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Workplace Law
& Advocacy



Sexual Orientation, Gender Identity, SOGI, and the Current State of the Law

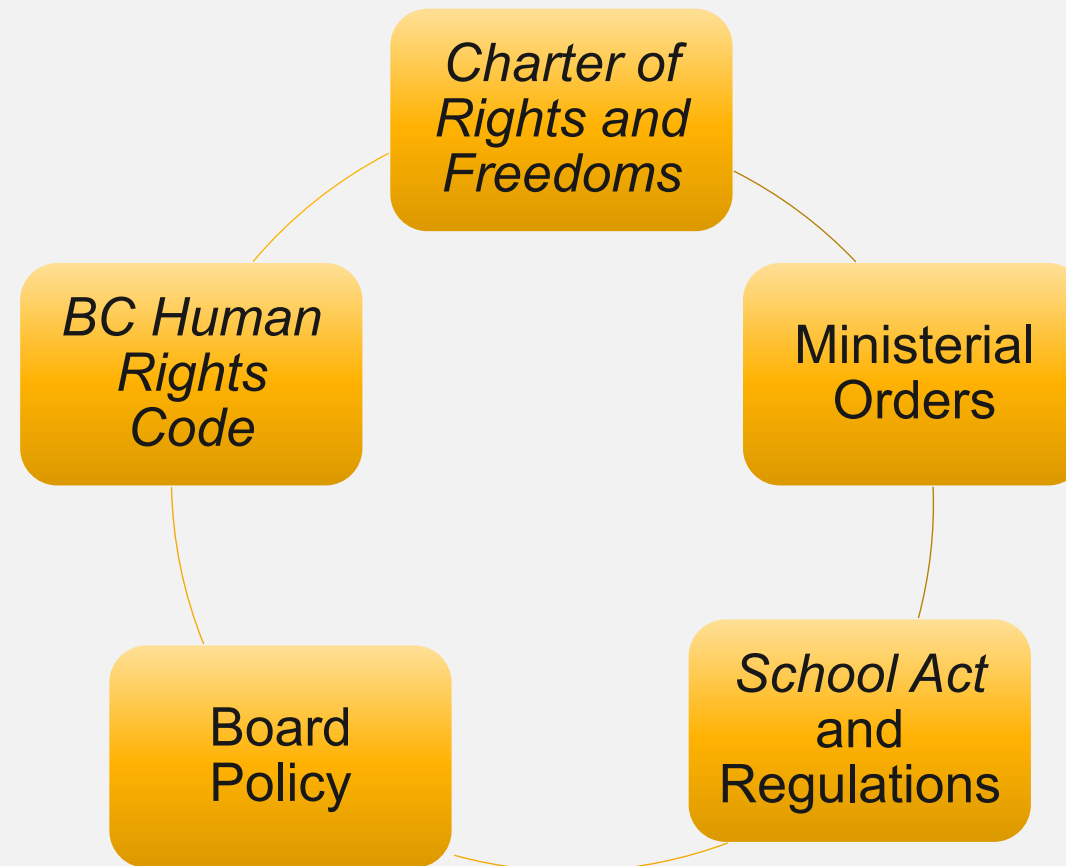
Presented by: Suzanne M. Kennedy and Warren B. Woodhurst

March 30, 2026

How Did We Get Here?



Legal Framework for Schools



MOE: Diversity in BC Schools: A Framework

“The School Act articulates the purpose of the British Columbia school system: to enable all learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy.

To achieve this purpose, the school system must strive to ensure that differences among learners do not impede their participation in school, their mastery of learning outcomes, or their ability to become contributing members of society.

The school system is expected to promote values expressed in the *Constitution Act*, the Charter of Rights and Freedoms, the *Official Languages Act*, the *Multiculturalism Act*, the *BC Human Rights Code*, the *Employment Equity Act* and the *School Act*, respecting the rights of all individuals in accordance with the law.”

“



Statement of Educational Policy Order

School Principal Duties, Rights and Responsibilities

School Principals: have the right to exercise professional judgment in managing the school in accordance with specified duties and powers. They have a corresponding responsibility to ensure that each student is provided with opportunities for a quality education. Principals are to provide administrative leadership, in consultation with teachers and the community that reflects the aspirations of parents and the school community and that is consistent with provincial and district guidelines. They cooperate with parents and the community in the delivery of non-educational support services to students, and focus on the following areas of school concern: (1) student access and achievement; (2) quality teaching; (3) communication with parents and the community; and (4) accountability to parents and to the Board.



Statement of Educational Policy Order

Parents' Duties, Rights and Responsibilities

Parents: have the right and responsibility to participate in the process of determining the educational goals, policies and services provided for their children. They have a primary responsibility to ensure that children are provided with the healthy and supportive environment necessary for learning. They have a responsibility to help shape and support the goals of the school system and to share in the tasks of educating their young.



Statement of Educational Policy Order

Students' Duties, Rights and Responsibilities

Students: have the opportunity to avail themselves of a quality education consistent with their abilities, the opportunity to share in the shaping of their educational programs, and the opportunity to determine their career and occupational goals. They have a responsibility to make the most of their opportunities, to respect the rights of others, and to cooperate with fellow students in the achievement of their goals.



Statement of Educational Policy Order

District Officials Responsibilities

District Officials: have a duty to exercise professional judgment in managing the district in accordance with specified powers and duties. They have a corresponding responsibility to provide professional leadership in the design and implementation of education programs in districts, and are accountable to the local school board.



School Act and Regulations



- Students have a right to an educational program
- All students should have equitable access to learning opportunities for achievement, and the pursuit of excellence in all aspects of their educational programs
- Charter requires that all students, regardless of membership in a protected group, have meaningful access to educational program
- Some children in protected groups need their own 'ramp'



Charter of Rights and Freedom

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.



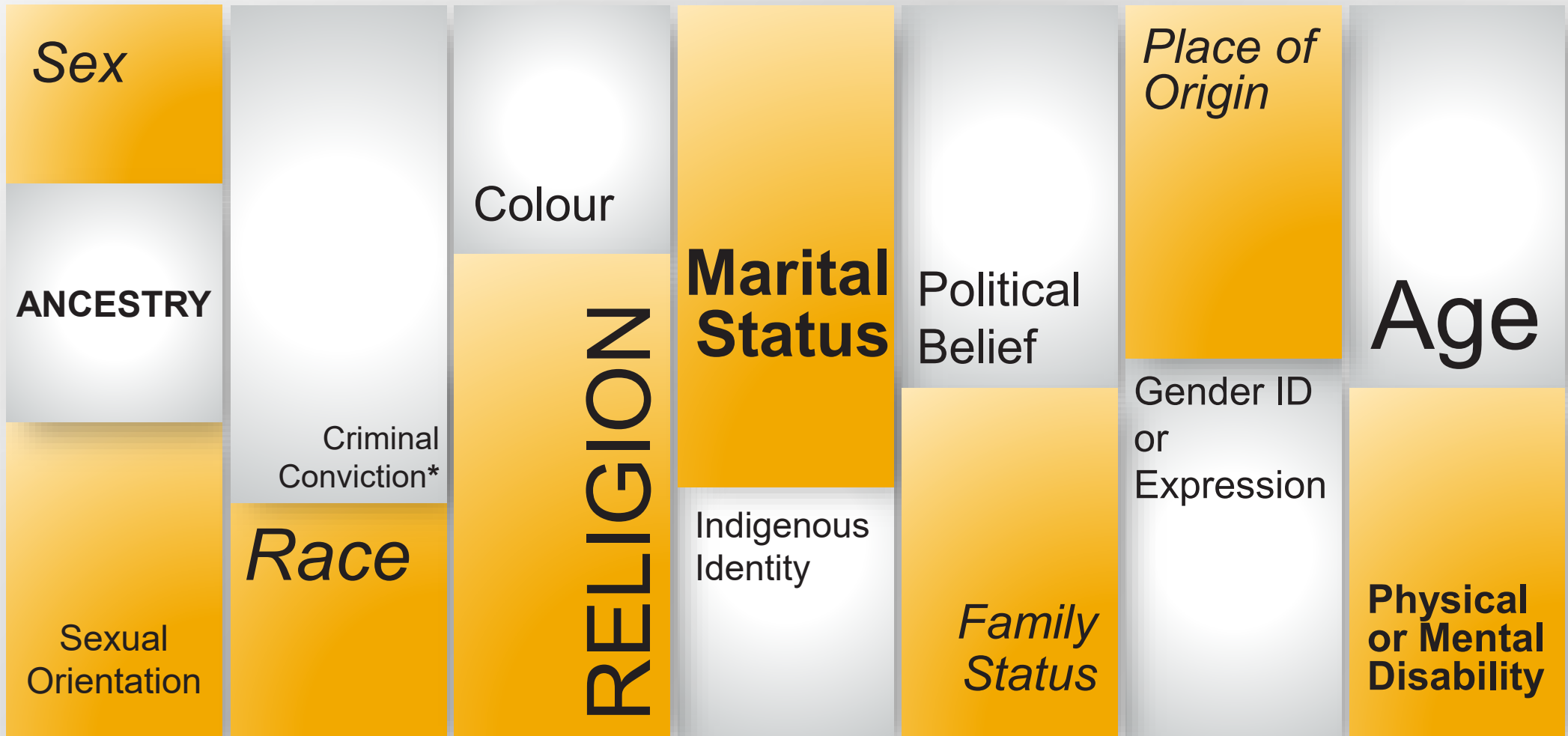
Human Rights Code

The *Human Rights Code* prohibits discrimination on the grounds set out in the *Code* in the provision of services customarily available to the public – including schools.

Similarly, the *Human Rights Code* prohibits discriminatory publication or display of statements, emblems, or other representations that indicate discrimination against a person or class of persons, and is likely to expose that person or group to hatred or contempt because of a protected characteristic.



Protected Grounds:



BC Human Rights Code

Section 8: prohibition against discrimination in the delivery of services (education)

Protects rights of students, including those with special needs

Section 13: prohibition against discrimination in employment

Protects rights of employees

Inherent protection against harassment on protected grounds, and duty to accommodate





Where the school curriculum requires that a broad array of family models be taught in the classroom, a secular school system cannot exclude certain lawful family models simply on the ground that one group of parents finds them morally questionable.

...Parental views cannot override the imperative placed upon the British Columbia public schools to mirror the diversity of the community and teach tolerance and understanding of difference

**Diversity is part of
BC education.
It is not optional.**

***Chamberlain v. Surrey
School District No. 36,
[2002] 4 S.C.R. 710***





The presence of different family models in the community means that some children will inevitably come from families of which certain parents disapprove, and discussing their family models may expose other children to some cognitive dissonance.

The cognitive dissonance that results from such encounters is simply a part of living in a diverse society.

Through such experiences, children come to realize that not all of their values are shared by others.

**Cognitive
dissonance is
part of learning.**

***Chamberlain v. Surrey
School District No. 36,
[2002] 4 S.C.R. 710***



Background

- January 2016: Special report published identifying sexual and gender minority youth as particularly marginalized, vulnerable and in need of support
- July 2016: BC Human Rights Code amended to include gender identity and expression as a protected ground
- September 2016: MOE directed all school boards to expressly reference sexual orientation and gender identity in district and school codes of conduct





Statistics

Source: *Still in Every Class in Every School* (Peter, Campbell and Taylor, 2021)

64%

of respondents hear homophobic comments daily or weekly at school.

30%

of 2SLGBTQ respondents had been the victims of cyberbullying (compared to 8% of cisgender heterosexual respondents).

57%

of transgender respondents were targets of mean rumours or lies.

62%

of 2SLGBTQ respondents felt unsafe at school, (compared to 11% of cisgender heterosexual students).

2SLGBTQ Indigenous students were twice as likely (35%) to experience harassment based on their racialized identity than cisgender heterosexual Indigenous students (14%). 77% of 2SLGBTQ Indigenous students had been harassed at school in the year leading up to the survey, the highest percentage of any group.

30%

of cisgender heterosexual respondents reported languishing mental health, compared to 20% of GBQ boys, 25% of LGBTQ girls, and a full 40% of transgender respondents

79%

of transgender students who had been the victims of physical harassment reported that teachers and staff were ineffective in addressing transphobic harassment

SOGI 123

- Created by ARC Foundation in collaboration with MOE, BCTF, BC school districts, UBC and other community organizations
- Provides educational resources and support for teachers to create SOGI-inclusive classrooms and schools
- **3 Key areas:**
 - (1) policies and procedures
 - (2) inclusive environments, and
 - (3) teaching resources



SOGI 123

Research shows that discrimination and risky behaviors* are reduced among all students when:

- Schools create a sense of belonging in classrooms
- Schools teach about valuing diversity and respecting differences

SOGI 123 resources help schools to implement and support these methods

- They help schools create safe, caring and inclusive learning environments for all students





Exempting some students on a regular basis from classroom discussions touching on diversity, inclusivity and acceptance, runs risk of endorsing the non-acceptance of students of other family backgrounds, sexual orientations, gender expressions and gender identities.

There is no parental right to opt out from SOGI

E. T v. Hamilton-Wentworth District School Board, 2017 ONCA 893)





The appellant had a sincere religious belief that he had an obligation to keep his children from being exposed to false teachings. However, a sincere religious belief was not enough, by itself, to establish interference with the appellant's freedom of religion.

**Exposure to SOGI
inclusive education is
not interference with
freedom of religion**

***E. T v. Hamilton-
Wentworth District School
Board, 2017 ONCA 893)***



Health Education: Opting Out and Alternate Delivery



Safe Schools Act

Preamble

- WHEREAS a central focus and purpose of the school system in British Columbia is to enable all students to develop their individual potential and acquire the knowledge, skills and attitudes needed to contribute to society
- AND WHEREAS it is acknowledged that students benefit academically and socially from a safe, caring and orderly learning environment
- AND WHEREAS British Columbians aim to create a school system free from bullying, harassment, intimidation, and discrimination
- AND WHEREAS much bullying, harassment, intimidation, and discrimination, is rooted in ignorance and education is essential to its eradication
- AND WHEREAS it is important that human rights educational programs assist British Columbians to understand all their fundamental rights and freedoms, as well as their corresponding duties and responsibilities to others
- AND WHEREAS these principles have been confirmed in British Columbia by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in British Columbia



Rights

Evict or expel a person who disturbs school operations, an official school function, or a board meeting



Rights and Responsibilities of School Boards and District Staff



Responsibilities

- Prevent or minimize bullying and harassment in the workplace
- Assess and mitigate risks of violence towards employees
- Manage school building and property
- Ensure safety of students





***Gillies v. Bluewater
District School Board,
2023 ONSC 1625***

“Transgender children don’t exist – this term was brought into being by a coalition of pressure groups and political activities. It is NOT a scientific or medical term.”

**Decision not to allow
parent to make
presentation on
transgender issues
not violation of
Charter**





***Gillies v. Bluewater District
School Board, 2023 ONSC 1625***

Suppose a delegation proposed to make a presentation advocating that BIPOC (Black, Indigenous, People of Colour) be taught in classrooms segregated from those where white students are taught. How many words of explanation would need to be expended in order to make it clear that such a presentation is repugnant and racist, and is being rejected on those grounds?”

**The Board
appropriately
balanced competing
rights**





monique_lagrange 23h



Brainwashing is brainwashing.



LeGrange v. Red Deer Catholic Separate School Division, 2024 ABKB 665

“ The story meme is centered around indoctrination and how children are vulnerable to evil agendas (agendas coming from organizations like Planned Parenthood, the UN or SOGI123) filtering through culture. This meme is not comparing or attacking the LGBTQ community, it is about protecting our children and keeping parents as the primary educators.”



Board Policy on Social Media use stated:

“

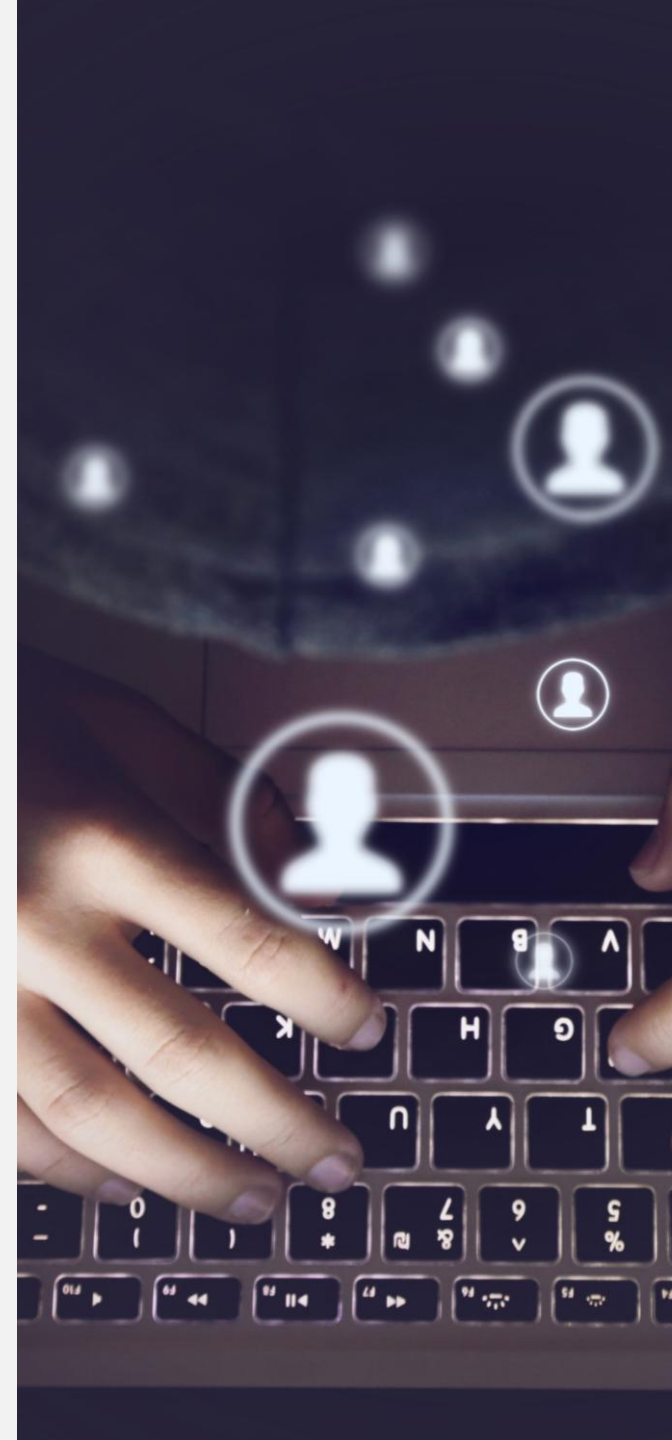
Trustees will be cognizant that they are representing the interests of the Board while posting or commenting on social media, and are aware of public perception that their posts, comments and social media engagement, are in accordance with their duties within the school division.”

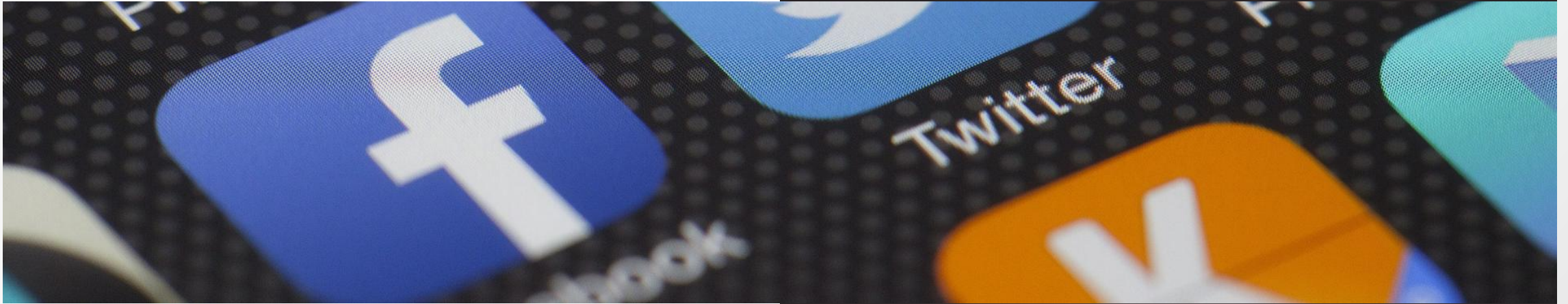
LeGrange v. Red Deer Catholic Separate School Division, 2024 ABKB 665



LeGrange v. Red Deer Catholic Separate School Division, 2024 ABKB 665

- Removal from all committees to end of term
- Prohibited from representing the Board/School Division in an official capacity
- Mandatory training
- Must cease making public statements relating to LGBTQ+ community and the Holocaust
- Public apology
- Refrain from similar conduct



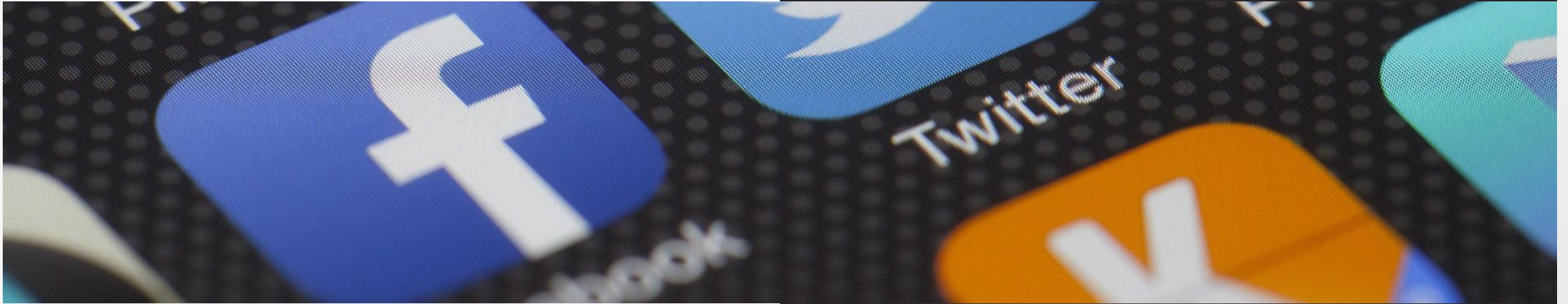


On October 23, 2017, Mr. Neufeld posted a long, public statement on Facebook, describing SOGI 1 2 3 as a “weapon of propaganda”, which instructs children about the “absurd theory” that “gender is not biologically determined, but a social construct”. He said “allowing” children to “change gender” was child abuse.

Mr. Neufeld was held liable in his personal capacity. Damages judgement of \$750,000

Chilliwack Teachers' Association v Neufeld, 2026 BCHRT 49





We agree with the Complainant that, rather than foster an environment where potentially controversial or sensitive subjects could be debated, Mr. Neufeld's Education Publications aimed to cut off any "path of reply" by LGBTQ people by forcing them "to argue for their basic humanity or social standing, as a precondition to participating in the deliberative aspects of our society"

Mr. Neufeld's stature as a trustee, and the notoriety of his publications, lent credibility to his statements

Chilliwack Teachers' Association v Neufeld, 2026 BCHRT 49





Freedom of Expression and its Limits



Questions?



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**THANK
YOU**