



May 17, 2022

Vancouver School Board  
1580 W Broadway,  
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By email: [hmcgregor@vsb.bc.ca](mailto:hmcgregor@vsb.bc.ca)

**OPEN LETTER RE: New Administrative Policies Restricting Student Journalism**

Dear Vancouver School Board Members,

It has come to the attention of the BC Civil Liberties Association (BCCLA) and the Canadian Association of Journalists (CAJ) that the Vancouver School Board (VSB) has adopted policies that could be used to limit the freedom of expression rightfully enjoyed by student journalists in Canada. The BCCLA and the CAJ are united on the position that freedom of the press extends to student journalists and encroachment on this fundamental freedom runs contrary to s. 2(b) of the *Charter of Rights and Freedoms*.

It is our understanding that starting in 2021 the student newspaper entitled *The Griffins' Nest* published a series of articles which critiqued various VSB policies, including the VSB's decision to end a special education program. Since the publication of these articles, *The Griffins' Nest* editorial team has experienced resistance from the VSB, which has included *Griffins' Nest* journalists being barred from a public "community dialogue session" where potential school closures were being discussed.

The BCCLA has previously corresponded with the school out of which the *The Griffins' Nest* paper is run to explain that students in public schools retain their *Charter* rights to freedom of expression. Notwithstanding this correspondence, the VSB has now enacted the "Extra-Curricular Activities" policy and the "Social Media Guidelines" policy to their Administrative Procedures Manual. These policies were introduced and approved at the Policy and Governance Committee Meeting on May 11<sup>th</sup>, 2022.<sup>1</sup>

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<sup>1</sup> Vancouver School District, *Notice of Meeting Police and Governance Committee*, May 11, 2022, <[https://www.vsb.bc.ca/District/Board-of-Education/Meeting\\_Minutes/Documents/agendas-files/22\\_05May11\\_P&G\\_Full%20Agenda.pdf](https://www.vsb.bc.ca/District/Board-of-Education/Meeting_Minutes/Documents/agendas-files/22_05May11_P&G_Full%20Agenda.pdf)>

Both of our associations are concerned with these new policies. These policies require that all student clubs (including school newspapers) be approved by the school principal. They further require that all club-related social-media accounts be controlled not by the student(s), but by the teacher sponsoring the club and the VSB. As you are aware, this policy allows the school board to unilaterally “remove any postings, or content of any other nature, from such approved social media platforms that they consider to be inappropriate or in violation of this procedure.”<sup>2</sup>

During the May 11<sup>th</sup> meeting the Deputy Superintendent Mr. David Nelson stated that this policy “is not about one particular [student journalism] club.” The BCCLA and CAJ are nevertheless concerned that these policies could be used by the VSB to unilaterally censor student journalists. The policy asserts that the VSB has the authority to control all communications between a student newspaper and the public. It further asserts authority to delete any content from a student newspaper’s social media accounts. Based on the facts that have been made known to us, these policies appear to *prima facie* violate student journalists right to freedom of expression.

During the May 11<sup>th</sup> Policy and Governance Committee meeting, Mr. Nelson expressed that these policies are permissible because the *School Act* places responsibility “with the school administrator, so as school clubs all activities that are sponsored by the school are therefore the responsibility of the school.”<sup>3</sup> This assertion ignores the fact that the *School Act* is subordinate to the *Charter*.

The *Charter* applies to all government actors and all government action. In 2005, the BC Court of Appeal upheld that, “the Charter applied to school boards in the province [of British Columbia]” because “there can be no doubt that the School Board is a branch of government and thus subject to the *Charter*.”<sup>4</sup> This decision was appealed to the Supreme Court of Canada who opted not to review the judgement.<sup>5</sup> The VSB is required to act in such a way that upholds the values laid out in the *Charter*.

The *School Act* does not empower the VSB to violate the *Charter*. In fact, no statute empowers or allows any government actor to act contrary to the *Charter*, because per section 52(1) of the constitution “the Constitution of Canada [which includes the Charter] is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.”

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Vancouver School Board, *Vancouver School District - Policy and Governance Committee Meeting - May 11, 2022*, May 11, 2022, <[https://www.youtube.com/watch?app=desktop&v=N\\_QkYzrsWl0&feature=youtu.be](https://www.youtube.com/watch?app=desktop&v=N_QkYzrsWl0&feature=youtu.be)>

<sup>2</sup> *Social Media Guidelines* section 3.4

<sup>3</sup> Vancouver School Board, *Vancouver School District - Policy and Governance Committee Meeting - May 11, 2022*, May 11, 2022, <[https://www.youtube.com/watch?app=desktop&v=N\\_QkYzrsWl0&feature=youtu.be](https://www.youtube.com/watch?app=desktop&v=N_QkYzrsWl0&feature=youtu.be)>

<sup>4</sup> *British Columbia Public School Employers' Association v British Columbia Teachers' Federation*, 2005 BCCA 393, at para 19.

<sup>5</sup> *British Columbia Public School Employers' Association v British Columbia Teachers' Federation*, [2005] SCCA No. 455.

The school's "responsibility" to oversee clubs, as laid out in the *School Act*, does not allow a school to infringe on a student's freedom of expression. *Charter* rights are only subject to "reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" (s. 1 *Charter*). The right to political expression and the freedom of the press are core values protected by section s.2(b) and are therefore not easily overridden. On the facts we have, we cannot think of any reasonable explanation that would justify the alleged broad interference into the rights of student journalists.

Public and rigorous critique is the backbone of a functioning democracy. Journalists, including student journalists, play a fundamental role in facilitating this discourse. The VSB is not immune to critique and students, as the ones most impacted by VSB policy, are well suited to provide it. The *Griffins' Nest* student newspaper has given voice to student concerns and is creating civic-minded and socially engaged youth.

The BCCLA and CAJ call on the VSB to amend their policy to bring it into alignment with the *Charter of Rights and Freedoms*, to appropriately consult with students before any future policy is enacted, and to cease any further actions which impede student journalists' ability to engage in uncensored and independent journalism.

Thank you for your attention and consideration.

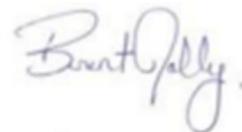
Sincerely,



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Katherine Benson  
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Brent Jolly  
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