

## BCPSEA Responses to BCTF and Local Teachers' Association Statements

### BC Teachers' Federation News Release February 23, 2006

<b>BCTF Statement</b>	<b>BCPSEA Response</b>
<p>"We are very pleased the courts have affirmed our position: that as teachers we have a legal right and professional duty to speak out about issues affecting the quality of public education," Sims said.</p>	<p>A rejection of a leave application by the Supreme Court of Canada (SCC) does not mean an endorsement of the lower court's reasoning, as an applicant for leave to appeal must demonstrate that a case is of national importance. The SCC does not provide reasons in dismissing applications for leave to appeal.</p> <p>In the <i>City of Montreal</i> decision, issued by the SCC after the BCPSEA application was filed with the SCC, the SCC clarified the test for the application of section 2(b) of the <i>Charter of Rights and Freedoms</i> to public property.</p> <p>The SCC held that the basic question is whether the place is a public place where one would expect constitutional protection for free expression on the basis that expression in that place does not conflict with the purposes s. 2(b) is intended to serve. To answer this question, one should consider the historical or actual function of the place and whether other aspects of the place suggest that expression within it would undermine the values underlying free expression. Not all public places are places whose function is to promote or provide a venue for public free speech.</p> <p>In our view, schools have not historically been places where members of the public are free to promulgate political views to parents or students, and that the function of education in a pluralist and democratic society weighs against permitting employees to use their positions to advance political agendas. It may well be that having recently dealt with many of the broad issues raised by our case in the <i>City of Montreal</i> decision the SCC deemed it unnecessary to immediately revisit this issue. While this is speculation on our part, the fact remains that it may be necessary to revisit this issue in future should further disputes arise.</p>

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	<p>Further, the BC Court of Appeal did not, in its judgment, grant teachers an unrestricted right of free speech.</p> <p>What the Court <b>did</b> say is that parent-teacher interviews must not be dominated by discussion of class sizes, class composition, or school resources for the purposes of advancing what can be characterized as a particular position or political agenda. Any such discussion must be reasoned and connected to the specific needs of the child being discussed.</p>
<p>Arbitrator Don Munroe, QC, ruled that school boards had indeed violated teachers' right to free expression under the Charter of Rights, and that such interference was not justified in a free and democratic society.</p> <p>The employers' association challenged his ruling at the BC Court of Appeal, but that court reaffirmed that teachers' free expression is protected by the Charter.</p>	<p>The BC Court of Appeal found that the expression in dispute in this case did not disrupt the operation or administration of the school system and that the board's direction to teachers, in this case, was overbroad. The Court of Appeal did state that it would have been permissible for boards to issue directives to teachers to remind them of their professional obligations in connection with parent-teacher interviews.</p>
<p>"This case illustrates to what lengths the employer is willing to go to try to prevent parents from hearing about the realities in our classrooms," Sims said. "We are very grateful for the moderating influence of the courts on the employers' extreme agenda, and that BCPSEA won't be allowed to spend any more tax dollars on silencing the voices of teachers."</p>	<p>Our reason for appealing the decision was based on a concern that the judgment failed to properly protect the integrity of the public education system by permitting public employees to use their positions to advance their political views. This was supported by the strong dissenting opinion of Mr. Justice Lowry at the Court of Appeal level:</p> <p style="padding-left: 40px;">"If teachers are permitted to use public schools as forums to advance particular political agendas, they will undermine an open and supportive education environment and ultimately that will detract from the fundamental objective of the school system."</p> <p>BCPSEA's position is that the BCTF as a union and teachers as citizens should not be prohibited from free speech or from disseminating political information. They should, however, do so outside of the work day and away from the work site. BCPSEA takes no issue with teachers' right to become involved in political debate, but we believe that political campaigning should be kept out of the classroom and out of parent-teacher interactions when parents and teachers are meeting to discuss a student's progress.</p>