

## **AMENDED SCHEDULE "A"**

### **Introduction**

1. Pamela Buffone and Jason Buffone bring this application on behalf of their daughter, N [REDACTED] B [REDACTED], against Ottawa-Carleton District School Board, Janine Blouin, and Julie Derbyshire on grounds of discrimination on the basis of sex, gender and gender identity in contravention of section 1 of the *Human Rights Code*, RSO 1990, c H.19 ("the Code").

### **The Parties**

2. N [REDACTED] B [REDACTED] ("N [REDACTED]") is a former student of Devonshire Community Public School ("the School"), which is part of the Ottawa-Carleton District School Board ("the Board").
3. Pamela Buffone ("Ms. Buffone") and Jason Buffone ("Mr. Buffone") are N [REDACTED]'s parents ("the Buffones").
4. Janine Blouin ("Ms. Blouin") is a teacher at the School, and was N [REDACTED]'s Grade One teacher during the 2018 winter semester (January to June 2018).
5. Julie Derbyshire ("Ms. Derbyshire") was and is the principal of the School.

### **Series of Incidents Creating a Discriminatory Educational Environment**

6. Ms. Blouin began teaching the Grade One class in January of 2018.
7. Early in the semester, in January 2018, Ms. Blouin showed a Youtube video entitled "He, She, and They?!? – Gender: Queer Kid Stuff #2" to the Grade One class.
8. The video contained a number of statements about gender identity, and asserted that "some people aren't boys or girls" and that those who do not "feel like a 'she' or a 'he'" might not have a gender.
9. As the semester progressed, Ms. Blouin employed a number of teaching tools which undermined the female gender identity including a whiteboard lesson on the gender identity spectrum, and made a number of statements to the Grade One class, including "there is no such thing as girls and boys", and that "girls are not real and boys are not real."
10. Ms. Blouin further discussed the concepts of the gender spectrum and sex changes with the Grade One class which led N [REDACTED] to believe that she could

go to the doctor if she did not want to have a baby.

### **Concerns Raised about Educational Environment and Discriminatory Response from Teacher and Principal**

11. In mid-March 2018, N████ informed her parents that Ms. Blouin had taught the Grade One class that there is no such thing as girls and boys.
12. In further conversation with her family, N████ stated that she was “not sure” if she “wanted to be a mommy” when she grew up, and asked if she could “go to the doctor” about this issue. N████ indicated feeling that she “had to do something” about the fact that she is a girl.
13. The Buffones were concerned about the impact of Ms. Blouin’s instruction on N████’s view of herself as a girl. Prior to Ms. Blouin’s discussions with the Grade One class, N████ had consistently identified as a girl and had not previously expressed uncertainty or discontent with her gender identity and biological sex.
14. Ms. Buffone met with Ms. Blouin on March 21, 2018, to discuss her concerns about the impact of these discussions on N████.
15. During that meeting, Ms. Blouin confirmed to Ms. Buffone that:
  - a. “The Board policy is that there is gender fluidity”;
  - b. She (Ms. Blouin) had covered the topic of sex changes with the Grade One class;
  - c. She had conducted these discussions because “even in Grade One” there were students who are questioning and struggling with this idea of girls and boys, so the idea of gender fluidity needed to be discussed to help them understand what they were going through. She noted that “otherwise, it’s extremely alienating for them”; and,
  - d. She viewed the issue of gender fluidity as a “new concept that we were never really taught”, and that she thought it was “a change within all of society”.
16. Ms. Buffone expressed deep concern about N████’s feelings that she “had to do something” about the fact that she is a girl, especially given that N████ had not previously expressed any concerns with her gender identity.

17. Ms. Buffone further observed that teachers have a position of significant authority, especially in elementary school, and that she was concerned about the messages being received by those in the Grade One class who were not questioning their gender identity and biological sex.
18. Blouin indicated that she would speak with the board's "specialist on inclusion and gender fluidity" ("the specialist") and share the board's policy with Ms. Buffone.
19. Ms. Blouin did not take any steps to affirm N██████'s female gender identity and biological sex, or to address the concept of female gender identity more positively with the Grade One class.
20. Ms. Blouin did not offer to consult with the specialist on how to support students in the Grade One class who were not questioning their gender.
21. Ms. Blouin also recommended that Ms. Buffone could discuss her concerns with the school principal, Ms. Derbyshire.
22. The Buffones approached Ms. Derbyshire to schedule a meeting, and Mr. Buffone spoke with Ms. Derbyshire via telephone on March 26, 2018.
23. During that call, Ms. Derbyshire informed Mr. Buffone that:
  - a. Ms. Blouin's discussions and lessons were intended to accommodate another student in the Grade One class who had expressed an interest in being other than her biological gender;
  - b. Ms. Blouin made a professional call to have conversations about gender fluidity with the Grade One class;
  - c. She agreed with Ms. Blouin's approach; and
  - d. The School had obtained advice from the Board's "consultant" on how to approach the issue of gender fluidity.
24. Mr. Buffone suggested that a discussion about principles of "tolerance and respect" would be more appropriate than discussions and videos about the concept of gender fluidity, in the context of a Grade One class. Mr. Buffone further noted that a discussion about these principles would have been affirming of all students in the class.

25. Ms. Derbyshire's only proposal was for N [REDACTED] to leave the classroom during any discussions on gender fluidity.
26. Ms. Derbyshire did not offer to consult with the specialist on how to support students in the Grade One class who were not questioning their gender.
27. Mr. Buffone suggested that Ms. Derbyshire and Ms. Blouin communicate with parents of the students in the Grade One class about the discussions that had occurred.
28. Ms. Derbyshire refused to communicate with the parents about the discussions. Instead, she told Mr. Buffone to "make sure other parents reach out" if they have concerns about the topics raised, and advocate for their child by contacting the school.
29. Mr. Buffone observed that N [REDACTED] had raised these issues with the Buffones, but that many families may be unaware of what is being taught about these issues unless the school informs them.

#### **Discussion at Parents' Committee Meeting**

30. On March 27, 2018, Ms. Buffone attended the School's Parents' Committee Meeting and raised concerns about Ms. Blouin's discussions with the Grade One class.
31. Other parents in attendance at the meeting agreed with Ms. Buffone's concerns.
32. Several parents that the Buffones' spoke with outside of the meeting noted that at the young age of the class in question, they were concerned both with whether the concepts addressed were appropriate, and whether the children had "the voice" to articulate to their parents any questions or concerns with what they were learning.
33. Ms. Derbyshire was in attendance at the Parents' Committee Meeting. She declined to discuss any specifics regarding the conversations that had occurred with the Grade One class and refused to meaningfully address the concerns raised by parents.

#### **Discussions with School Board Superintendent and Curriculum Superintendent**

34. The Buffones scheduled further meetings with the Superintendent of the School Board and the Curriculum Superintendent to review their concerns.

35. The Buffones again requested communication with parents of students in the Grade One class about the discussions that had occurred. The Superintendent indicated that he could not support a communication about the discussions.
36. No meaningful action was taken by the School Board as a result of these meetings. The School Board did not agree to communicate with parents when sensitive discussions took place, nor did they agree to issue any directive or take corrective action in order to ensure that children of female gender identity were positively affirmed.
37. At the conclusion of their meetings with the School Board, the Buffones decided to enrol N [REDACTED] at another school.

### **Impact on N [REDACTED]**

38. The discussions that took place in Ms. Blouin's Grade One class had a lasting negative impact on N [REDACTED], who spontaneously and repeatedly asked her parents why her identity as a girl was "not real."
39. In August, N [REDACTED] expressed excitement about starting at a new school, and told the family that she was happy that she would no longer have a teacher who said that "girls are not real."
40. In October of 2018, N [REDACTED] told Ms. Buffone that she did not like Ms. Blouin's statement that boys and girls were not real, and told Ms. Buffone: "This table is real, and this fan is real, and even if the fan was made out of cardboard, it's still real."
41. In October of 2018, Ms. Buffone consulted with a psychologist for assistance in responding to N [REDACTED]'s concerns about her teacher's denial of her gender identity and biological sex.

### **Conclusion and Requested Remedy**

42. Ms. Blouin discriminated against N [REDACTED] on the basis of sex and gender identity by using the authoritative platform of a teacher to publicly deny the existence of the female gender and biological sex, and to undermine the value of being biologically female and identifying as a female. Neither the school nor Ms. Blouin obtained parental consent to inform their young child that her sense of self as a girl was a fiction. Ms. Blouin's conduct undermined their daughter's foundational concept of identity, as well as contradicted biological reality.

43. The Principal and School Board perpetuated and reinforced the discrimination that N [REDACTED] experienced in her Grade One classroom, as neither Ms. Derbyshire nor any school board official took any corrective action to remedy it.
44. This discrimination against N [REDACTED] by the Respondents infringed her security of the person, which is guaranteed under s. 7 of the Canadian *Charter of Rights and Freedoms*. As a public body, the School Board and its employees have a duty to deliver education in a neutral manner that doesn't discriminate or deprive an individual of their personal security and psychological integrity, contrary to principles of fundamental justice. The conduct of the Respondents falls far outside of the lawful statutory mandate of a public school in Ontario.
45. Informing N [REDACTED] that the biological category of sex to which she belongs and the gender with which she identifies do not exist caused psychological harm and insecurity about her value as a person. The Respondents publicly contradicted N [REDACTED]'s assertion that she identified strongly as a girl, causing her distress and confusion, and shaming her before her classmates.
46. These actions further infringed N [REDACTED]'s rights under s. 15(1) of the *Charter* to equal treatment under the law without discrimination on the basis of sex. The School Board has a duty to balance its policies against the protections of the *Charter*. The Board must teach gender identity in a manner that does not result in discrimination on the basis of sex, in violation of s. 15(1).
47. It is respectfully requested that the Tribunal order the following, pursuant to 45.2 of the Code:
- a. That the Board ensure that classroom instruction not devalue, deny, or undermine in any way the female sex and/or gender identity;
  - b. That the Board mandate that teachers inform parents when lessons on gender identity will take place or have taken place, including the teaching objectives and the materials that will be or have been used for such lessons;
  - c. That the Board cease and desist from teaching gender theory in any manner which suggests that sex categories of male and female do not exist, or are fluid, or exist on a spectrum.
  - d. \$5,000.00 in general damages to compensate for injury to dignity, feelings and self-respect caused by the discrimination; and,
  - e. Such further and other orders as may be requested and that the Tribunal

deems necessary.