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BRITISH COLUMBIA CLARIFIES HATE SPEECH AND WORKPLACE DISCRIMINATION IN SCHOOLS

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The British Columbia Human Rights Tribunal recently held that former Chilliwack school trustee Barry Neufeld discriminated against LGBTQ2S+ teachers (“the Class”) through public statements about sexual orientation and gender identity initiatives in schools.¹ The decision clarifies the application of hate speech and discrimination laws in the employment context.

Factual Background

In 2017, the Ministry of Education in B.C. approved resources to foster an environment inclusive of sexual orientation and gender identity.² Barry Neufeld, a Chilliwack school trustee, vocally opposed this through social media posts, statements in Board meetings, rallies, and interviews.³ The Chilliwack Teachers’ Association filed a human rights complaint due to Mr. Neufeld’s statements.⁴ The Tribunal was tasked with determining whether Mr. Neufeld discriminated against the Class in their employment, and which of Mr. Neufeld’s statements, if any, constituted hate speech or discriminatory speech.

Holding

1. Discrimination in Employment

The Tribunal found that Mr. Neufeld discriminated against the Class in their employment.⁵

First, his statements were found to be sufficiently related to the teachers’ employment.⁶ The Tribunal reasoned that, despite not being a direct employer of the Class, Mr. Neufeld had a role in upholding the integrity of the broader school system, including fostering an atmosphere of tolerance and respect for teachers.⁷

¹ *Chilliwack Teachers’ Association v Neufeld (No 10)*, [2026 BCHRT 49](#).

² *Ibid* at [para 2](#).

³ *Ibid* at [para 3](#).

⁴ *Ibid* at [para 4](#).

⁵ *Ibid* at [para 69](#).

⁶ *Ibid* at [para 70](#).

⁷ *Ibid* at [para 77](#).

Second, the Tribunal found that Mr. Neufeld's statements contributed to a poisoned work environment.⁸ It emphasized that:

- discriminatory comments do not need to target a specific individual;
- a single serious incident may be enough to poison a workplace;
- multiple incidents must be assessed as a whole; and
- public statements can affect the workplace where the speaker has institutional influence.

Based on testimony and expert evidence, the Tribunal accepted that Mr. Neufeld's statements normalized discriminatory comments, made teachers feel unsafe, led to negative mental health outcomes for teachers, and created concerns about their ability to work in fields involving children.⁹

2. Free Expression, Discriminatory Speech, and Hate Speech

The Tribunal divided Mr. Neufeld's statements into three categories.

(a) *Legally Protected Speech*

The Tribunal confirmed that human rights law must leave room for political debate, public disagreement, and unpopular or offensive views.¹⁰

Six of Mr. Neufeld's publications, which criticized LGBTQ2S+ people outside of the educational context, were considered legally protected speech.¹¹ The Tribunal reasoned that the prospective harm of these statements was too remote because Mr. Neufeld had no credible influence over the policy decisions he was criticizing.

(b) *Discriminatory Speech*

The threshold for discriminatory speech is met where a statement has a specific discriminatory effect or intends that effect in a real-world context.¹²

The Tribunal held that twenty-four of Mr. Neufeld's publications amounted to discriminatory speech.¹³ These statements were found to reduce the visibility of members

⁸ *Ibid* at [paras 85-86](#).

⁹ *Ibid* at [paras 103-115](#).

¹⁰ *Ibid* at [para 237](#).

¹¹ *Ibid* at [paras 275-276](#).

¹² *Ibid* at [para 246](#).

¹³ *Ibid* at [para 279](#).

of the Class, undermine their dignity, and advocate for their exclusion.¹⁴ The Tribunal held that, given Mr. Neufeld's role and public notoriety, these effects were not remote.¹⁵

(c) *Hate Speech*

The Tribunal's analysis for hate speech adopted the Supreme Court's test in *Saskatchewan v Whatcott*: whether a reasonable person, aware of the context, would view the expression as exposing a class of persons to detestation and vilification, and whether the expression could objectively lead to discriminatory treatment.¹⁶ The Tribunal emphasized that hate speech laws do not prohibit merely offensive, hurtful, or controversial expression.¹⁷

Six of Mr. Neufeld's statements met the high threshold for hate speech.¹⁸ These statements were found to portray the Class as dangerous, predatory, immoral, or threatening to children in ways that could inspire detestation and social exclusion.¹⁹

Key Takeaways

- School trustees can be liable for workplace discrimination even if they are not the direct employers of the complainants. The institutional influence of public officials is a factor.
- Workplace discrimination need not be directed at any particular individual.
- The contextual risk of harm to a group is partially dependent on the level of credibility of the speaker relative to what they are speaking on. Mr. Neufeld's comments carried greater legal risk when they related to education, where he had credibility and influence.
- Hate speech continues to have a high threshold. Offensive, unpopular, or controversial views are insufficient. The expression must rise to the level of vilification or detestation.

Discriminatory speech is broader in scope than hate speech, requiring real-world harm or intent to cause harm. However, it still does not capture statements that are merely hurtful.

¹⁴ *Ibid* at [para 284](#).

¹⁵ *Ibid* at [para 285](#).

¹⁶ *Ibid* at [para 118](#).

¹⁷ *Ibid* at [para 121](#).

¹⁸ *Ibid* at [para 167](#).

¹⁹ *Ibid* at [paras 181, 185-186, 202](#).