

BY EMAIL: tlast@sd52.bc.ca

Tina Last
Board Chair
School District No. 052 (Prince Rupert)
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Dear Ms. Last and members of the Board,

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I am writing on behalf of the BC Civil Liberties Association to express our serious concern and disappointment with School District No. 052 (Prince Rupert)'s recent decision to ban teachers from wearing t-shirts displaying section 2 of the *Charter of Rights and Freedoms*, and the slogan "2b or not 2b?".

In considering the Shakespearean question posed on the front of the t-shirt, the school board has evidently decided that "not 2b" is the answer. That answer is not only wrong, but is in violation of Canada's constitution.

With respect, the Superintendent's decision approaches the level of farce, and would be laughable were it not a serious rights violation. As you are undoubtedly aware, section 2(b) of the *Charter* protects freedom of expression. The decision to prohibit teachers from wearing t-shirts displaying section 2 of the *Charter* – in essence, to ban free speech about our constitutional right to free speech – is a clear violation of section 2(b) of the *Charter*, and is, in our opinion, unlawful and unjustified. Section 2(b) of the *Charter* protects the rights of teachers to free expression, subject only to demonstrably justifiable limits. We can imagine no rationale that would justify restricting teachers' ability to visibly display the text of their own constitutional rights in the classroom. In short, the School District, as a governmental body that is bound by the *Charter*, simply does not have the authority to forbid teachers from wearing these t-shirts.

The BC Court of Appeal has made clear that teachers do not surrender their freedom of expression by virtue of their employment in the public schools:

[...]teachers cannot be "silent members of society" in light of the importance of a "free and robust public discussion of public issues" to democratic society [...]. The School Boards cannot prevent teachers from expressing opinions just because they step onto school grounds. School grounds are public property where political expression must be valued and given its place.

British Columbia Public School Employers' Association v. British Columbia Teachers' Federation, 2005 BCCA 393 (CanLII)

The Court of Appeal's decision suggests that the School District's ban on these t-shirts is liable to a successful legal challenge. It would be prudent for you to reverse the decision without having to be ordered to do so by the courts.

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We find the decision of the School District all the more troubling given that the core purpose of the public education system is to promote learning and inquiry. The t-shirts in question pose a question about the respect for free expression and display the text of the free expression guarantee itself. Banning these shirts appears to be an attempt to foreclose discussion and thinking about basic constitutional rights that the shirts might prompt. We assume that the decision to ban the shirts has likely already produced much discussion among Prince Rupert students.

In closing, to answer the t-shirt's question "2b or not 2b?", we think that "'tis nobler in the mind to suffer the slings and arrows" that may come with the freedom of speech, than to snuff out the freedom itself. The BCCLA asks the School District to immediately rescind its direction that teachers must not wear these t-shirts. We further ask the District to be mindful in future that, as a government body, it is bound by the *Charter of Rights and Freedoms*, and that it does not have the authority to breach the rights contained in the *Charter* without lawful justification according to the tests set out by the Supreme Court of Canada.

Sincerely



Lindsay M. Lyster
President

cc: Trustees of the school board

Lynn Hauptman, Superintendent, lhauptman@sd52.bc.ca
Hon. Don McRae, Minister of Education, Minister.Educ@gov.bc.ca