

March 1, 2019 - Supreme Court of Canada finds students had a reasonable expectation of privacy

Date : March 1, 2019

***R v Jarvis*, [2019 SCC 10](#)**

The Supreme Court of Canada held that a teacher was guilty of voyeurism under the *Criminal Code* when he used a camera pen to surreptitiously record videos of female students' upper bodies and breasts while they were engaged in ordinary school-related activities in common areas of the school. The Court found that being in a public or semi-public space did not automatically negate all expectations of privacy with respect to observation or recording. The students had a reasonable expectation of privacy.

LABOUR RELATIONS

***Huron Superior Catholic District School Board v CUPE*, [2019 CanLII 8604](#)**

The parties entered into Minutes of Settlement (MOS) to adjust all caretaker wage rates to comply with Bill 148 changes to *Employment Standards Act* regarding equal pay for equal work based on employment status. Those *ESA* provisions were repealed as of January 1, 2019. The arbitrator disagreed with the Board's position that the affected wage rates should revert back to the lower rates set out in the collective agreement. The arbitrator found the parties intended wage increases to be made to comply with the *ESA* but the Board was not required to implement any future wage adjustments specified in the MOS after January 1, 2019.

***District School Board Ontario North East v ETFO*, [2019 CanLII 5117](#)**

An arbitrator dismissed a grievance alleging that the Board had breached the terms of the collective agreement, the *Human Rights Code*, and the *Employment Standards Act* by not allowing teachers on pregnancy and parental leave to accumulate sick leave credits, and not crediting their full sick leave entitlements upon their return from such leaves. The arbitrator found the Federation did not make out a *prima facie* case of discrimination on the basis of sex and pregnancy. The School Board treated both male or female teachers who were off work for either pregnancy, parental, child care or general leave without pay in the same manner. Application of the collective agreement to women on pregnancy leave was not discriminatory.

HUMAN RIGHTS

***HK v Toronto District School Board*, [2019 HRTO 190](#)**

Applicant's older daughter identified as gifted by an Identification, Placement and Review Committee (IPRC) and placed in program for gifted students at one of the Board's middle schools. The Tribunal found the Board's denial of request that younger sibling be allowed to attend the same school did not engage the protection of the *Code*. The older daughter did not have a disability and the definition of family status did not apply to the relationship between sisters.

LEGISLATIVE UPDATE

[Bill 63](#), *Right to Timely Mental Health and Addiction Care for Children and Youth Act, 2018*

As previously reported, this Bill would require that mental health and addiction services be offered to persons less than 26 years old within 30 days of being deemed to require the service. The Bill was referred to the Standing Committee on General Government on February 21, 2019.

[Bill 48](#), *Safe and Supportive Classrooms Act, 2018*

As previously reported, this Bill, in part, amends the *Education Act* to provide that the Minister of Education may establish policies and guidelines respecting service animals in schools and require school boards to develop policies in accordance with those policies and guidelines. This Bill was referred to the Standing Committee on Social Policy on February 21, 2019.