what have been lower-income neighbourhoods. This holds some promise of building greater flexibility into the EECD Planning Guidelines for Educational Facilities, so that the design of new schools can be tailored to meet particular community requirements.

AESD's first EY study in 2015 explored various options to address the pressures strong population growth were placing on school capacity in Moncton's North End (AESD DEC meeting minutes, October 13, 2015). In this case, the DEC accepted the EY recommendation to seek a new 6-8 middle school for the area.[121] As no schools were identified for possible closure as a part of this recommendation, no SSSs were launched. However, as part of this study, EY also

[119] Grades reconfigurations were proposed for Princess Elizabeth and Millidgeville North Schools, with a possible addition to M. Gerald Teed and consequent grade reconfiguration to be considered. Planning commenced in August 2018 for meetings to be held with the PSSCs of these three schools along with the PSSC of HWSF. The aim was to explore grade reconfiguration options that might be implemented across these schools to optimize classroom space in light of educational objectives until the proposed new school for the area might be built (ASSD DEC meeting minutes August 22 and October 10, 2018). M. Gerald Teed was identified as requiring two public meetings as part of the *Policy 409* process.

[120] On the issue of a new school's location, the DEC Chair noted in their Summary of *Policy 409* consultations for SJBKE that, while the DEC would recommend a central location, the precise location would be decided by the Department of Transportation and Infrastructure. On the issue of existing school/community partnerships, the Chair noted that the district keeps in touch with community partners and that past experience has shown they tend to follow the students to a new school.

[121] The request for this new school was approved, and it is scheduled to open in January 2020 (Magee, 2018).

considered the potential to utilize spare capacity in other Moncton schools to alleviate the over capacity problems. Based on their enrolment projections for these schools, they recommended that the DEC continue to monitor the enrolments at Edith Cavell and Hillcrest schools for possible amalgamation at some future date. EY provided input as well into the assessment of Bessborough School for a midlife upgrade. As the cost of the upgrade was determined to exceed 70% of the cost of a new school, the EECD department cancelled the upgrade project. The DEC subsequently decided to request a new school for Bessborough and to seek input from the Hillcrest School community to see whether they might want to close their school and join with Bessborough in a request for a larger new school for Moncton's West End (AESD DEC meeting minutes, November 15, 2016). In response, the Hillcrest PSSC arranged a town hall meeting, which some DEC members attended, and conducted an informal survey in February 2017 for Hillcrest community feedback. These activities revealed that the community held mixed views. Some expressed support for the new school and the opportunities it would offer. Some were open to the idea of a new school, but concerned about where it would be located. Some expressed resignation, indicating that, with Hillcrest targeted for amalgamation, this new school option might be better than any others that might be offered in future. Some rejected the idea of a new school, emphasizing the advantages of their small community school ("Large and new is nice but small and family-oriented is better for all"). Some encouraged consideration be paid to other options first before making a final decision (e.g., making changes to catchment area boundaries, looking at an Early French Immersion option for Hillcrest).

Recognizing that community members were split, the PSSC asked the DEC to investigate the questions community members had raised and another town hall meeting be held to share the resulting information. The DEC opted to launch a SSS, which was conducted September–November, 2017. The PM#1 presentation began by indicating that, having decided to request a new school to replace Bessborough and having assessed Hillcrest's Facility Status Review, the DEC had decided to consider including Hillcrest in the request for a new school. What followed, however, looked at Hillcrest in isolation from this request, focusing on its standing as an individual school in light of the required sustainability criteria. This revealed that Hillcrest's outstanding capital improvements were estimated to cost over $1.7 million; that, although not currently meeting either of the trigger criteria, its enrolment was projected to continue to decline; and that its cost per student exceeded the district average by almost 10%. However, it also revealed that the school's assessment results exceeded district and provincial averages on most measures; that the school had mutually beneficial connections to its community; and that most of its students were able to walk to school. Except for the standard slide identifying certain challenges often associated with smaller schools (e.g., no access to Early French Immersion, low enrolments necessitating combined classes), little was offered that directly examined the possible advantages/disadvantages for Hillcrest of being included in the request for a new school in light of its current sustainability standing. In addition, no other sustainability options for the school were considered.

As the community remained divided, the PSSC decided to present at PM#2 what they had learned from the community but not to support one side or the other through the SSS. They encouraged community members to come to PM#2 and/or contact the DEC directly to voice

their views. At the AESD DEC meeting held November 21, 2017 (PM#3), one DEC member "advised that the factors considered in making the decision were declining enrolment, aging infrastructure, lack of programming and resources in smaller schools and the age of the facility." The minutes go on to record that each DEC member made a statement regarding the sustainability study, a motion was put forward to close Hillcrest school and amalgamate it with Bessborough into a new Moncton West End school, and this was passed unanimously. The outcome was frustrating for some community members in that, with the prospect of a new school on the horizon, the study of their school's sustainability had become narrowly focused on whether to close or to maintain the status quo, with no scope for examining a broader range of options, including those that might enhance Hillcrest's sustainability. In the aftermath of this decision, the location of the new school remained a matter of contention and concern. However, looking to cut spending, the new government decided in December 2018 to shelve plans for this new school, with the Minister of Finance reported as saying that many parents had written to express their preference for the two schools to remain open and receive mid-life upgrades (Magee, 2018).

Where the DEC's decision to launch the Hillcrest SSS was only indirectly linked to EY's work on the Moncton North End Study, there was a direct link between EY study and DEC launch decision in both of AESD's more recent EY studies. In each case, once EY had presented their results, the DEC decided to explore particular EY-suggested infrastructure options that could result in school closures. In the Irishtown/Elmwood Drive Moncton area, this would involve the closure of Mountain View, Forest Glen, and Sunny Brae Schools and their consolidation into a new K-8 school. In the Tantramar area study, this would involve the closure of Marshview Middle School with options either to reconfigure the remaining two Sackville schools (Salem Elementary School and Tantramar Regional High school) or to close them as well in favour of two new schools. As a result, the DEC launched in May 2018 a combined sustainability study of the three Irishtown/Elmwood Drive Moncton area schools, and a second combined sustainability study of the three Sackville schools. In each case, the public consultation followed the usual three-meeting format and took place over an eight week period, with PM#1 occurring in mid-October, PM#2 in November, and PM#3, with a decision on the final outcome, at the December 4th meeting of the DEC.

At the PM#1 meeting for each of the two collection of schools, the district/DEC provided the usual information on each school, organized according to the eight sustainability criteria, but began by laying out the possible outcomes under consideration. These included "status quo" and the specific suggestions emerging from the EY study, and also allowed for other options that might be brought forward during the public consultation process. At PM#2, community members took advantage of this openness to other options to offer additional suggestions for the DEC's consideration. In the Irishtown/Elmwood Drive Moncton case, this resulted in the DEC's decision at PM#3 not to consolidate the three schools. Rather, the DEC recommended a new K-8 school to replace Mountain View in order for the rural community of Irishtown to keep its school, and a second K-8 school to replace the other two schools along Elmwood Drive in Moncton. In the Tantramar area study, community input convinced the DEC not to reconfigure or close Tantramar High School, given the unique activities and learning opportunities available

at its current location (its proximity to the wetlands being particularly significant here). With little opposition to closing Marshview Middle School, given its physical condition, the DEC opted to close the school and recommend consideration be given to expanding Salem Elementary School to become a K-8 school or, if expansion was not feasible, to closing Salem and building a new K-8 school in Sackville. Citing the lack of a clear community consensus as well as the relative youth of the Salem school, the DEC opted at this point not to endorse the suggestion from the "Sackville Schools 2020" group that the Marshview closure be used as an opportunity to work towards a new model of education for Sackville. This model would see all three schools close and students from K through 12 co-located to a new "community learning campus."[122] Still, there was unanimity that the collaborative efforts towards innovations in learning evident in the Sackville area are to be encouraged and that decision-making around new school design and location should include representation from the DECs and affected communities.

Finally, while the ANSD DEC has not launched a SSS on the basis of an EY study recommendation, a recent study in their district illustrates how they have approached integrating a multi-school recommendation into the SSS process. When Tide Head School was triggered, the DEC decided to study two additional schools in the area as well, given the state of their infrastructure and their proximity to Tide Head (Campbellton Middle School, Lord Beaverbrook). The DEC was interested in consulting with all three communities to assess the sustainability of their schools and consider two possible outcomes: status quo with all three schools remaining open, or closure of all three with the recommendation that a new K-8 school be built in the area. Opting for a combined sustainability study, only three public meetings were scheduled, with individuals representing each of the three schools invited to attend each meeting. The district's presentation at PM#1 (June 9, 2015) provided the typical information pertinent to the eight required criteria for all three schools. What stands out in the ANSD approach is that they offered an explicit assessment of each of the two possible outcomes they identified. Anticipated positive and negative implications of the status quo outcome were identified, as well as the expected opportunities that a new, larger school would offer. The community presentations at PM#2 (September 16, 2015), while pointing to some of the benefits of their schools and making a case for sustainability, conveyed an openness to the idea of a new school for the area (though raising the issue of where a new school would best be located). The DEC's final report, presented at PM#3 (September 21, 2015), provided an assessment of all of the information presented in light of the eight required criteria. Based on enrolments and trends, outstanding capital improvement costs, staffing challenges associated with the small student population at Tide Head, assessment results at all three schools being often lower than district and provincial averages, anticipated operating cost savings and a conclusion that closures would have limited impact on the community or other schools, the DEC decided at PM#3 to recommend closing the three schools and having a new K-8 facility constructed in the area. In a letter dated February 16, 2016, the Minister indicated he

[122] For more detail on the Sackville 2020 group's vision for education in Sackville, see their website: http://www.sackvilleschools2020.com/.

approved the DEC's recommendation and the new school would be part of the government's and EECD's major capital program to be announced later that week.[123]

So what can be gleaned from these examples about how EY's involvement in multi-year school infrastructure planning, with a focus on a collection of schools rather than lone schools, works with and affects the SSS process? On the one hand, there appears to be some consensus that such multi-school studies offer a valuable opportunity to consider a wider range of options than is typically the case with lone school studies. On the other hand, there are concerns that these studies risk shifting the focus too much towards infrastructure and away from sustainability, and rely on a public consultation process that is too limited in scope to allow for meaningful community input into the broader planning process these studies involve. Thus, while the EY studies have potential to better connect infrastructure planning and sustainability study, in practice specific infrastructure options have been determined before attention turns to the sustainability study of affected schools. Although the policy does not preclude sustainability studies being part of the process of *developing* an infrastructure plan, rather than simply responding to one, still it fails to provide any guidance as to how the two should be connected. In addition, it should be noted that the more recent studies in ASSD and AESD reveal some movement towards encouraging public feedback on the larger multi-school plans (vs. simply individual schools) and creating space during the public consultation for additional options to be introduced and considered. However, these studies also highlight that community involvement remains limited in the processes leading to the development of multi-school infrastructure plans as well as decisions about the design and location of new school construction.

The preceding "mapping" has conveyed something of how complex the SSS process is. It has shown how, at different points in time, various individuals are undertaking particular work activities that have a bearing on whether or not a study is launched, what the main focus of a school's sustainability study will be, and how a school's sustainability will be assessed. It has also illuminated how this work generates and/or activates various texts that play a role defining the contours of any sustainability study (e.g., *Policy 409,* public presentation documents). For example, the work done to produce and assess the FSRs of each school typically informs any

[123] It was subsequently announced that the new school would be built on a site in Campbellton and was expected to open by September 2020 (http://www2.gnb.ca/content/gnb/en/news/news_release.2017.06.0823.html). Enrolment at Tide Head declined by over 50% in the two years following approval of the recommendation for a new school. The DEC consulted with the Tide Head parents in May/June 2018, and the decision was to maintain the status quo for another year. With enrolment dropping further to just 9 students by September, 2018, the DEC launched a formal sustainability study of the school. The PM#1 presentation on November 26 reviewed the school's standing against the eight sustainability criteria and invited the school community to consider the options either to keep the school open or close it in June 2019 and transfer the students to alternate schools for one year until the new school was built. Community members are due to respond at the second public meeting scheduled for January 14, 2019, with the DEC scheduled to make a final decision by January 21. However, both community and DEC are now faced with having to work through the implications of the new provincial government's announcement, with the tabling of its 2019-2020 capital budget on December 11, that construction of the new school will be delayed for at least one year.

decision to launch a study. The work done to compile and prioritize the capital improvement and major project lists for the annual MYSIPs, or to set parameters for a contracted multi-school infrastructure study, helps to define the central focus of any subsequent sustainability study. Similarly, the work done to organize the public consultation (how it will be structured in keeping with *Policy 409* requirements, what information will be compiled to produce a PM#1 presentation, etc.) helps to establish the breadth and depth of the analysis employed to assess a particular school's sustainability.

Still, while some of the paths of activity making up the SSS process have been traced, others remain relatively uncharted. For example, a full understanding of how a SSS process works would require a thorough tracing of exactly how capital projects/improvements are prioritized and costed, how decisions about midlife upgrades are reached, and how the EECD Planning Guidelines for Educational Facilities play into these processes, as all of these hold implications for how the sustainability of particular schools will be assessed. Similarly, a full understanding would require a thorough mapping of how decisions are made about catchment area boundaries, out of zone transfers, etc. A full understanding would also require a detailed tracing of how the Minister, when reviewing a recommendation to close a school, assesses whether the principle of procedural fairness has been applied and "relevant education options" have been considered. Given such uncharted territory, the current mapping is best regarded as preliminary.

However, despite its preliminary nature, this mapping has helped to identify problematic areas, shedding light on how "sustainability" and "sustainability study," as well as "public consultation" have been constituted in ways that compromise, to varying degrees, people's efforts to evaluate school sustainability to achieve the best outcome for a district's students and their communities. These problematic areas are discussed in more detail in the main body of this report.

Appendix E: Anglophone School Districts: School Sustainability Studies Timeline Chart
October 2014 – May 2017

School	DEC SSS launch vote	Meeting #1	Meeting #2	Meeting #3	Days Vote -> PM#1	Days PM#1 -> PM#2	Days Vote-> DEC decision	DEC Decision
Anglophone South								
Lorne	08Oct14	18Nov14	08Jan15	19Mar15	41	51	162 (with Xmas)	Close
Pennfield	08Oct14	24Nov14	13Jan15	19Mar15	47	50	162 (with Xmas)	Close
Brown's Flat	11Feb15	12Mar15	07Apr15	29Apr15	29	26	77 (Mar break)	Close
Norton	11Feb15	10Mar15	14Apr15	29Apr15	27	35	77 (Mar break)	SQ, 1yr,4yr?
Lawrence Stn (trig)	13May15	07Oct15	24Nov15	14Jan16	147	48	246 (with Xmas)	SQ
Morna Heights	14Oct15	09Nov15	07Dec15	14Jan16	26	28	92 (with Xmas)	Close
GB/Inglewood	14Oct15	16Nov15	08Dec15	14Jan16	33	22	92 (with Xmas)	Close
SJ Central Schools[124]								
M. Gerald Teed	14Sept16	01Nov16	18Jan17	10May17	48	78	238 (Xmas; Mar)	Frthr review
SJBKE	14Sept16	02Nov16	16Jan17	10May17	49	75	238 (Xmas; Mar)	Frthr review
Centennial	14Sept16	07Nov16	25Jan17	10May17	54	79	238 (Xmas; Mar)	Frthr review
HWSF	14Sept16	14Nov16	01Feb17	10May17	61	79	238 (Xmas; Mar)	Frthr review
Anglophone East								
Dorchester	17Feb15	09Mar15	13Apr15	21Apr15	20	35	63 (Mar break)	SQ, 1 yr
Riverside	17Feb15	11Mar15	14Apr15	28Apr15	22	34	70 (Mar break)	SQ, 4 yrs
Anglophone North								
Dalhousie Reg/MS	20Feb15	09Mar15	11Apr15	20April15	17	33	59 (Mar break)	Merge
Napan Elem (Trig)	20Apr15	28May15	15Sept15	21Sept15	38	110	154 (July/Aug)	SQ, 3 yrs
Three schools								
Tide Head (Trig)	20Apr15	09Jun15	16Sept15	21Sept15	50	99	154 (July/Aug)	Close & new
Lord B.	20Apr15	09Jun15	16Sept15	21Sept15	50	99	154 (July/Aug)	Close & new
Camp. MS	20Apr15	09Jun15	16Sept15	21Sept15	50	99	154 (July/Aug)	Close & new
N&S Esk								
Elementary	25May15	30Sept15	04Nov15	16Nov15	128	35	175 (July/Aug)	SQ, 4yr
Regional (trig)	25May15	30Sept15	04Nov15	16Nov15	128	35	175 (July/Aug)	SQ, 4yr
Janeville	25May15	29Sept15	03Nov15	16Nov15	127	35	175 (July/Aug)	SQ, 4yr

[124] Over the same time period (Sept 14, 2016 – May 10, 2017), ASSD held public consultations at Millidgeville North, Princess Elizabeth and Prince Charles schools as well, seeking input on the grade reconfigurations proposed for these schools as part of EY's overall SJ Central Schools Study report.

School	DEC SSS vote	Meeting #1	Meeting #2	Meeting #3	Days Vote -> PM#1	Days PM#1 -> PM#2	Days Vote-> DEC decision	DEC Decision
Anglophone West								
Bath MS[125]	23Oct14	11Dec14	09Apr15	23Apr15	49	119	182 (Xmas, Mar)	K-8 at BMS
and ES	22Jan15	12Feb15	09Apr15	23Apr15	21	56	91 (Mar)	K-8 at BMS
Burton 2015 (trig)[126]	11Jun15	13Oct15	08Dec15	28Jan16	124	56	231 (July/Aug)	SQ
Coles Island	23Oct14	20Nov14	15Jan14	19Mar15	28	55	147 (Xmas, Mar)	Close
Kingsclear[127]	26Jan17	02Mar17	04Apr17	04May17	35	33	98 (Mar break)	Deferred
McAdam (trig)	21May15	08Oct15	03Dec15	28Jan16	140	56	252 (Xmas)	SQ
Millville (trig)	21May15	06Oct15	01Dec15	28Jan16	138	56	252 (Xmas)	SQ
Nackawic ES/MS/ HS with Millville	21May15	29Sept15	15Dec15	28Jan16	131	77	252 (Xmas)	SQ, all 3
Stanley Complex	23Oct14	04Dec14	26Feb15	19Mar15	42	84	147 (Xmas, Mar)	Merge
			Average overall		63.3	59.2	161.5	
			Average - Feb. 15 SSS[128]		23.0	32.6	69.2	
			Average - Trig Schls May 2015[129]		111.5	61.9	204.9	

[125] The original study was on Bath MS only; the DEC passed a motion on January 22, 2015 to expand the study to include Bath ES.

[126] For the Burton 2011 SSS, the launch date was February 23, 2011. PM#1 took place 52 days later on May 17. PM#2 took place 147 days after that, on October 12. The final decision was presented at PM#3 on November 22 (launch to final decision took 241 days).

[127] The AWSD DEC deferred making a decision on the Kingsclear school first to February 2018 and then to October 2018.

[128] The five schools with SSS launched in February 2015: Brown's Flat, Norton (ASSD); Dorchester, Riverside (AESD); Dalhousie (ANSD).

[129] The eight schools triggered in May 2015 and subsequently studied: Lawrence Station (ASSD); Napan, Tide Head (et al.), North and South Esk Regional, Janeville (ANSD); Burton, McAdam, Millville (AWSD). NOTE: The original decision taken in May 2015 to seek an exemption for Burton (AWSD) was subsequently reversed, and a study launched in June 2015.

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