

Chapter 3

Ministry of Education

Section 3.06

Private Schools

Background

The purpose of education, as stated in the *Education Act* (Act), is to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to society. The Act states that every child who attains the age of six years shall attend a public school unless that child is receiving satisfactory instruction at home or elsewhere. Private schools are considered one of the alternatives to public education and are defined in the Act as institutions that provide instruction between 9:00 a.m. and 4:00 p.m. on any school day for five or more school-age pupils in any of the subjects of the elementary or secondary school courses of study.

All private schools are to be registered with the Ministry of Education (Ministry). During the 2012/13 school year, there were over 1,000 registered private elementary and secondary schools in Ontario that informed the Ministry that they had enrolled approximately 110,000 students. These schools are considered to be independent organizations, are not required to follow policies developed for publicly funded schools (those schools in either English or French district or Catholic school boards), and are not required to follow the Ontario curriculum unless the school offers credits toward

the Ontario secondary school diploma (OSSD). The Ministry conducts program inspections at only those registered private schools that offer credits toward an OSSD. The programs offered at non-credit-granting schools are not inspected by the Ministry. The number of credit-granting and non-credit-granting private schools in Ontario is shown in Figure 1.

Parents choose to send their children to private schools for a variety of reasons, such as the school offers an educational approach that may better suit their children, the school reinforces the religious practices of the home, or they believe that private schools achieve better academic results. The actual academic results of standardized testing suggest that the quality of education provided by participating private schools varies from well below average to excellent. Not only do Ontario private schools range in quality from well below average to some of the best schools in Canada; they also vary significantly in size from sometimes less than the minimum five students to enrollments of well over 1,000 students.

Private school tuition fees generally range from \$5,000 to \$20,000 but can be significantly more. The Ministry does not provide any funding but, given that publicly funded education exceeds \$10,000 per student per year, private schools in effect either save the taxpayers over \$1 billion annually or enable the Ministry to allocate this

Figure 1: Registered Private Schools, 2012/13 School Year

Source of data: Ministry of Education

	OSSD		Total
	Credit-granting Schools ¹	Non-credit-granting Schools ²	
Elementary	0	517	517
Combined elementary and secondary	169	73	242
Secondary	239	15	254
Totals	408	605	1,013

1. The Ministry performs OSSD program inspections at credit-granting schools.
2. No ministry inspections are performed at non-credit-granting schools.

amount to other education priorities. Accordingly, a strong private school system can benefit the taxpayers as well as both public and private school students.

Although the Ministry focuses on the delivery of publicly funded education, section 16 of the Act provides direction to the Ministry and to private schools regarding their legislated roles and responsibilities with respect to establishing private schools, ministry inspections of credit-granting schools, data collection and student testing. Ministry functions are performed by three full-time and one part-time head office staff assisted by 24 education officers (inspectors) located in six regional offices who devote about 20% of their time to private schools. Based on this allocation of personnel, the Ministry has the equivalent of about eight staff devoted to overseeing private schools in Ontario.

Our audit work was conducted at the Ministry's head office and at selected regional offices with the responsibility for overseeing approximately 80% of private schools. We reviewed and analyzed ministry files, administrative directives, and policies and procedures, and interviewed ministry staff. We also met with staff at the regional offices, including education officers responsible for validating and inspecting private schools, but we did not include audit visits to private schools in the scope of our audit because they are not provincial grant recipients. We researched private school oversight practices in other jurisdictions and solicited the opinions of universities, the Ontario Universities' Application Centre, Ontario College Application Service and several private school associations.

Audit Objective and Scope

The objectives of our audit were to assess whether the Ministry had adequate procedures in place to:

- assess the effectiveness of private schools in providing satisfactory instruction; and
- ensure compliance with the *Education Act* and related ministry policies.

Senior ministry management reviewed and agreed to our audit objectives and associated audit criteria.

Summary

Ontario has one of the least regulated private school sectors in Canada. Consequently, on its website, the Ministry cautions parents to exercise due diligence before entering into a contract to educate their children at a private school. The Ministry provides very little oversight to ensure that private school students are receiving satisfactory instruction. In fact, although private school results vary greatly, we found that public school students on average performed significantly better on standardized tests than private school students. In addition,

although the Ministry inspects the standard of instruction at the 408 private schools that offer high school diploma credits, at 100 of these schools it noted significant concerns, many of which related to credit integrity, meaning whether a student actually earns the credits granted toward his or her grade 12 diploma. For the 605 elementary and non-credit-granting secondary schools, education officers perform a brief visit to new schools, but there is no process in place to ever visit these schools again. In addition to academic concerns, this poses the risk that some private schools may be operating unlicensed child-care centres. According to ministry information, there may be more than 15,000 children in private schools below compulsory school age, with as many as 3,000 below the age for junior kindergarten.

Our other significant observations include the following:

- All private schools are required to submit a notice that they intend to operate in the coming year. For new schools the Ministry conducts a brief validation visit to check the information submitted and confirm that the school meets the legal definition of a private school. During these visits the Ministry does not evaluate the curriculum for either quality or content; does not check for any health and safety issues, or have a process in place to inform other oversight agencies of any concerns observed; and, in contrast to its practice with public schools, does not ensure that criminal record checks are performed on private school operators, teachers or staff. Except for this one-time visit, the Ministry provides almost no oversight of private elementary schools or secondary schools that do not offer high school credits.
- Given the limitations of the validation process, private schools are not permitted to state that the Ministry has approved their academic program. However, we identified several cases where private schools were advertising that their programs had been accredited by the Ministry. Parents, students and the public could be misled into thinking that the Ministry ensures some level of education quality at these schools. We also found several examples of entities advertising what appeared to be private school services without being registered with the Ministry. The Ministry does not have procedures in place to proactively identify unregistered schools that are operating illegally.
- Ministry data indicates that 235 private schools ceased operations over the last five school years (2007/08–2011/12), often as a result of declining enrolment or financial problems. Private schools are not required to demonstrate that they are financially viable operations. Closures during the school year could put students at risk academically and their parents at risk financially. In addition, closed schools must forward student records to the Ministry to ensure that essential information on students is preserved, but fewer than half the schools we sampled had done so.
- In Ontario, anyone who cares for more than five children under the age of 10 must be licensed under the *Day Nurseries Act*. The Ministry allows private schools registered before June 1993 to operate child-care facilities without a licence. In contrast to licensed daycare, there is no limit to the number of children of any age that private school staff can oversee, there are no fire safety requirements, and private school staff are not required to possess any child-care qualifications. The Ministry inspects licensed child-care facilities annually. However, after their first month of operations, the Ministry may never visit private elementary schools again.
- The Ministry inspects the standard of instruction in the 408 private schools that offer credits toward the OSSD. About 100 of these schools are inspected more frequently than the others because of issues that may indicate credit integrity concerns. For example, it

was brought to the Ministry's attention that some private schools were issuing students higher grades than earned or giving credit for courses that students had not attended. The Ministry has developed additional procedures to investigate such practices, but many inspectors informed us that they did not have sufficient time to perform these supplementary procedures.

- Approximately 250 private schools had still not submitted the required information on their students for the 2011/12 school year by June 2013, a full year after the school year had ended. For data that is submitted, the Ministry has no process in place to verify its accuracy and relies on the good faith of private school administrators. For the public school system, the Ministry analyzes such data to determine if students are receiving satisfactory instruction and progressing academically. However, the Ministry has not done any such analysis for private school students.
- The Ministry has exclusive authority to grant the OSSD. To help prevent diploma fraud and ensure control over blank diplomas pre-signed by the Minister of Education, the Ministry reconciles public schools' requests for diplomas to grade 12 student enrolments. However, this procedure has not been applied to private schools. In fact, the Ministry provided thousands of diplomas to private schools without identifying for whom these diplomas were intended. For example, for the 2011/12 school year, 30 private schools were issued a total of 1,500 more diplomas than their grade 12 student populations, and 50 other private schools were issued 2,300 diplomas even though they had not submitted any student enrolment data by June 2013.
- The Ministry informed us that it has not sought prosecution for any offence under the *Education Act* against any private schools or individuals associated with these schools. It stated that enforcing compliance through

penalties is not economical, as legal costs to find someone guilty outweigh the fines that would be collected. For example, a private school that does not submit the required statistical information, on conviction, is liable to a fine of not more than \$200.

- The Education Quality and Accountability Office (EQAO) helps to ensure satisfactory instruction by testing all students in the public school system at grades 3, 6 and 9. Some private schools participate in EQAO testing, and all private school students pursuing an OSSD must write the EQAO's Ontario Secondary School Literacy Test (OSSLT). We reviewed EQAO test results and noted that a greater percentage of public school students achieved the provincial standard than private school students. In addition, in 2012, 82% of public school students passed the OSSLT on the first attempt, compared to 73% of private school students. The results for a sample of these private schools varied considerably, from an overall school pass rate of 19% to 100%. The Ministry does not analyze such EQAO results to determine if students in private schools are receiving satisfactory instruction.

OVERALL MINISTRY RESPONSE

We agree with the recommendations of the Auditor General and have given thorough consideration to their implementation. To support a foundation of a fair, productive and socially cohesive society, the Ministry of Education's three priority goals are high levels of student achievement, reduced gaps in student achievement and increased public confidence in public education.

The Ministry acknowledges the right of parents and students to choose a source of education outside the publicly funded system, whether for religious, cultural or other reasons. This audit report states that approximately 110,000 students attend private schools in

Ontario, representing about 5% of the 2 million children attending publicly funded schools. The Ministry's resources are deliberately focused on ensuring that high-quality, publicly funded education is available to every Ontario student. However, the Ministry will take appropriate steps to expand initiatives to provide information regarding consumer awareness about the private school sector.

Private schools in Ontario operate outside the publicly funded education system as independent businesses or non-profit organizations, and unlike those in many other provinces, they receive no public funding or financial assistance. The *Education Act* does not provide the Ministry with oversight and monitoring responsibilities with respect to the day-to-day operations of private schools. However, the Ministry inspects private secondary schools that wish to offer credits toward the Ontario Secondary School Diploma.

Detailed Audit Observations

ESTABLISHING AND MAINTAINING STATUS AS A PRIVATE SCHOOL

The *Education Act* (Act) requires all private schools to submit a notice of intention to operate to the Ministry of Education by the first of September each year. The Ministry prescribes the form and content of this notice and requests information such as the school's name and contact information, its principal and its owners, its hours of operation, its projected and actual enrolment, any religious affiliations, any memberships in private school associations, and whether the school intends to offer Ontario secondary school diploma credits in the coming school year.

The Ministry has also established seven general requirements for private schools: control over the content of the program or courses of study; control

of the quality of instruction and evaluation of student achievement; a principal in charge of the school; a common school-wide evaluation policy; a common procedure for reporting to parents; a common school-wide attendance policy; and a central office to maintain student records.

Validating New Private Schools

When the Ministry receives a notice of intention to operate a new private school, an education officer conducts an unannounced validation visit within the first month of the school's operation. This visit is to verify that the information contained in the notice of intention form is correct, that the school meets the legal definition of a private school and that the Ministry's general requirements for a private school are in place. If a private school meets these validation requirements, the school principal is so informed and the education officer will recommend the school for registration. The school's name will then be added on the Ministry's website to the list of private schools currently operating in Ontario.

Over the past three years, the Ministry has received notices from 275 prospective private schools and has registered 190. The Ministry has not tracked the reasons for which the remaining 85 were not registered. We reviewed a sample of ministry records for these schools and found that either they could not meet the enrolment requirement of five students or they notified the Ministry during the validation visit that they did not plan to operate in the current school year and were no longer seeking authority to register.

We reviewed a sample of validation reports for schools that were registered and discussed the process with several education officers. We noted that, although education officers complete a standard validation report template that typically asks questions requiring "yes" or "no" responses, they generally do not retain supporting documentation from their visits or record their procedures. We found that, to ensure a prospective school meets the statutory definition of a private school, education

officers count the number of students present and verify their ages against registration information to ensure that the school has five students of compulsory school age. To confirm that schools are open during the legislated hours of operation, education officers review timetables and conduct their validation visits between 9:00 a.m. and 4:00 p.m.

The validation process also requires education officers to determine if there is evidence that the general requirements for a private school are present. However, there are no criteria or specific procedures in place to guide them in their assessment of these requirements. We were informed that education officers simply search for evidence that the general requirements exist, but they do not evaluate how effectively these requirements have been implemented. For example, one of the general requirements is “control of content of the program or courses of study.” The Ministry has defined this requirement for secondary schools offering high school credits as the delivery of the Ontario curriculum but, for non-credit-granting schools, the Ministry has defined “control of content of the program or courses of study” as a full-day day-school program. To verify that non-credit-granting schools have met this requirement, some education officers inquire into what programs are being taught, while others review the school’s textbooks. Education officers noted that a validation visit takes from as little as 30 minutes to half a working day, and all the officers we interviewed stated that, at private elementary schools and secondary schools that do not offer diploma credits, they do not evaluate the curriculum for either quality or content.

In contrast to Ontario, to varying degrees, many private schools in other Canadian provinces are required to follow an approved curriculum. All Quebec private schools must adhere to the curriculum established by the province’s ministry of education. In Manitoba, private schools do not need to follow the provincial curriculum, but they must deliver the same standard of education that is provided in a public school. In Newfoundland and Labrador, the minister of education prescribes or approves the

courses offered in private schools. In Prince Edward Island, private school programs of study must be approved by the minister, and no private school can change its program of study without the minister’s prior written approval.

Other provinces in Canada also require their education ministries to specifically review health and safety conditions. For example, British Columbia private schools must maintain adequate educational facilities, and Manitoba inspectors annually ensure that the space chosen for a private school is suitable for teaching and learning, has passed a building and fire inspection, and meets all health regulations. In Prince Edward Island, a private school must provide the education department with evidence that it meets the health, fire and safety standards established by the province. There are no similar legislative requirements for private schools in Ontario, although some other provinces base funding to private schools on adherence to provincial guidelines for curriculum, teacher qualifications, health and safety, and other requirements.

In Ontario, education officers noted that during validation visits they sometimes identify health and safety concerns such as inadequate washroom facilities, a lack of fire exits or classrooms that appear too small for the number of students being taught. However, these schools are still recommended for registration and are allowed to operate, since the education officers stated that they do not have the authority to deny registration of a private school based on health and safety issues. Furthermore, although education officers may inform private school principals of any major health and safety concerns observed, there is no formal process in place to document these concerns or to inform oversight agencies such as public health, the fire department or children’s aid societies. In addition, at publicly funded schools in Ontario, for the purpose of ensuring students’ safety, all teachers, staff and service providers who come in contact with students must undergo a criminal background check. Education officers are not required to ensure that a criminal background check has been performed on private

school operators, principals, teachers or staff as there is no legislative requirement for private schools to perform such checks.

Notice of Intention to Operate Existing Private Schools

The Ministry issues the same notice of intention form for new and existing schools and requests the same information, including the number of students enrolled and the hours of operation. Although we found that all the schools we sampled had a valid notice of intention form on file, the Ministry does not perform a validation visit or otherwise confirm that the information submitted by existing private schools is correct. This information is self-reported by the school and the Ministry accepts it if the school declares, for example, that it has at least the five students required to meet the definition of a private school. In fact, as long as a private school continues to submit notice of intention forms, its name will continue to be published on the Ministry's website listing of private schools currently operating in Ontario.

The Ministry performs inspection visits to the 408 secondary schools that offer high school credits and may observe, for example, that the required minimum of five students are enrolled. However, education officers do not specifically verify the information recorded on the notice of intention forms during inspections. According to ministry records, 85% of the 605 elementary and non-credit-granting secondary schools began operations before 2010, with the majority of these schools established more than 10 years ago. We selected a sample of these schools and confirmed that they had not been visited by the Ministry since their establishment. Education officers confirmed that they are not required to, and have not, revalidated any private schools, as the Ministry does not have a policy to revalidate the information submitted on the notice of intention forms. Furthermore, subsequent to the first year of operations, the Ministry

does not verify that the general requirements for a private school are present, and non-credit-granting schools are not required to provide any information on how they continue to meet these requirements.

Prior to September 2012, the notice of intention form required private schools to submit only their projected enrolment for the coming school year. This self-reported information was not sufficient to ensure that private schools met the statutory definition of having at least five students, because actual enrolment may in fact have been less. In September 2012, the Ministry began to request that the notice of intention form include the actual enrolment for the previous year in addition to the projected enrolment.

The Ministry also requires private schools to submit student information to be input into its Ontario School Information System (OnSIS). We reviewed data collected through OnSIS and found that several schools reported actual enrolment of fewer than five students, with one school reporting fewer than five students for six consecutive years. We selected a sample of these schools and found that the enrolment reported in OnSIS did not correspond to enrolment reported on the notice of intention form for any of the samples selected. For example, one school reported having an actual student enrolment of 20 students on its notice of intention form but reported only one student through OnSIS. Education officers do not have access to OnSIS information and therefore cannot identify and follow up on such discrepancies. The Ministry stated that schools with fewer than five students are allowed to operate but are given notice that their enrolment has declined below the minimum required by the Act and that they are in jeopardy of losing their status as private schools. However, the Ministry could not provide us with a list of which schools had been so informed or evidence that it has revoked the registration of any schools that did not meet the legislated minimum of five students.

Private Schools with More Than One Location

The notice of intention requires a private school to provide data for only its primary location. As a result, several private schools are operating additional locations that are undocumented by the Ministry. In 2010, a one-time request was sent to private schools requesting information on any locations in addition to the schools' main sites. Through this exercise, 117 private schools reported that they were operating at 180 additional locations. The Ministry had no previous knowledge of the existence of many of them. Eighty-seven of these locations were offering diploma credits. Since this information was self-reported by private schools without any validation or verification by the Ministry, there is the potential that even more private schools are operating at additional locations without the Ministry's knowledge.

One private school that was authorized to grant credits was operating a second location that had not been previously inspected by the Ministry. When the Ministry was made aware of this location an inspection was conducted. The Ministry identified several compliance issues at the second location, including assessment and evaluation practices that were not based on ministry policy. These issues were not identified as concerns at the school's main site. As a result, the Ministry denied the second location the authority to grant credits.

Although some private schools have subsequently submitted additional notices of intention for each location, at the time of our audit the Ministry had not taken any formal action with regard to the additional locations identified in 2010, had not implemented an action plan to validate all of these previously unknown locations, and had not inspected the 87 locations that offered credits toward a diploma. The Ministry informed us that it will begin requesting that private schools list additional locations on the 2013/14 notice of intention forms.

Private School Closures

The Ministry has indicated that a school could lose its status as a private school if it does not meet the definition of a private school, submit a notice of intention form by the stated deadline or submit the required statistical information. Ministry data indicates that 235 schools have ceased operations and lost their status as private schools over the last five school years (2007/08–2011/12). The Ministry does not track the reasons for which private schools close, but we found that in the majority of cases sampled, schools closed before the Ministry had discovered that they were no longer in operation. Many schools were deemed closed by the Ministry because they had not submitted their annual notice of intention form by the required deadline. Other schools were identified as being closed when an education officer attempted to perform an inspection but discovered that the school was no longer operating. Only in very few cases did private schools notify the Ministry of their intent to cease operations. In most cases where information was available in the Ministry's files, the schools had indicated that they had ceased operations due to declining enrolment and financial problems.

Financial information is not required to be submitted with the notice of information form, and private schools are not required to demonstrate that they will be financially viable operations. Schools that close during the year could put students at risk academically and their parents at risk financially. In contrast, students in Ontario's private career colleges are protected financially and academically, as every college is required by legislation to prove it is financially viable and is required to deposit money into a fund to help its students find alternative programs in the event the college ceases operations.

Private schools that cease operations must forward student records to the Ministry to ensure that essential information on their students is preserved. Although the Ministry sends letters to private schools that have closed informing them of this obligation, it does not perform any additional follow-up

if the closed school does not forward student files or does not respond to the letter. We selected a sample of schools that were identified as being closed and determined that fewer than half of these schools had forwarded student records to the Ministry.

Program Advertising and Unregistered Private Schools

Private schools are not permitted to claim that the Ministry has approved or accredited their academic program. However, the Ministry does not have a process in place to ensure that private schools are complying with these advertising guidelines. Through Internet searches, we identified several cases where private schools listed on the Ministry's website were advertising that their programs had been accredited by the Ministry. Parents, students and the public could be misled into thinking that the Ministry has evaluated and approved the curriculum of private schools whose names are listed. This is especially a concern for elementary schools and secondary schools that do not offer credits toward the high school diploma, as the Ministry does not evaluate or approve any aspect of the curriculum being taught at these schools. The Ministry recognizes that the annual submission of a notice of intention form provides little accountability and assurance that a school is providing quality education, and notes on its website that private schools operate independently and that their inclusion on the site is not an endorsement of the schools. The site, in a buyer beware fashion, cautions parents to perform due diligence before entering into any contract with a private school. However, the Ministry does not have a link on its website to easily access this caution or any other information related to private schools.

Over the last three years, the Ministry has issued nine cease and desist letters to organizations for false advertising or for claiming to be private schools when they were not registered with the Ministry. All of these cases were identified through complaints made to the Ministry by members of the

public. We found several more examples of entities advertising what appeared to be private school services. These entities were once known to the Ministry, as they were either formerly registered private schools that were no longer submitting notices of intention to operate, or prospective private schools that had not completed the validation process. The Ministry does not have procedures in place to proactively identify private schools that are operating illegally.

RECOMMENDATION 1

To help ensure that private school students receive satisfactory instruction in a safe and healthy environment and to ensure compliance with ministry policy and legislation, the Ministry of Education (Ministry) should:

- enhance the notice of intention and validation processes to require private schools to demonstrate that their students are receiving satisfactory instruction;
- notify the appropriate authorities of any health and safety concerns observed during onsite school visits;
- revalidate private schools annually or on a cyclical basis to ensure that information provided is correct and to revoke the authority to operate for those schools that do not meet the definition of and general requirements of a private school;
- provide education officers with access to the Ontario School Information System to, for example, reconcile and validate enrolment;
- identify all private school locations and verify that all locations comply with ministry policy and legislation;
- ensure that closed schools forward all student records to the Ministry as required; and
- develop a process to proactively identify schools that are not complying with the advertising guidelines or are operating illegally without being registered.

MINISTRY RESPONSE

The Ministry agrees that students should receive instruction in a safe and healthy environment, and will assess options to ensure that private schools with credit-granting authority document compliance with provincial health and safety legislation, and options to empower education officers to notify the appropriate authorities of any suspected violations of health and safety laws.

The Ministry will continue to expand and refine the collection and analysis of data received from private schools through the annual *Notice of Intention to Operate a Private School* form, and the use of this information during the validation and inspection processes. The form has been updated for the current 2013/2014 school year, requiring private schools to provide information regarding any educational programs being operated at “campus” locations other than the main school site. This is part of the Ministry’s policy to eliminate the operation of campus locations by private schools with credit-granting authority, effective September 2014. In addition, the Ministry has directed education officers to inspect any additional locations of private schools with credit-granting authority identified through this form.

The Ministry is working to develop a profile for each private school with credit-granting authority in Ontario, as a tool to provide education officers conducting inspections with data collected through the Ontario School Information System.

The Ministry maintains a list on its public website of all private schools currently operating in Ontario, including information regarding a school’s credit-granting authority. The Ministry will review the public website content with a view to increasing consumer awareness and will continue to take appropriate steps to expand initiatives to provide information to parents and students regarding the choice to pursue private education.

PRIVATE SCHOOLS WITH DAY NURSERIES

In Ontario, any facility that cares for more than five children under the age of 10 who are not of common parentage must be licensed by the Ministry under the *Day Nurseries Act*. The *Day Nurseries Act* also states that a day nursery is not a private school as defined in the *Education Act*, which defines a private school as an institution at which instruction is provided to five or more pupils who are of compulsory school age (5 years, 8 months to age 18). The Ministry requires newer private schools that enroll five or more children under junior kindergarten age (3 years, 8 months) to be licensed under the *Day Nurseries Act*. However, pursuant to a policy issued by the Ministry of Education and the Ministry of Community and Social Services, private schools offering services to children under junior kindergarten age at the time the policy took effect (June 1993) would be allowed to continue offering those services without a licence. The Ministry could not provide us with an accurate number of preschool children in private schools.

The *Day Nurseries Act* requires licensed daycares to comply with a comprehensive list of standards for the health, safety and developmental needs of children. For example, daycare staff can oversee only a limited number of children, with more staff required for younger children; the local fire chief must approve fire evacuation plans; and supervisory staff must hold a diploma in early childhood education. In contrast, there is no limit to the number of children of any age that private school staff can oversee, there are no fire safety requirements, and private school staff are not required to possess any qualifications. Such a disparity in requirements may give private schools a significant economic advantage over licensed child-care providers while exposing preschool children to greater risk.

Based on ministry information, there are more than 15,000 children in private schools below compulsory school age, with at least 3,000 of these children below the junior kindergarten age

of three years and eight months. In addition, there are over 350 private schools that could claim to be exempt from compliance with the *Day Nurseries Act*. However, the Ministry is not aware of all the private schools that operate child-care facilities without a licence and, except during validation visits in their first year of operations, the Ministry does not visit private elementary schools. In contrast, in accordance with the *Day Nurseries Act*, the Ministry inspects all licensed child-care facilities annually. The Ministry could face significant liability if anything untoward happens to a private school child who should have been afforded the protections of the *Day Nurseries Act*.

The following example illustrates a school that operated a daycare centre for at least five years without any oversight from the Ministry. In 2012, the Ministry received a complaint from a municipal health department regarding child-care practices at a private school. Upon investigation, the Ministry learned that the owner of a school that was in existence before 1993 had been submitting notice of intention forms to the Ministry even though the school was no longer in operation. In exchange for payment, this owner continued to submit the old private school's information on behalf of an unlicensed daycare operation that was at a different location, with different owners. This was done to take advantage of private school exemptions from the *Day Nurseries Act*. The Ministry informed the daycare's owners that they would require a day nursery licence if they continued to operate.

RECOMMENDATION 2

To reduce health and safety risks to preschool children and ensure compliance with legislation, the Ministry of Education (Ministry) should identify all private schools that operate child-care facilities and ensure that these schools are licensed under the *Day Nurseries Act* and inspected as required by legislation.

MINISTRY RESPONSE

As part of its work on modernizing child care, the Ministry is planning a policy change to direct that all private schools serving children under junior kindergarten age must be licensed under the *Day Nurseries Act*. The Ministry also intends to introduce new legislation that, if passed, would replace the *Day Nurseries Act*. The proposed bill would clearly outline which programs require a child-care licence and which are exempt, including provisions supporting the direction that private schools serving children under junior kindergarten age require a child-care licence. This would be supported by communications to all private schools in Ontario and a transition period for operators to become licensed.

The Ministry will continue assessing options to identify private schools offering services that should be licensed under the *Day Nurseries Act*, and withdrawing the policy exemption from the *Day Nurseries Act* for private schools offering services to children under junior kindergarten age. The Ministry will also continue its practice of investigating complaints regarding private schools offering services that may need a licence under the *Day Nurseries Act*, and identifying such schools from information received through the annual *Notice of Intention to Operate a Private School* form.

DIPLOMA PROGRAM INSPECTIONS

Subsection 16(7) of the *Education Act* (Act), Inspection on Request, states that the Ministry may inspect the standard of instruction in a private school in the subjects leading to the Ontario secondary school diploma (OSSD). These OSSD program inspections are limited to a review of the school's operations related to the delivery of high school credits and are only to be undertaken at the request of the private school. The Ministry charges a fee to perform program inspections, and private

schools will not be given the authority to grant diploma credits without a ministry inspection. The purpose of inspections is to determine whether the standard of instruction in courses leading to the OSSD is being delivered in compliance with ministry requirements, including the provincial curriculum.

Subsection 16(6) of the Act gives the Ministry the authority, at its discretion, to inspect all private schools, but the Ministry does not have a general inspection process in place and generally does not inspect any private schools under this provision of the Act. Although the Ministry will conduct program inspections at schools that offer high school credits, elementary schools are not inspected by the Ministry for any aspect of their operations, and neither are secondary schools that do not offer diploma credits. In contrast, an annual inspection process for all private schools is in place in several other provinces, such as Manitoba, Saskatchewan and British Columbia. These inspections include not only an assessment of program delivery but also a review of the facilities to ensure the health and safety of students.

There are 408 private schools in Ontario authorized to offer credits toward a high school diploma, a number that has grown by more than 25% over the past five years. In the 2012/13 school year, the Ministry performed about 260 program inspections. This inspection process is based on evidence gathered through the review of pre-inspection materials such as course calendars and school timetables; on-site discussion with the principal and other school staff; observations during classroom visits; reviews of students' work; examination of school policies and procedures; and an examination of school records. To assess if private schools are in compliance with ministry policies, education officers are required to complete an inspection template that contains standard questions to be answered for each inspection and complete an inspection report detailing their findings on the school's compliance with ministry requirements.

Program Inspection Selection Process

The Ministry inspects private schools that offer credits toward the high school diploma on a cyclical basis, generally once every two years. However, if an inspection determines that a school's operations are significantly non-compliant with ministry policies, potentially affecting the integrity of the diploma credits being issued, an education officer may recommend more frequent inspections. We reviewed a sample of inspection reports of such schools and noted that there was limited rationale on file as to why the schools were recommended for more frequent visits. Nevertheless, approximately 100 schools were identified to be inspected again the following year rather than in two years' time, and five schools were recommended to be inspected twice annually. In other words, significant concerns were identified in over 25% of the schools offering high school credits.

Given the number of schools with concerns noted by education officers, in September 2012 the Ministry established risk management criteria to identify priority schools to be inspected earlier in the year or more frequently: these are schools that have significant unresolved issues related to credit integrity, are in their first year of operation or are considered "at-risk" schools outside the inspection cycle. Criteria related to credit integrity include failing to provide 110 instructional hours per course; granting equivalent credits to students from non-recognized out-of-country institutions; having a principal with a limited understanding of curriculum requirements; and confirmed credit integrity complaints. Regional office teams were to collectively review each inspector's school inspection priorities to ensure that the risk management criteria were applied consistently. In the 2011/12 school year, each region was asked to identify up to 12 priority schools. That year, the regions identified 27 priority schools, and 66 priority schools were identified in 2012/13.

We reviewed the process used to identify priority schools at the three regions we visited and

determined that although all the regions stated that they used the risk management criteria to determine priority schools, only one of these regions had documented its assessments. The other two regions stated that they held informal meetings and could not provide us with any evidence to support their discussions or the conclusions reached. Furthermore, none of the three regions we visited had performed a region-wide analysis to assess the risk at all schools or rank schools against one another, therefore potentially not identifying all high-risk schools for more frequent inspections.

Inspecting Existing Credit-granting Schools

We reviewed a sample of inspection files to assess the quality of the inspections undertaken by education officers. Many of the files we selected did not include supporting documentation or note the activities performed in order for us to assess whether education officers were following consistent inspection procedures based on the risks identified. For example, the Ontario Student Record (OSR) is an ongoing record of a student's educational progress. Education officers are expected to examine a minimum of 10 OSRs and complete a checklist for each OSR examined to determine if private schools have policies and procedures for the establishment, maintenance, use, retention, transfer and disposal of student records. Although education officers in the regions we visited stated that they review 10 OSRs during an inspection, in the majority of the inspection files we selected we were unable to confirm this as there was no record of this review and the OSR checklists were not on file.

Another procedure performed by education officers is to visit five to seven classrooms for approximately 20 to 30 minutes each to review daily lesson plans and ensure that submitted course outlines correspond with the instruction observed. The classroom visits also require education officers to sample student assessments and classroom work, as well as check student attendance. Although education officers stated that they visited the suggested

number of classrooms and performed additional procedures to check whether curriculum expectations were being delivered, we noted that there was no documented evidence to support the number of classrooms visited or the duration of the visits in approximately two-thirds of the samples reviewed. In general, education officers did not sufficiently document their inspection activities and decision-making. As a result, we could not assess how well education officers were complying with the Ministry's requirements. These officers informed us that although most of them had been principals, vice-principals or teachers and therefore brought their educational expertise to the inspection process, and that they attended regular professional development meetings, they would welcome formal training in inspection and investigative practice.

We also noted that private school teachers are not required to be certified by the Ontario College of Teachers. Furthermore, private school owners, principals and teachers are not required to meet any minimum qualifications or demonstrate that they have obtained the OSSD or similar qualifications, either individually or collectively. Therefore, individuals providing instruction toward a high school diploma may not have obtained this certificate themselves. Some education officers noted that it is difficult to discuss ministry policies with respect to the delivery of the Ontario curriculum with individuals who do not have teaching qualifications, as there is a significant knowledge gap. Our review of practices in other jurisdictions found that many provinces (Quebec, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, Saskatchewan) require teachers who deliver provincial curriculums at private schools to be certified teachers.

Inspecting Specific Risk Areas

The ministry guideline *Inspection Requirements for Private Schools Granting Secondary School Credits* (IRPS) sets out the policies that govern the inspection of private schools and summarizes the Ontario curriculum and ministry policies related to the

delivery of credits. To assess compliance, education officers complete an inspection template based on IRPS. However, we identified several areas where the Ministry's inspection template did not sufficiently address important risk areas such as ensuring that credits granted are earned, that sufficient credits are accumulated for a diploma and that online school programs meet ministry standards. Even though the Ministry had developed or communicated additional procedures to address these risk areas, in many of the inspections we sampled there was insufficient evidence that inspectors had implemented these procedures satisfactorily. Some of these risk areas are as follows:

- The public, school boards and other stakeholders have raised concerns over some private schools either giving students higher grades than they had earned or giving students credit for courses that they did not attend or complete any course work in. The Ministry receives such complaints either directly from stakeholders or from the general public through its website. It responds to general complaints within 15 business days and specifically tracks and investigates complaints related to credit integrity. Over the past three years, the Ministry has received approximately 140 complaints related to credit integrity, and on occasion has revoked credit-granting authority for schools that grant credits inappropriately. Although the Ministry has discussed procedures that education officers could perform during an inspection to proactively uncover these activities, the inspection template does not include specific procedures to help identify schools that violate ministry policy in this regard. Some education officers said they perform supplementary procedures like comparing students' work to their grades, but we saw very little supporting evidence or documentation to verify that such procedures were being performed. Other education officers noted that there was not enough time to perform additional procedures that were not part of the inspection template.
- The private school inspection process does not include procedures for education officers to confirm that students have met diploma requirements. Some of the education officers we interviewed stated that they would perform additional procedures, not contained in the inspection template, to ensure that students who had been issued diplomas had met the Ministry's requirements. These procedures included verifying that students had completed the 18 compulsory and 30 total credits; passed the Ontario Secondary School Literacy Test; and performed 40 hours of community service. The officers who performed additional procedures would do so to varying degrees of thoroughness, from doing a quick scan to examining one to 12 student records. However, there was very little supporting evidence to assess how thoroughly education officers were performing these additional procedures. One education officer identified a case where a private school student was awarded a diploma but had not completed the minimum 30 credits.
- Although 24 online private schools are authorized to grant credits toward a high school diploma, the inspection process does not ensure that the practices at online schools meet the standards identified in the Ministry's curriculum and policies. For example, education officers have difficulty verifying that students have completed the required 110 hours for full-credit courses, because some student activities are performed offline. Accordingly, in September 2012 the Ministry created a checklist to assist education officers in performing supplementary procedures when inspecting online schools. These procedures include reviewing student learning logs that document both online and offline activities in order to ensure that the required hours have been completed.

Although some of the education officers stated that they use the checklist when inspecting online schools, we did not see any completed checklists in the inspection files we reviewed.

Inspecting New Credit-granting Schools

Over the last three years, approximately 85 new schools have been authorized by the Ministry to grant credits toward the high school diploma. The Ministry permits new schools that have enrolled at least five students and been validated to deliver instruction toward diploma courses before they are given authority to grant these credits to students. The schools are officially authorized to grant credits when they have successfully passed an inspection.

We reviewed a sample of inspection reports of new schools and found that there were cases of significant non-compliance but the schools were still authorized by the Ministry to issue credits. These compliance issues included situations where curriculum expectations were not always evident in the classroom; it was not evident that student achievement was based on curriculum expectations; and there was no documentation to indicate that the mandatory 110 credit hours had been scheduled. The education officers made follow-up visits to these new schools to assess whether the schools had resolved the concerns identified. In one case we sampled, almost all the compliance issues identified during the inspection continued to exist at the time of the follow-up visit. However, this school was still permitted to grant diploma credits.

We were informed that over the past five years only one new school has been denied credit-granting authority. One education officer stated that officers are expected to work with new schools to help move them into compliance. Another inspector told us that officers have to give new private schools the opportunity to improve before making the decision to deny credit-granting authority. The Ministry noted that its practice is to provide schools with an opportunity to address some non-compliance issues within a specified

time frame, rather than proceeding directly to the removal of credit-granting authority.

Following Up on Non-compliance with Ministry Policy

During the inspection process, an education officer may determine that a private school with credit-granting authority is not complying with ministry policies to an extent that could affect the integrity of the credits issued by the school. These concerns are to be communicated to the private school's principal, who is supposed to prepare an action plan to address any significant non-compliance. A follow-up inspection is then to be performed to ensure that any issues identified have been corrected.

We reviewed a sample of inspection reports and noted that the majority had some concerns in relation to compliance with ministry policies, with about one-third of the reports identifying non-compliance at a level that could potentially affect the integrity of credits issued by the school. Among these concerns were the following: there was a lack of evidence that the required 110 hours of instruction were being scheduled and delivered; the expectations set out in the curriculum were not evident in the classroom; no Prior Learning Assessment and Recognition (PLAR) procedures were in place to ensure that the knowledge students obtained outside Ontario meets the expectations of the provincial curriculum; and the required PLAR forms were not on file to support awarding equivalent credits.

We noted that education officers at times made follow-up visits after an inspection to verify that the concerns they had noted had been rectified. Through discussions with education officers, we learned that compliance issues corrected by the time of the follow-up visit are generally not documented on the inspection report. Furthermore, since the Ministry does not usually obtain action plans from private schools indicating how non-compliance will be rectified, there is limited evidence that many of the compliance issues identified ever existed. Consequently, inspectors would have to rely on their

memories to assess recurring compliance issues, and a record of these issues would not be available for management review or for future inspectors.

Where no follow-up visits were scheduled, we found that the Ministry generally did not provide deadlines to private schools to resolve compliance issues. Where concerns were noted, the Ministry provided schools with the opportunity to correct them by the next inspection cycle, which could occur up to two years after the non-compliance had been identified. In our sample, we noted a private school that was granting PLAR equivalencies toward the high school diploma that was not following the proper assessment procedures to justify awarding the credits. The Ministry identifies violation of PLAR procedures as a significant risk factor that affects credit integrity. However, the private school was given two years until its next inspection to demonstrate that it had corrected this problem.

Since 2004, the Ministry has revoked the credit-granting authority of 23 schools. The Ministry has developed procedural guidelines for revocation of credit-granting authority, but there are no guiding principles to assist education officers in determining the degree of non-compliance that would lead to credit-granting authority being denied. As a result, the recommendation to revoke credit-granting authority is based on the judgment of individual education officers, which could lead to inconsistencies. Some education officers we interviewed stated that minimum compliance standards need to be defined and more detailed policies and procedures put in place to assist in determining when to revoke credit-granting authority.

Although regional managers review inspection reports for completeness, we noted that there is limited review to ensure that inspections are adequate and that the recommendation that a private school be authorized to grant credits toward the diploma is appropriate. For example, since education officers generally do not retain supporting documentation from inspections or document their procedures, managers are unable to assess the procedures performed or the recommendations to award credit-granting authority. Furthermore, we

noted that there is limited management oversight over the follow-up of compliance issues identified during an inspection.

Public School Students Taking Diploma Courses at Private Schools

In 2009 concerns were expressed in the education sector and among the public that some students who were registered primarily at publicly funded schools were taking courses at private schools to obtain higher marks in order to gain an advantage in university admissions and scholarship applications. In response to this concern, the Ministry requested that public schools flag student transcripts with a “P” notation on courses taken by their students at private schools. We reviewed the “P” notation information reported by public schools for 2010/11 and 2011/12 and noted that for each of these academic years, approximately 6,000 courses were taken by public school students at private schools, with two-thirds of these courses being at the grade 12 level.

We contacted several universities, the Ontario Universities’ Application Centre and the Ontario College Application Service. Many of those we spoke to stated that the “P” notation is not well understood and that they accept credits issued by private schools at face value, since these schools pass ministry inspections and are given credit-granting authority. Consequently, it is assumed that courses are being delivered properly.

Program Inspection Revenue

To oversee the private school sector, the Ministry spends approximately \$225,000 for head office staff and approximately \$575,000 for education officers. Private schools must pay a fee to cover the cost of ministry inspections. Prior to 2009, inspection fees were based on the number of students enrolled at each private school and ranged from \$800 for schools with fewer than 100 students to \$1,100 for schools with over 400 students. The Ministry now charges a flat fee per inspection. This fee has

been steadily increasing, from \$1,100 in 2009/10 to \$2,450 in 2012/13, and the Ministry plans to increase the fee to \$4,050 over the next few years to recover the full cost of each year's inspections by 2014/15. For the 2011/12 school year, the Ministry charged private schools approximately \$425,000 for inspections and, with the exception of a few schools that closed, the vast majority of private schools paid their inspection fees on a timely basis.

RECOMMENDATION 3

To ensure that adequate policies and procedures are in place to verify that credit-granting private schools are awarding course credits and diplomas in compliance with ministry policies, including the provincial grade 9 to 12 curriculum, the Ministry of Education (Ministry) should:

- use its established criteria to assess the risk of non-compliance so that it can rank all credit-granting schools and devise an inspection frequency schedule according to the risks identified;
- document procedures undertaken, significant non-compliance observed and conclusions reached during inspections, and retain all documentation for management oversight and subsequent review;
- consider a conditional rating for new private schools that are not yet fully compliant;
- review whether the "P" notation on public school student transcripts is influencing post-secondary admission decisions as intended; and
- establish effective procedures to identify, track and take timely corrective action against private schools that are repeatedly non-compliant with ministry policies.

MINISTRY RESPONSE

The Ministry agrees that the protection of credit integrity in the granting of credits and diplomas is a critical function of the private school

inspection process, and will continue to review and assess policies and procedures in this area. The Ministry has implemented a risk-based procedure to identify priority schools requiring early inspection, and continues to determine the frequency of inspections through the inspection process. The Ministry is reviewing the documentation, tracking and follow-up aspects of the inspection process to look for ways to improve the effectiveness of its monitoring activities.

The Ministry will evaluate options regarding private schools that are persistently non-compliant with legislative and policy requirements.

REQUIRED DATA SUBMISSIONS AND REPORTING

Section 16 of the *Education Act* states that private schools are to provide statistical information regarding student enrolment, staff, courses of study and other information as and when required by the Ministry. Elementary schools and secondary schools that do not offer diploma credits are required to submit only their aggregate student enrolment for the year, while secondary schools that offer diploma credits must provide specific information, including credits taken and grades achieved, for each student registered. This information is to be submitted three times a year through the Ministry's Ontario School Information System (OnSIS), a web-based application that integrates school, student, educator and course data.

Data collection for private schools was to be fully implemented in the 2006/07 academic year. However, the Ministry is having significant difficulty in obtaining all the required information from all private schools in a timely manner. As of June 2013, the Ministry still had not received the required data from approximately 10% of schools for the 2010/11 academic year and 25% of schools for the 2011/12 school year. All student-specific data for the 2011/12 academic year should have been finalized by September 2012. However, by

June 2013, one year after the school year ended, approximately 100 secondary schools offering diploma credits and 150 elementary and secondary schools that do not offer credits still had not submitted any information to the Ministry.

For the information submitted, the Ministry does not have a process in place to assess its accuracy and relies on the good faith of private school administrators. Also, since the education officers are not given access to data collected through OnSIS, they cannot assess the information reported about students in private schools, such as courses taken, grades received and credits granted. Additionally, since the Ministry does not revalidate, inspect or visit elementary schools and secondary schools that do not offer diploma credits, the annual student enrolment reported by these schools is also not verified. Therefore, the Ministry accepts the student enrolment numbers submitted by private schools and publicly reports this information without ensuring its accuracy.

Ontario's public schools submit similar information to that requested from private schools, for which the Ministry has implemented a rigorous verification process. The Ministry uses data collected through OnSIS to make informed policy decisions for the public schools based on graduation rates, course pass rates and student credit accumulation. This information is used to help ensure that students in the public school sector are progressing and receiving satisfactory instruction. However, the Ministry has not done any such analysis of the data received from private schools. In order for data to be useful for analysis, it must be complete and accurate, and it must be submitted on a timely basis. With private school information, the Ministry is facing significant challenges in all three of these areas.

OnSIS requires that all students be assigned an Ontario Education Number (OEN), which is a unique identification number that enables the recording of student-specific information as well as each student's progress through the educational system. The number also facilitates the collection and analysis of data about Ontario's education

system in general. Private secondary schools that offer high school credits must assign an OEN to every student pursuing a diploma, but the 605 private elementary schools and secondary schools that do not offer diploma credits are not required to assign OENs to their students.

To ensure that students of compulsory school age are being educated, OnSIS requires every student who has been assigned an OEN to be accounted for somewhere in the education system. Without this identifying number, students at private elementary schools and secondary schools that do not offer credits are not accounted for. The Ministry does not have student-specific information to verify that all children in the province who are not in the public system are being educated in institutions such as private schools, and therefore cannot demonstrate that all children are in compliance with the legislated requirement for compulsory school attendance. Providing all children in both the public and the private education system with an Ontario Education Number would help ensure that all students of compulsory school age are receiving an education.

RECOMMENDATION 4

To help ensure that sufficient information is submitted to enable effective oversight of the private school sector and to ensure compliance with legislation and related policies, the Ministry of Education (Ministry) should:

- consider various options to encourage private schools to submit the required information on a timely basis;
- implement procedures to periodically verify the accuracy of the data submitted by private schools;
- analyze data received to highlight potential concerns and to determine if private school students are progressing appropriately; and
- consider assigning Ontario Education Numbers to all private school students to help verify compulsory school attendance.

MINISTRY RESPONSE

The Ministry agrees that the collection of timely and accurate information is required for effective oversight and monitoring, as well as for evidence-based decision-making and policy development, and will continue working to improve processes for data collection and analysis. The Ministry will continue to provide resource materials, help-desk support and training to assist private schools in completing their required submissions. The Ministry will extend the data quality assurance processes in place for publicly funded schools to the data collected from private schools. This five-pillar approach includes consistency, completeness, accuracy, precision and timeliness.

The Ministry will use the private school profile under development and conduct trend analysis to track achievement for students attending private schools and their progress through the education system, including comparisons to other private-school and public-school peers across the province.

The *Notice of Intention to Operate a Private School* form has been updated for the current 2013/2014 school year to require private schools to declare whether or not they have provided the statistical information required by the *Education Act*, noting that failure to do so may result in a fine upon conviction and the revocation of the ministry-issued school identification number required to operate.

The Ministry will also consider options regarding the issuance of Ontario Education Numbers to all private school students. This number is currently issued to all students in publicly funded schools and private schools with credit-granting authority, and to students in private schools that do not grant credits but choose to issue Ontario Education Numbers. The Ministry will inform those private schools not currently issuing Ontario Education Numbers of the process to apply for access to the online Ontario Education Number application.

ISSUING BLANK DIPLOMAS AND CERTIFICATES

The Ministry has exclusive power in Ontario over diplomas and certificates that are granted to pupils and the conditions under which they are granted. The OSSD is awarded to students who have demonstrated that they have successfully completed the Ministry's diploma requirements. The Ministry has authorized 408 private secondary schools to issue credits toward high school diplomas. Blank diplomas, pre-signed by the Minister of Education, are the same for both public and private school students. The school types the student's name on the blank diploma, and the diploma is dated and signed by the school principal.

To help prevent diploma fraud and ensure control over the number of blank diplomas provided, any public school request in excess of 10% above the previous year's grade 12 student enrolment is rejected. However, this procedure has not been applied to private schools. In the 2011/12 school year, private schools requested a total of about 16,000 blank diplomas from the Ministry. The Ministry has not been able to demonstrate adequate oversight over the diploma distribution process and, as a result, has issued thousands of diplomas without identifying for whom these diplomas were intended. We noted that other jurisdictions have additional control measures such as dual or multiple signatures and embossed or official seals, and in Alberta each diploma is uniquely numbered.

Private schools submit requests to the Ministry each year identifying the number of diplomas needed for their graduating class. However, the Ministry has not been comparing the number of graduating students to the number of diplomas requested. We compared the student enrolment reported in OnSIS to the number of diplomas requested and issued to private schools for the past three academic years. We noted, for example, that in 2011/12, 30 private schools were issued a total of 1,500 diplomas in excess of their entire grade 12 student populations.

We also noted that the Ministry is issuing diplomas to private schools that are not submitting enrolment figures. The Ministry informed the schools that the grade 12 enrolment reported in a private school's October OnSIS submission would be used to assess the reasonableness of diploma requests for that academic year, as is done with public schools. However, over 175 credit-granting private schools had not submitted their 2011/12 student enrolment information by the end of the school year, but were still issued the diplomas they requested. Additionally, we noted that at the completion of our audit in June 2013, over 50 of these schools had still not submitted the required data. In total, these 50 schools had received over 2,300 diplomas from the Ministry without having to demonstrate that they had any graduating students.

We also reviewed the Ministry's distribution of blank Ontario scholar certificates. An Ontario scholar certificate is intended to be awarded to high-achieving students who obtain at least an 80% average. The blank certificates are signed and sealed by the Minister of Education. We observed that 50 schools requested a total of 3,350 Ontario scholar certificates and an equal number of OSSDs, suggesting that all of their graduates would achieve an 80% average.

Education officers inspect private schools that offer credits at least once every two years. We noted that during their inspections the officers do not reconcile diplomas or certificates requested to the number of graduating students. The Ministry has recognized that private schools have been receiving more diplomas than required. As a result, in October 2012 the Ministry requested that private schools return unused or damaged diplomas. At the completion of our audit, about 700 diplomas had been returned.

RECOMMENDATION 5

To help ensure that Ontario secondary school diplomas and Ontario scholar certificates are issued only when they are earned and that

adequate controls are in place over their distribution, the Ministry of Education (Ministry) should:

- reconcile the number of diplomas and certificates requested to the number of graduating students reported at each private school, and investigate any unreasonable discrepancies; and
- distribute diplomas and certificates to only those private schools that submit student-specific data for graduating students.

MINISTRY RESPONSE

The Ministry agrees that proper restrictions are required for ministry documents certifying student achievement and will continue with two recent policy initiatives to tighten control. The first policy, already in effect, is to reject and investigate orders for diplomas and certificates from private schools with more than 5% above their reported grade 12 enrolment. The second policy, which will begin in the 2014/2015 school year, is to not send diplomas and certificates automatically to private schools with credit-granting authority if they have not submitted the required statistical data. Instead, the Ministry will investigate and determine the appropriate follow-up action, which may include an adjustment or even denial of the school's request.

The Ministry is also developing a private school profile document to provide education officers with current, school-specific information from OnSIS, including a comparison of the number of graduates with the number of diplomas and certificates ordered.

POLICY AND LEGISLATIVE ENFORCEMENT

Section 16 of the *Education Act* (Act) outlines a number of requirements for private schools and stipulates penalties for non-compliance with these

requirements. This section was passed in 1962 and has not changed significantly since that time. In the 1970s, penalty amounts were marginally increased. Currently, the penalties outlined in the Act are a fine of \$50 a day for every person managing a private school without a notice of intention; as much as \$200 for the person in charge of a school who has not provided statistical information to the Ministry within 60 days of the request; and up to \$500 for every person who knowingly makes a false statement on a notice of intention form or information return. However, according to the Act, an individual or school must be convicted of these offences before any fines can be imposed. The Ministry has stated that as a result of this requirement, enforcement is not fiscally responsible, as legal costs of pursuing a conviction far outweigh the fines that might be collected. As a result, the Ministry informed us that it has not sought prosecution for any offence committed by any private schools or individuals associated with these schools.

In contrast to private school fines, penalties for non-compliance by private career colleges in Ontario can be significant. The *Private Career Colleges Act* outlines that the purpose of penalties is to encourage compliance with that act and with orders to restrain from contravening the act, and to prevent a person from deriving any economic benefit as a result of a contravention of the act. We reviewed the penalty structure for private career colleges in Ontario and noted that some penalties do not require successful prosecution to impose. For example, the Superintendent of Private Career Colleges can levy an administrative penalty of \$1,000 on a private career college for non-compliance without going to court, and can quadruple this penalty if the college repeatedly offends within three years. In addition to administrative penalties, private career college fines can be substantial. For example, whereas Ontario private schools can be fined \$500 for submitting false information, the same offence at an Ontario private career college can result in a fine of up to \$50,000 and one year in jail for an individual and \$250,000 for a corporation.

RECOMMENDATION 6

To better ensure compliance with the *Education Act* and policies related to private schools, the Ministry of Education (Ministry) should consider a legislative framework that would provide more flexible and cost-effective enforcement tools that are commensurate with the nature and extent of non-compliance.

MINISTRY RESPONSE

The Ministry will continue to take appropriate steps to expand initiatives to provide information to parents and students regarding consumer awareness in the private school sector. Regarding issues of enforcement, the assessment of options will be commensurate with the Ministry's definition of its role in this sector, and will in turn recognize the differences between the role taken by Ontario's Ministry of Education and that of education ministries in other provinces.

TESTING OF PRIVATE SCHOOL STUDENTS

The *Education Act* requires all children of compulsory school age to attend a public elementary or secondary school on every school day unless they are receiving satisfactory instruction elsewhere. The Ministry inspects private schools that offer high school credits but does not have any process in place to ensure that satisfactory instruction is being provided to students attending elementary private schools or secondary private schools that do not offer diploma credits. In fact, we compared ministry oversight to that in other Canadian provinces and found that Ontario has one of the least regulated private school sectors in Canada.

The Education Quality and Accountability Office (EQAO) helps to ensure satisfactory instruction by testing all students at various grades in the publicly funded school system. The EQAO administers standardized tests to measure student

achievement against curriculum expectations in grades 3 and 6 for reading, writing and mathematics; grade 9 for mathematics; and grade 10 for the Ontario Secondary School Literacy Test (OSSLT). Some private school students participate in the grade 3, 6 and 9 EQAO assessments, although they are not required to do so. However, an OSSD requirement for both public and private school students is the successful completion of the OSSLT. EQAO test results for both public and private schools participating in the OSSLT are publicly reported, but only for schools with a minimum number of students, in order to ensure student confidentiality.

All private schools can participate in the grade 3, 6 and 9 EQAO tests but must pay for their students to take these assessments. Only private schools that offer high school credits leading to the OSSD are eligible to participate in the OSSLT, and there is no charge to take this test. Participation in EQAO tests can be seen as a proactive measure by some private schools to be more accountable, as these assessments can be used by both the schools and parents to periodically assess the progress of their students in relation to their public school peers. In the 2011/12 school year, 112 private schools participated in the grade 3 and 6 assessments, and 18 participated in the grade 9 assessment. All private schools that are approved to offer high school credits that have eligible students participate in OSSLT testing.

We reviewed the EQAO grade 3, 6 and 9 assessments for 2010, 2011 and 2012 of participating private schools and noted that although individual private school results varied significantly, a greater percentage of public school students achieved the provincial standard than private school students. As well, for the same three years, among students writing the OSSLT for the first time, public school students outperformed private school students. In 2012, 82% of public school students passed the OSSLT compared to 73% of private school students. We reviewed a sample of private school OSSLT results and found that the outcomes for these schools varied considerably, from well below

the provincial average to excellent, with pass rates ranging from 19% to 100%.

The purpose of education is to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable citizens who contribute to society. The Ministry does not have processes in place, such as an analysis of EQAO test results, to assess whether private school students are acquiring these skills and knowledge. Furthermore, since EQAO testing is not mandatory, such analysis cannot be undertaken for the private school sector as a whole. We noted that such testing, while often paid for by the province, is mandatory for private schools in several other Canadian jurisdictions, such as British Columbia, Alberta, Saskatchewan, Manitoba, and Newfoundland and Labrador.

RECOMMENDATION 7

To help ensure that private school students receive satisfactory instruction and are provided with the opportunity to realize their potential and develop into highly skilled, knowledgeable citizens, the Ministry of Education (Ministry) should:

- consider options to increase private school participation in standardized testing; and
- analyze test results for private school students and follow up on any outcomes that suggest these students are not receiving a quality education.

MINISTRY RESPONSE

The Ministry will assess options to require private schools with credit-granting authority to participate in the grade 9 assessment of mathematics conducted by the Education Quality and Accountability Office. The Ministry will explore options to develop data collection processes and will analyze private school pass rates for the Ontario Secondary School Literacy Test annually to identify issues related to private school student achievement and to determine appropriate responses.