

November 28, 2019 - Student's expulsion for alleged sexual assault quashed on appeal

Date : November 28, 2019

***TS v Dufferin-Peel Catholic District School Board*, [2019 CFSRB 61](#)**

The School Board's decision to expel the Appellant, a student who allegedly committed sexual assault on another student at school, was quashed on appeal by the Child and Family Services Review Board (CFSRB). The CFSRB determined that the School Board had not established that the student was sexually assaulted by the Appellant and found that there was no basis to expel the student.

CRIMINAL LAW

***R v McAnally*, [2019 ONSC 6028](#)**

A teacher charged with electronic transmission of child pornography, sexual touching and sexual assault involving students is found not guilty.

PRIVACY

***Grande Prairie Public School District #2357 (Re)*, [2019 CanLII 103281 \(AB OIPC\)](#)**

The Applicant made an access to information request seeking a copy of her human resources file. The School Board provided 288 pages of documents but withheld some information, on the basis that it was unable to locate the records requested. The Applicant requested a review of the School Board's search for responsive records. The adjudicator determined that the School Board conducted an adequate search for responsive records.

CIVIL LITIGATION

***BB v Newfoundland and Labrador English School District*, [2019 NLCA 71](#)**

The Court of Appeal of Newfoundland and Labrador allowed part of a teacher's Action to proceed

against another teacher and the School Board on the basis that some of the allegations raised in the Statement of Claim were not entirely work-related and fell outside the scope of the collective agreement. The Claim alleged defamation, breach of confidentiality and harassment by the Defendant teacher, and vicarious liability by the School Board.

***Hamlin v Kavanagh*, [2019 ONSC 5552](#)**

The Plaintiff, a retired music teacher, commenced an action in defamation against the School Board and a Superintendent of Education. The School Board and Superintendent of Education brought a motion to dismiss the Plaintiff's action because it arose from comments made by the Superintendent that related to a matter of public interest. In dismissing the motion, the judge held, among other things, that the Plaintiff had satisfied the Court that there were grounds to believe that the proceeding had substantial merit, and the Defendants had no valid defence in the proceeding.

***Little v Floyd Sinton Limited*, [2019 ONCA 865](#)**

The Court of Appeal for Ontario dismissed the appeal brought by the school transportation company challenging a decision that found it 75% liable for the damages incurred by a Grade 8 student. The student had jumped from the back of a moving school bus and suffered catastrophic injuries. The Court determined that the jury had reasonably assessed the student's contributory negligence at 25%.

LABOUR RELATIONS

***Ottawa-Carleton District School Board v Elementary Teachers' Federation of Ontario*, [2019 CanLII 103239 \(ON LA\)](#)**

An arbitrator found there were reasonable and compelling reasons to permit the School Board's request that the Grievor attend a psychiatric independent medical examination (IME). The existing medical evidence, which had included a report of the Grievor's treating psychologist, presented a concern that the medical information was not reliable.

LEGISLATIVE UPDATE

[Bill 124](#), *the Protecting a Sustainable Public Sector for Future Generations Act, 2019*

Bill 124 was proclaimed in force on November 8, 2019.

[Learn more](#)