

Follow-up on Does Alberta School Act, S.50.1 Cover Sexual Orientation/Sexual Identity/Sexual Expression?

References:

My email "[Seeking Clarifications on Non-Religious \(i.e. Secular\) Issues Related to Bill 10](#)," dated February 16, 2017.

My email "[Follow-up on Seeking Clarifications on Non-Religious \(i.e. Secular\) Issues Related to Bill 10](#)," dated March 15, 2017.

My email "[Does the Right to Withdraw Children from Instruction on "Human Sexuality" \(School Act S. 50.1\) include Teaching on "Sexual Orientation, Identity and Expression"? Yes or No Please](#)," dated March 21, 2017

Dear Trustee

Over the past seven weeks of inquiry only one of 59 Public and Separate School Boards in Alberta responded with a definitive "yes" to the following questions:

1 - Will your School Board notify your district parents of courses of study, educational programs or instructional materials, or instruction or exercises, including subject-matter that deals primarily and explicitly with "sexual orientation, sexual identity, or sexual expression" for the purpose of allowing parents to opt their children out of this instruction?

2 - For the purpose of implementing School Act 50.1, does the School Board interpret the term/topic/curriculum category - "human sexuality," to include/incorporate/cover all indoctrination in "sexual orientation, sexual identity, or sexual expression"?

The above is not to imply that all districts responded. Most did not. However, a good number of boards declared their policy to follow the legislation, and provided a selection of their District Administrative Procedures (APs) applicable to School Act, Section 50.1. Frankly, speaking from a parent's perspective, the APs that I reviewed were thorough, professional and confidence building. I remain very appreciative of the respect and cooperation shown by these school boards to parent concerns and inquiries.

This sincerely said, what remains unclarified is the correct interpretation of "human sexuality" in application to the so-called "opt-out" provision Section 50.1 of the School Act. Moreover, one school board had additionally responded that they were expending more effort trying to interpret the meaning of "primarily and explicitly" than "human sexuality" in the Act.

On 27 February 2017, I communicated my line of questioning to Minister Eggen for definitive Ministerial interpretation. On 16 March 2017, he gave the following response [key extracts only]:

All school authorities in Alberta must comply with applicable legislation, including the School Act and the Alberta Human Rights Act. Section 50.1 of the School Act gives parents the ability to withdraw their children from instruction or exercises that are primarily and explicitly about human sexuality or religion. Parents will also continue to receive notice where courses of study, educational programs or instructional materials, or instruction or

exercises include subject matter that deals primarily and explicitly with religion or human sexuality, and there will continue to be no academic penalty for a student who is absent from that discussion or lesson.

Alberta Education provides information about Section 50.1 in the [Guide to Education](#). Implementation of Section 50.1 is a local matter, with Section 50.2 providing a right to appeal to a board or private school operator related to failure to comply.

Disappointed with the response, the same day I sent the following response back to the Minister:

Dear Minister Eggen. Thank you for getting back to me. Much appreciated.

May I be more specific in my questions of concern, which are focused on the legal definition of “Human Sexuality” for application and interpretation in School Act S. 50.1.

The Public Health Agency of Canada defines “sexuality” in *Canadian Guidelines for Sexual Health Education*, 2008, this way:

*A term that encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy, and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles, and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious, and spiritual factors. - Public Health Agency of Canada, *Canadian Guidelines for Sexual Health Education*, [rev. ed.], 2008, p. 5.*

The following are two simplified questions which can be answered with either a “yes” or “no” response.

1 – Does the Alberta Government declare that all School Boards should notify their district parents of courses of study, educational programs or instructional materials, or instruction or exercises, including subject-matter that deals primarily and explicitly with “*sexual orientation, sexual identity, or sexual expression*” for the purpose of allowing parents to opt their children out of this instruction? Please - Yes or No

2 – For the purpose of implementing School Act 50.1, does the Government of Alberta interpret the term/topic/curriculum category - “*human sexuality*,” to include/incorporate/cover all indoctrination in “*sexual orientation, sexual identity, or sexual expression*”? Please - Yes or No

Your caring response to these two simplified questions would be most appreciated.

To date, I have not received a response.

To highlight why Alberta parents need and deserve an authoritative answer to these questions, I wish to take the reader through some informative deliberations taken from the *Alberta Hansard* (official record of Legislative Assembly debates) dated May 26, 2009. The legislative context is debate over Bill 44 - Human Rights, Citizenship and Multiculturalism Amendment Act, 2009. This

Human Rights, Citizenship and Multiculturalism Act (HRCMA) is now called the Alberta Human Rights Act (AHRA). The issue to be focused on is debate around inclusion of a brand new Section 11.1 (see quote below) to the HRCMA and proposed sub-amendments to Section 11.1 by Liberal and NDP MLAs prior to the final vote. The Bill was passed along with Section 11.1, which is the same text as the AHRA Section 11.1 repealed under Bill 10 in March 2015. It reads in part:

11.1 (1) A board as defined in the School Act shall provide notice to a parent or guardian of a student where courses of study, educational programs or instructional materials, or instruction or exercises, prescribed under that Act include subject-matter that deals primarily and explicitly with religion, human sexuality or sexual orientation. [My underline]

The following are select *Hansard* extracts, not necessarily in chronological order.

Mr. Hehr [Liberal Calgary-Buffalo]:

I look at these words. Well, what the minister was proposing to do was strike out “explicitly with religion, sexuality or sexual orientation” and substitute “primarily and explicitly with religion, human sexuality or sexual orientation”... But I look at this, and don’t get me wrong. I was a lawyer, not accused of ever sitting on the Supreme Court. Nonetheless, when I try to look at these words, “explicitly with religion,” “primarily and explicitly with religion, again that’s lawyerspeak...essentially it doesn’t make much difference to me. This is being enshrined in an act. It’s still: “primarily and explicitly.” Well, what does that mean? It’s open to interpretation, as are the terms “religion,” “human sexuality,” or “sexual orientation.” Like many things that are of scope and substance, religion and human sexuality and sexual orientation are broad-based topics that in an open, modern society take on a variety of dimensions and interpretations by many individuals, groups, and anyone in between. Simply put, they can come up with a whole host of ideas of what those terms mean. Pgs. 1298-1299

Mr. Blackett [PC, Calgary-NW, Hon. Minister of Culture and Community]:

I’d just like to bring the members’ attention to the facts of some of the composition within our caucus. We have former members of the teaching profession [4 MLAs]...We have former school board trustees [4 MLAs including Premier Stelmach]....We have former chairs of school boards [2 MLAs]....I would say that we’re quite representative of Albertans, and we’re also representative of those people who have experience in the education profession. We as a caucus collectively saw the need to actually give the parents of those some 600,000 students in this province the ability to opt out of a particular course of study with respect to three specific issues [religion, human sexuality and sexual orientation – my insert]

Now, most of those parents will not pull their kids out of those classes. In our CALM classes that we have in this province, we have a total of 47 students that opted out of those classes last year. How many students do you think will opt out of sexual orientation? Well, it will be zero because there’s nothing in the curriculum with respect to sexual orientation. Pg. 1315

Mr. Blackett’s statement on curriculum content (highlighted) was true in 2009 and for the most part holds true through to today (April 2017); however, note the Alberta Government is currently rewriting the Education Curriculum. Under the title “Acknowledgements” in [Guidelines for Best Practices: Creating Learning Environments that Respect Diverse Sexual Orientations, Gender Identities and Gender Expressions](#), the Ministry expresses thanks for the

“best practices” guidance and content support from the Toronto District School Board and the Canadian Teachers’ Federation. To the extent that Alberta’s new curriculum mirrors that of Ontario’s, a key change will be indoctrination in *sexual orientation, gender identity and gender expression*. The Ontario Health and Physical Education Curriculum Grades 1-8 states:

Human development and sexual health education is more than simply teaching young people about the anatomy and physiology of reproduction. Sexual health, understood in its broadest sense, can include a wide range of topics and concepts, from sexual development, reproductive health, choice and sexual readiness, consent, abstinence, and protection, to interpersonal relationships, sexual orientation, gender identity and gender expression, affection and pleasure, body image, and gender roles and expectations. Pg. 38

The term “sexual orientation” is used 42 times, “gender identity” 43 times, and “gender expression” 11 times, in the Ontario Grades 1-8 curriculum. In the Grades 9-12 document, the term “sexual orientation” is used 34 times, “gender identity” 36 times, and “gender expression” 8 times. Indeed, the term “human sexuality” cannot be found in the Ontario Health and Physical Education Curriculums Grades 1-8 or 9-12.

What will be the value of School Act S.50.1, if the term “human sexuality” cannot be found in the new curriculum and “human sexuality” is seen and treated as uniquely different from sexual orientation, gender identity and gender expression?

What is the value of School Act Section 50.1, if it does not apply to curriculum indoctrination in sexual orientation, gender identity and gender expression?

Alas, I have purposefully digressed from the Legislature debate of May 26, 2009.

Ms. Notley [NDP Edmonton-Strathcona]:

Basically, the rationale underlying this proposed [sub] amendment, as I said before, is to try and limit the scope of the so-called parental rights clause in that rather than giving the authority for people to complain about curriculum that deals primarily and explicitly with religion, human sexuality, or sexual orientation, the section would be amended to only include human sexuality. Pg. 1311

Mr. Hehr [Liberal Calgary-Buffalo]:

Needless to say, this is the reason why this [sub] amendment is choosing to go down to just the words “human sexuality”... I think, Hon. Member, I’d like to hear your comments on why you object to just changing this bill from including those words, “sexual orientation.” Pg. 1319

Mr. Denis [PC Calgary-Edgemont]:

Our laws must be clear... This legislation reflects just that: a parent’s right to set parameters for raising their own child. I’ve heard again: this provision is in the School Act; what’s the benefit? Well, first off, advanced notification to parents on matters of religion, sexuality, or orientation. This is, again, why this subamendment is unacceptable, striking out religion, human sexuality, and sexual orientation and just leaving human sexuality. Rather we need to enshrine this clause in legislation. As I’ve stated earlier, our own laws must be clear and understood by all, and that’s why Section 11.1 achieves this: parental choice...If we are going

to respect rights at one end, we also must respect the same rights on the other end. Pgs. 1319-1320.

Ms. Blakeman [Liberal Edmonton-Centre]:

This [sub] amendment is intended to include the concept of gender identity under those areas that are protected under human rights legislation...The reason that I specifically included gender identity is that this is not covered under sexual orientation. I know that currently the Human Rights Commission is accepting cases of gender identity under the auspices of sexual orientation, but they are under no obligation to do so. It's not the same thing. This is a concept that can be a struggle for people to understand. Gender identity is an issue of being, if you can think of it this way, arbitrarily assigned one body, yet your personality does not match that. ... So gender identity is not about sexual orientation. It's not about who you like or who you want to be with. It's about who you are. Pg. 1325

Mr. Anderson [PC Airdrie-Chestermere]:

I read a letter that the Hon. Member for Calgary-Varsity [Liberal Harry Chase] had put into the Calgary Herald...I am paraphrasing, but the allegation was that by passing this legislation, we are basically allowing schools to be turned into breeding grounds for intolerance and bigotry, implying, of course, that the only parents that would dare – that would dare – opt their children out of sex education or out of a religion course are bigoted, narrow-minded, intolerant idiots. It's a travesty, but that is exactly the message that has been sent to parents during this debate. As a parent of four children I find it very offensive. Pg. 1314

Quoting from "Bill 44 Debate Gives Parents an Unfair Rap," Calgary Herald, Naomi Lakritz, May 26, 2009, Mr. Anderson continues:

Since when did parents get to be so stupid that they can't be trusted with raising their own children? To hear some of the opponents of Bill 44 talk, you'd think that kids should be removed from their parents' custody and handed over to the schools to raise. The teachers – the same ones who complain at bargaining time that large class sizes prevent them from paying adequate attention to their students – apparently know what's best for all those kids they say they don't have time to really get to know....Parents have always had the choice to opt their children out of sex-ed classes. This is nothing new. When material about sex – gay or straight – is introduced in kindergarten or the early grades and parents feel it's age-inappropriate, they have every right to object to their kids learning it ...

In her column Thursday, Janet Keeping, president of the Sheldon Chumir Foundation For Ethics in Leadership, asked: "How are children to develop into thoughtful, tolerant adults, if the education system is prevented from exposing them to a variety of perspectives?" Gosh, it sounds like if we leave it up to pea-brained parents, they're sure to bungle the job of producing such terrific adults. So a six-year-old who is prevented from learning about sexual orientation because his supposedly narrow-minded parents think his innocence is worth preserving [just] a little [bit] longer, is doomed not to develop into a "thoughtful, tolerant adult?" That's ridiculous... The debate about Bill 44 has left parents with an unfair rap. They're being dismissed as bigoted idiots who are presumed guilty of inculcating their kids with all kinds of wrongheaded thinking which it's the school's self-imposed agenda to undo.

Nonesense. The school's job is to educate the child in academic subjects, not to undermine the values being taught at home. Pgs. 1313-1314

Back to present - April 2017. **Does Alberta School Act, S.50.1 Cover Sexual Orientation/Sexual Identity/ Sexual Expression?**

Hopefully, the reader now understands the importance of a definitive answer to this question. Mr. Eggen can assuage a crucial concern of many Alberta parents or at least clarify the Government's position by answering this straight forward question:

Will School Act Section 50.1 – the so-called “parental rights” clause, apply to courses of study, educational programs or instructional materials, or instruction or exercises, including subject-matter that deals primarily and explicitly with “sexual orientation, sexual identity, or sexual expression” once the new Education Curriculum is released? Please - Yes or No

Trustees and School Board Chairs, who recognize the legitimate need to resolve this question, are requested to implore the Minister to respond, preferably with either a “yes” or “no.”

Additional Helpful Information

At www.Bill10CourtChallenge.Org you will find a new addition to the website titled “[Email/Record: Clergy – Trustees – Politicians – Legal/Courts.](#)” This web page is designed to capture and sort key information under these four categories. This page organizes key media content and email exchanges with the Minister of Education, school trustees, politicians and legal sources. There will be no “political bashing” in these posts, the focus is user-friendly presentation of facts. Where feasible a short summary version will introduce each PDF.

Also [5 Minute Read – Q&A](#) is designed to pose important questions and offer concise answers. Current Q&A responses include:

- [How Should Faith-Based Schools Respond to GSA/QSA Legislation and Guidelines?](#)
- [Does Bill 10 Legislation Protect Self-Identifying and Wavering Transgender Children?](#)

Sincerely,

Carman Bradley