



# Justice Centre for Constitutional Freedoms

March 29, 2017

Via email (hard copy to follow): [education.minister@gov.ab.ca](mailto:education.minister@gov.ab.ca)

The Honourable David Eggen  
Education Minister  
228 Legislature Building  
10800-97 Avenue  
Edmonton, AB, T5K 2B6

Dear Minister Eggen,

**RE: Letter and Order to Independent Baptist Christian Education Society (“IBCES”)**

Thank you for your letter, with attached Order of March 22, 2017, and attached Report of Dan Scott (the “Report”), which we received on March 23.

We have reviewed the Report and note that it was submitted to you on November 14, 2016. Our office formally requested a copy of the Report on December 1, 2016, via letter to your office.

When the Report was not released, we filed a request under the *Alberta Freedom of Information and Protection of Privacy Act* (“*FOIPP*”).

Your office denied the request to release the Report based on section 29(1)(b) of the *FOIPP Act*, which states that disclosure of information may be denied if “it is to be published or released to the public within 60 days after the applicant’s request is received.” The applicable deadline for the release of the Report was February 6, 2017. Your office neglected to release the Report by the deadline set by the *FOIPP* officer. We were then compelled to reopen the *FOIPP Act* request.

While we are grateful that your office finally released the Report to our client, we note that our client did not receive the Report prior to its release to the media and public at large, which in our view demonstrates a lack of courtesy and professionalism.

In any event, we are pleased to learn of the Report’s conclusion that both of the IBCES’ schools were, and are currently, in legislative compliance with the *School Act*.

As noted in the Report, section 16.1 of the *School Act* requires the occurrence of a student request for the formation of a gay-straight alliance club (“GSA”) in order to require any action by a

school. No request has been received by our client. Until such time as a request is received by a particular school, section 16.1 of the *School Act* is dormant vis-à-vis said particular school.

The Report also noted that section 45.1 of the *School Act* does not apply to the IBCES' schools. In spite of the fact that section 45.1 of the *School Act* has no legislative impact on IBCES, IBCES remains committed to creating a welcoming, caring, safe and respectful environment for all students in its care. As you know from previous communications from our office and from IBCES, IBCES has zero tolerance for bullying.

We note that the Report includes the 2014 and 2015 commendations of Alberta Education for both Meadows Baptist Academy and Harvest Baptist Academy in the areas of a safe and caring environment, education quality, citizen and parental involvement and a low dropout rate. We are sure you will agree there is much to commend in IBCES' schools from a government perspective. Additionally, concerning both section 45.1 and section 16.1 of the *School Act*, our client is in legislative compliance.

The Honourable Minister has repeatedly stated an intention to eliminate bullying in Alberta's schools, which is a goal that no person or school disagrees with. However, Alberta Education's conduct toward our client and certain other private religious schools belies and undermines that goal. When a much stronger entity attempts to coerce and compel conduct that is contrary to the will, conscience and constitutional rights of institutions, teachers, parents and students, and does so with the threat of a loss of funding and accreditation, such conduct meets the textbook definition of "bullying."<sup>1</sup> The mass distributions on social media about a particular party (often stories or pictures, but in this case, the Report) is also an act of bullying, common in junior high school by popular parties intent on harming a weaker one.

In *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12 ("*Loyola*"), the Supreme Court of Canada reaffirmed the *Charter* right to manifest religious belief by teaching and dissemination, and held that the state cannot "undermine the character of lawful religious institutions and disrupt the vitality of religious communities", including religious schools. The Court was unanimous in finding that the Education Minister in that case had unlawfully limited freedom of religion.

In *Loyola*, Justice Abella (writing for the majority) stated the following:

Ultimately, measures which undermine the character of lawful religious institutions and disrupt the vitality of religious communities represent a profound interference with religious freedom.<sup>2</sup>

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<sup>1</sup> Bullying (verb): To use superior strength or influence to intimidate (someone), typically to force him or her to do what one wants.

<sup>2</sup> *Loyola* at para 67 (emphasis added)

The *Universal Declaration of Human Rights*<sup>3</sup> states that parents have a prior right to choose the kind of education that shall be given to their children. This fundamental principle of our free society also exists in Canada's Constitution, which expressly recognizes the right of parents to impart their values to their children through religious schools, regardless of how popular or unpopular that religion's teachings may be at a particular time or place.

In *Loyola*, Justice Abella expressly upheld the rights of parents to transmit their faith to their children.<sup>4</sup> She noted the fact that "an essential ingredient of the vitality of a religious community is the ability of its members to pass on their beliefs to their children, whether through instruction in the home or participation in communal institutions."<sup>5</sup> In support of this statement, she quoted Article 18(4) of the *International Covenant on Civil and Political Rights*<sup>6</sup> which Canada ratified in 1976, and which requires governments to "undertake to have respect for the liberty of parents to ... ensure the religious and moral education of their children in conformity with their own convictions."<sup>7</sup> This *Covenant* is legally binding on Canada and other party states.

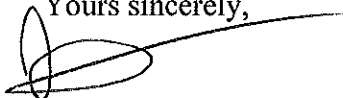
In March of 2016, every school in Alberta submitted its anti-bullying policies to the Honourable Minister. Catholic schools have submitted policies that do not allow GSAs to be set up in Catholic schools. Muslim, Jewish, Christian and other religious schools have submitted similar policies, insisting that student clubs must be respectful of the school's beliefs and values. A year later, the Honourable Minister still has not clarified which policies meet his approval, yet he demands that schools must comply.

We encourage the Honourable Minister to create a diverse and tolerant school environment where those with religious views on human sexuality, and not only those with secular-progressive views, once again feel welcomed, safe, cared for and respected. Our client, and many other private religious schools, have repeatedly asked to meet face-to-face with the Honourable Minister. We reiterate that request. We again invite a "reset" with the Honourable Minister to facilitate dialogue, as well as mutual respect and understanding.

If no common understanding is desired on the Honourable Minister's part, however, the Rule of Law nonetheless requires protection of religious views that may be unpopular in some quarters. The Honourable Minister does not have to agree with the views of religious schools to recognize that they are protected.

Please do not hesitate to contact me in regard to the foregoing.

Yours sincerely,



John Carpay, B.A., LL.B.  
President  
Justice Centre for Constitutional Freedoms

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<sup>3</sup> <http://www.un.org/en/documents/udhr/>. The section of the Universal Declaration pertaining to parental rights in education was a direct and deliberate response to governments using their coercive powers to indoctrinate children into the state's ideology, contrary to the wishes of parents.

<sup>4</sup> *Loyola* at para 64.

<sup>5</sup> *Loyola* at para 64.

<sup>6</sup> *International Covenant on Civil and Political Rights*, 999 U.U.T.S. 171.

<sup>7</sup> *Loyola* at para 65.