



Catholic Civil Rights League

Ligue Catholique pour les Droits de l'Homme

Executive Officers

Chaplain

Most Rev. Adam Exner, OMI

8 February, 2007

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The Honourable Shirley Bond,
Minister of Education,
P.O. Box 9045
Station Provincial Government,
Victoria, BC
V8W 9E2

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Dear Ms. Bond:

Regional Directors

Western Region

Sean Murphy
Ed De Vita

Your letter to the *Vancouver Sun* suggests that you might openly discuss the terms of the Corren agreement and its impact on public schools ("Alternative delivery policy offered by curriculum." Letters, *Vancouver Sun*, 11 January, 2007). We would welcome this development.

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In responding to your letter to the editor I pointed out that you have been misinformed about the alternative delivery policy. Counsel representing your Ministry in 1998 before the BC Human Rights Commission stated that an alternative delivery policy had *always* existed, specifically noting its application in 1987 to Family Life education, and in 1995-96 to Career and Personal Planning. The 1998 assertion that this policy had "always" existed was, I suggest, a *de facto* admission that the Minister of Education is not the source of parental authority to supervise and direct the education of their children. Quite the reverse: the authority of the Minister, teachers and administrators with respect to students is delegated to them by parents, a delegation reflected in the traditional statement that teachers act *in loco parentis*.

National Office

301-46 St. Clair Ave. E.
Toronto, ON
M4Y 1M9

Tel: (416) 466-8244
Fax: (416) 466-0091
ccrl@ccrl.ca

Website: <http://ccrl.ca>

The need to *formally* acknowledge parental authority with respect to morally controversial instruction first arose with the introduction of sex education, broadly construed as 'health' or 'family life' education. Ministry policy on "opting out" and "alternative delivery" focussed on these subjects not because parental authority was operative only within this context, but because it was mainly within these parts of the curriculum that one might reasonably anticipate serious parental objection.

That is no longer the case, courtesy the rulings of a handful of superior court

Western Region

7120 Tofino St., Powell River, B.C. V8A 1G3
Tel: (604) 485-9765 E-mail: ccrl-west@shaw.ca

judges, the passage of *The Civil Marriage Act* and the private agreement between the Ministry of Education and the Correns. It is now reasonable to anticipate serious parental objection arising if the coercive power of the state educational establishment, employed throughout the curriculum, is used to impose that view that homosexual conduct and relationships are morally acceptable. That is not a morally neutral position. The withdrawal of students from lessons or classes - formerly an issue in only one or two subjects - has become an issue in all.

That different parents have different moral or religious outlooks does not make it impossible for a state educational system to respect those differences while developing broadly acceptable curriculum standards. If, despite appropriate consultation, the standards are unacceptable to some parents, those parents can be accommodated by acknowledging their authority to withdraw their children from the objectionable classes.

The League has advised the school districts in this province that such accommodation of religious and conscientious conviction is not merely possible; it is a legal obligation, binding to the point of undue hardship. I am unaware of any evidence or argument that would support the view that opting out of classes or lessons or alternate delivery of curriculum would create undue hardship for the educational establishment.

No direction or policy from the Ministry of Education can relieve school districts of their responsibility to accommodate freedom of conscience and religion. Were that the case, it would give your Ministry the power to override the *Charter of Rights and Freedoms*, a power which has been granted only to parliament and provincial legislatures.

There is also the issue of international agreements, to which Canada is a signatory:

Parents have a prior right to choose the kind of education that should be given their children. (From Article 26 - United Nations, 'Universal Declaration on Human Rights' - 1948)

The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents. (From the *United Nations Declaration of the Rights of the Child, Principle 7*)

Your policy (BC Ministry of Education, *Alternate Delivery: Health and Career Education Curriculum*, 1 September, 2006) and explanatory letter from the Deputy Minister amount to a directive to school districts that they must not accommodate freedom of conscience and religion by allowing 'opting out' or alternative delivery *except* in the health and planning sections of the curriculum. This policy and the Deputy Minister's letter are formal statements of an intention to discriminate that contravene Section 7(1)a of the *BC Human Rights Code*.

The position of the League is that the subsisting obligation of school districts to adhere to human rights law requires them to act independently when confronted by government demands, like *Alternate Delivery: Health and Career Education Curriculum*, that apparently conflict with that obligation. We do not accept the argument that school boards can excuse themselves from their obligations with a defence of 'superior orders', especially since trustees are elected officials and not your employees or agents, and the 'clarified' policy on alternative delivery contravenes the *BC Human Rights Code*.

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Tel: (604) 485-9765 E-mail: ccrl-west@shaw.ca

If you have a different view of this we would be most interested in hearing it. Our correspondence with the districts suggests that public school district trustees would be no less interested, inasmuch they have been placed in a most awkward position by your expectation that they will implement a controversial agreement between the government and two activists.

Sincerely,

Sean Murphy, Director
CCRL Western Region

cc: BC school districts & DPACs
BC School Superintendents' Association
BC Principals' and Vice-Principals' Association
BC Teachers' Federation
BC Confederation of Parent Advisory Councils

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