



## **Backgrounder: Opening Ontario's MUSH sector to scrutiny**

**What is the “MUSH sector”?** MUSH is an acronym for **municipalities, universities, school boards and hospitals** – as well as long-term care homes, children's aid societies and police services. The term refers to entities that receive billions of dollars in funding from the province but are not directly controlled by the government – and have thus been beyond the scrutiny of the Ontario Ombudsman since the office was created in 1975.

MUSH sector bodies are subject to various oversight mechanisms such as information and privacy legislation, scrutiny by the Auditor General, ministry oversight, internal accountability offices (e.g., patient advocates, university ombudsmen). However, Ontarians who encounter problems with these bodies have no recourse to an independent, impartial authority that can investigate their complaints. In this way, the MUSH sector stands in stark contrast to the more than 500 provincial government organizations that do fall under the jurisdiction of the Ombudsman, from correctional facilities to Crown corporations.

**Other provinces:** No other provincial or territorial ombudsman in Canada is barred from investigating the MUSH sector. Their jurisdiction varies, as follows:

- **Municipalities:** Ombudsmen in B.C., Manitoba, New Brunswick, Nova Scotia and Yukon oversee municipalities.
- **Universities:** Ombudsmen in B.C. and Newfoundland and Labrador oversee universities.
- **School boards:** Ombudsmen in B.C., New Brunswick, Newfoundland and Labrador, Nova Scotia and Yukon oversee school boards.
- **Hospitals:** All other ombudsmen have some oversight of hospitals.
- **Long-term care homes:** All other ombudsmen have some oversight of long-term care (although New Brunswick's new legislation is not yet in force)
- **Child protection system:** All other ombudsmen have some oversight in this area.
- **Police:** Ombudsmen in Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Newfoundland and Labrador and Nova Scotia oversee the police complaints system.

How the proposed legislation to increase accountability would change MUSH sector oversight, if enacted:

- **Municipalities:** The Ombudsman would oversee municipalities. The Ombudsman would also remain the default investigator for complaints about closed municipal meetings, except in those that have appointed their own investigators.

- **Universities:** The Ombudsman would oversee universities.
- **School boards:** The Ombudsman would oversee school boards.
- **Hospitals and long-term care homes:** A new Patient Ombudsman would be created to take complaints and investigate these bodies.
- **Children’s aid societies:** The Provincial Advocate for Children and Youth would be empowered to take complaints about and investigate these bodies.

### The “Push for MUSH” - Timeline

Ever since the Ombudsman’s Office was created in 1975, successive ombudsmen have called on the government to bring MUSH sector organizations under its mandate, reflecting public complaints and grassroots efforts. Some milestones:

**March 29, 1979:** Arthur Maloney, Ontario’s first Ombudsman, publishes a “Blueprint” report after leaving office, calling, among other things, for the office’s mandate to be “extended to include such organizations as hospitals, universities, boards of education, nursing homes and other such bodies financed in whole or in substantial part with public funds.”

**2005-2013:** Various provincial ombudsmen see their mandates expanded. In Ontario, 130 petitions and 15 private member’s bills to do the same here are tabled in the Legislature.

**January 1, 2008:** Amendments to the *Municipal Act, 2001* take effect, making the Ombudsman’s office the investigator for complaints about closed municipal meetings – but the system is a patchwork, allowing municipalities to appoint other investigators if they choose. All other aspects of municipal government remain exempt from Ombudsman scrutiny.

**June 2012:** Ombudsman André Marin meets with then-premier Dalton McGuinty, who proposes extending Ombudsman oversight to hospitals, long-term care homes and children’s aid societies.

**April 2013:** Bill 42, a private member’s bill to give the Ombudsman oversight of children’s aid societies, passes second reading – the only such bill to do so. It has yet to go before a legislative committee.

**January-February 2014:** Ombudsman Marin is consulted by Premier Kathleen Wynne and a number of ministers about parts of a new piece of legislation to enhance accountability and oversight, which the government plans to introduce in March.

### Complaint and funding breakdown:

The following table lists the number and type of complaints received by the Ombudsman about various MUSH sector organizations, and the approximate provincial funding they receive each year.

	<b>Complaints received by Ombudsman - April 1, 2005 to February 28, 2014 (Total: 20,142)</b>	<b>Common topics of complaints</b>	<b>Annual provincial funding received</b>
<b>Municipalities</b>	8,700	Corruption and conflict of interest, bylaw enforcement, services	\$3.5 billion
<b>Universities</b>	354	Fees, grade disputes, academic quality, complaint processes	\$3.5 billion
<b>School boards</b>	966	Student suspensions, responses to bullying, support for special ed	\$23.2 billion
<b>Hospitals and long-term care homes</b>	3,127	Wait times, infection control, problems with patient advocate, abuse of patients/residents, understaffing	\$16.3 B (hospitals) \$3.3 B (long-term care)
<b>Children's aid societies</b>	4,030	Failure to investigate abuse, flawed investigations, lack of communication, staff misconduct	\$1.5 billion
<b>Police</b>	2,980	Wrongful arrest, harassment, assault, misconduct, inadequate investigation	N/A