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IN THE MATTER OF THE *HUMAN RIGHTS CODE*,  
RSBC 1996, c. 210 (as amended)

AND IN THE MATTER of a complaint before  
the British Columbia Human Rights Tribunal

BETWEEN:

British Columbia Teachers' Federation obo Chilliwack Teachers' Association

**COMPLAINANT**

AND:

Barry Neufeld

**RESPONDENT**

AND:

BC's Human Rights Commissioner

**INTERVENOR**

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**REASONS FOR DECISION**

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Tribunal Members:

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Dates of Hearing:

November 25-29, 2024

December 2-6, 2024

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## I INTRODUCTION

[1] This case arises amidst the cycle of progress and backlash that has marked the lives of LGBTQ people in British Columbia in recent years. It asks the Human Rights Tribunal to navigate the application of the *Human Rights Code* to heated public speech that debates the rights and recognition of this protected group, in a context where transgender people in particular often find themselves disproportionately in the spotlight.

[2] Progress came in 2016, when the BC government amended the *Code* to confer express protection against discrimination based on gender identity and expression. Following this amendment, the Ministry of Education directed all boards of education and independent school authorities to update their codes of conduct to address bullying based on sexual orientation and gender identity [**SOGI**]. In 2017, the Ministry approved resources and tools aimed at fostering a SOGI-inclusive education environment in all schools. These resources are referred to as “**SOGI 1 2 3**”.

[3] The backlash to SOGI 1 2 3 was immediate. One of its loudest critics was the Respondent, Barry Neufeld. At the time, Mr. Neufeld was an elected trustee of the Chilliwack Board of Education [the **Board**]. For the next five years of his tenure as a trustee, Mr. Neufeld engaged in a high-profile public campaign against SOGI 1 2 3 and the values underlying it. He did this through social media posts, as well as in statements made in Board meetings, rallies, and interviews. Throughout these publications, 30 of which are at issue here, Mr. Neufeld broadcast the message that SOGI 1 2 3 is a “weapon of propaganda”, which threatens “traditional family values” and instructs children about the “absurd theory” that “gender is not biologically determined, but a social construct”. This “lie”, he warned, alienates children from their parents and primes them for sexual abuse.

[4] The impact of Mr. Neufeld’s publications was felt acutely in the Chilliwack School District #33 [**District**], which found itself battling a climate that was increasingly hostile to LGBTQ people. One of the affected groups was teachers who worked for the District. This prompted the teachers’ union, the British Columbia Teachers’ Federation [**BCTF**] and the Chilliwack

Teachers' Association [CTA] [collectively, the **Complainant**], to file this human rights complaint on behalf of its members. Since then, the scope of the class represented by the Complainant has been narrowed to all CTA members who identify as LGBTQ [the **Class**]: *Chilliwack Teachers' Association v. Neufeld*, 2021 BCHRT 6, upheld in 2023 BCSC 1460 [CTA (No. 1)].

[5] The Complainant alleges that Mr. Neufeld's public rhetoric during his tenure as trustee constituted discriminatory and hate speech, in violation of s. 7 of the *Code*, and discriminated against the Class in their employment, based on their sexual identity and gender identity or expression, in violation of s. 13 of the *Code*. In response, Mr. Neufeld contends that it is not a violation of the *Code* to engage in public expression on matters of legitimate political and social debate.

[6] The Office of the Human Rights Commissioner intervened in the complaint to make submissions about the interpretation of s. 7(1)(a) of the *Code*, and the social context of speech, like Mr. Neufeld's, that equates gender affirming care and recognition with child abuse.

[7] For the reasons that follow, we find the complaint is justified in part.

[8] First, we find that Mr. Neufeld violated s. 13 of the *Code*. As a school trustee and member of the Board that employed the Class, Mr. Neufeld was an integral part of their workplace. His role in the District and his public profile put him in a position to affect the teachers' working conditions, and he did. For five years, he publicly denigrated LGBTQ people and teachers and associated them with the worst forms of child abuse. The effect was a discriminatory work environment for LGBTQ teachers in the District. This part of the complaint is justified.

[9] Second, we find that six of Mr. Neufeld's publications are likely to expose trans and/or gay and lesbian people to hatred or contempt based on their gender identity or sexual orientation, in violation of s. 7(1)(b) of the *Code*. These publications demonize and delegitimize trans people (and in one case, lesbian and gay people) and cast them as a powerful menace threatening the security of children and their families. Mr. Neufeld uses rhetoric, buttressed by allegedly reputable sources, which has the effect of generating detestation and vilification

towards the targeted group and has the potential to lead to their discriminatory treatment. We find this part of the complaint justified. We find 13 of Mr. Neufeld's publications do not meet the high threshold for hate speech, and we dismiss this part of the complaint.

[10] Finally, we find 24 of Mr. Neufeld's publications indicate discrimination, or an intention to discriminate, against LGBTQ people in public education in the Chilliwack School District, in violation of s. 7(1)(a) of the *Code*. As a school trustee, Mr. Neufeld was bound to maintain a discrimination-free school environment. Instead, he used negative stereotypes and discriminatory language to call for schools to eliminate recognition and respect for sexual and gender diverse people. We find that six of Mr. Neufeld's publications which do not relate to public education do not violate s. 7(1)(a). While they contain discriminatory language, they do not express an intention to effect real-world harms or call on others to do so in a concrete way. As such, the potential for harm is too remote to ground a violation and still be proportionate with Mr. Neufeld's right to freedom of expression. We dismiss this part of the complaint.

[11] We declare that Mr. Neufeld violated ss. 7(1)(a), (b) and 13 of the *Code*. We order him to stop the contraventions and cease from committing similar contraventions. We order him to compensate one of the Complainant's witnesses, Teacher C, for expenses incurred by the discrimination. Finally, we order him to pay compensation to the Class for injury to their dignity, feelings, and self-respect. In a concurrent decision, we order costs against Mr. Neufeld for his improper conduct in these proceedings: *Chilliwack Teachers' Association v. Neufeld (No. 11)*, 2026 BCHRT 50.

[12] Before beginning, we caution the reader that this decision reproduces Mr. Neufeld's discriminatory statements. Reading them may be difficult for some readers. We also discuss discrimination against transgender and gender diverse people and the 2SLGBTQIA+ community generally.

## II TERMINOLOGY

[13] In *CTA (No. 1)*, the Tribunal defined the Class as CTA members who identify as **LGBTQ** – meaning lesbian, gay, bisexual, transgender, and queer. In their submissions, the Complainant referred to the Class as comprising CTA members who identify as **2SLGBTQ+** - adding the acronym for two spirit and the plus sign, which is inclusive of all people who identify as part of sexual and gender diverse communities. In some of the Tribunal’s previous decisions, the Tribunal also uses this acronym to describe the members of the Class: see e.g. *Chilliwick Teachers’ Association v. Neufeld (No. 3)*, 2024 BCHRT 232. Other resources we have reviewed use the term **2SLGBTQIA+**, which expressly includes intersex and asexual people.

[14] In this decision, we define the Class in accordance with the Tribunal’s decision in *CTA (No. 1)*. In doing so, it is not our intention to erase or overlook the breadth of sexual and gender diversity or disregard the experience of people who do not identify as lesbian, gay, bisexual, transgender or queer. Rather, this reflects that the groups within the acronym are not interchangeable and the Class has not been amended since *CTA (No. 1)*. Where appropriate to address a broader context, we may also refer to 2SLGBTQ+ or 2SLGBTQIA+ people.

[15] LGBTQ people are a broad group. They share a common context of marginalization rooted in their sexual and gender diversity, historically seen in opposition to mainstream expectations of heterosexual attraction and cisgender identities. But within the group, there are important differences. In this case, Mr. Neufeld’s focus overwhelmingly is on the gender identity of non-cisgender people, meaning people whose gender identity is not the same as their sex assigned at birth. For that reason, it is sometimes necessary to distinguish between people impacted by discrimination based on their sexual orientation and those who face discrimination based on their gender identity or expression. In this decision, we use the term “trans” to include all people whose gender identity falls outside cis and/or binary understandings of gender.

### III OVERVIEW

[16] This case engages a tension between the right to free expression under s. 2(1)(b) of the *Canadian Charter of Rights and Freedoms*, and the limitations that may be imposed on expression where it harms the ability of others to engage equitably in Canadian life. This is a tension well-known to the law, though its resolution is not always straightforward.

[17] One area where the resolution of this tension is relatively straightforward is in employment. Employment is recognized as “one of the most fundamental aspects in a person's life, providing the individual with a means of financial support and, as importantly, a contributory role in society”: *Reference Re Public Service Employee Relations Act (Alta.)*, 1987 CanLII 88 (SCC) at p. 368. Human rights legislation protects employees from discriminatory speech in the context of their employment. In doing so, it fosters a society where “there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia”: *Code*, s. 3(a). The test for discrimination in employment is well established. It requires the complainant to prove that they have characteristics protected under s. 13 of the *Code*, that they were adversely impacted in their employment, and their protected characteristics were a factor in that adverse impact: *Moore v. BC (Education)*, 2012 SCC 61 at para. 33. If these elements are established, a respondent can justify its conduct as a *bona fide* occupational requirement. Mr. Neufeld does not raise that defence here and so we do not consider it further.

[18] Section 7(1)(b) of the *Code* prohibits the publication of speech that “is likely to expose a person or group or class of persons to hatred or contempt” based on their characteristics protected by the *Code*. This prohibition requires a somewhat more nuanced balancing of interests, but again the law is well-established. Restrictions on free expression are justified to limit speech that seeks to marginalize individuals based on their membership in a protected group: *Saskatchewan (Human Rights Commission) v. Whatcott*, 2013 SCC 11 [**Whatcott**] at para. 71. Publications violate of this section where:

- a. “in the view of a reasonable person aware of the context and circumstances, the representation exposes or tends to expose any person or class of persons to detestation and vilification on the basis of a prohibited ground of discrimination” and
- b. the expression, “when viewed objectively and in its context, has the potential to lead to discriminatory treatment of the targeted group”

*Whatcott* at para. 95, 178, and 191; *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 at para. 75.

[19] Section 7(1)(a) of the *Code* prohibits publication of speech that “indicates discrimination or an intention to discriminate against a person or group or class of persons” based on their characteristics protected by the *Code*. To establish a violation of s. 7(1)(a), a complainant must show that the publication “had a discriminatory effect, or likely effect, or was intended to do so”: *Palmer and Palmer v. British Columbia Teachers' Federation and others*, 2008 BCHRT 322 at para. 43. A discriminatory effect has real-world consequences for the target of the publication: *Oger v. Whatcott (No. 7)*, 2019 BCHRT 58 [**Oger (No. 7)**] at para. 103. Given the strenuous public debate surrounding SOGI 1 2 3, and evolving principles in the law, this section requires us to balance Mr. Neufeld’s right to freedom of expression with the purposes of prohibiting discriminatory publications in the *Code*: *Doré v. Barreau du Québec*, 2012 SCC 12, *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, and *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33.

[20] Before turning to our analysis, we offer these brief observations about the parties’ submissions.

[21] First, in his closing argument, Mr. Neufeld’s counsel did not address the *Charter* at all. At the hearing, Mr. Neufeld took the position that he was not asking the Tribunal to balance his *Charter* rights with the statutory objectives set out in the *Code* because, in his view, doing so was an acceptance of the underlying discriminatory behaviour. Despite Mr. Neufeld’s position, many of the arguments he has advanced loosely reflect the kind of proportionality analysis that

administrative decisionmakers engage in when making decisions that may affect *Charter* rights or values. The Complainant addressed freedom of expression in their submissions. In our view, regardless of Mr. Neufeld's submissions, it was incumbent on us to balance his right to free expression in the application of s. 7(1)(a) of the *Code* and we have done so: *Vabuolas v. British Columbia (Information and Privacy Commissioner)*, 2025 BCCA 83 at para. 99; *Doré* at para. 35; *Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)*, 2023 SCC 31 at paras. 65-66.

[22] Second, although Mr. Neufeld occasionally alluded to his religion, at no point in this complaint did he assert, or lead evidence to support, that his right to freedom of religion under s. 2(a) of the *Charter* was engaged. In our view, it would not be appropriate to speculate about s. 2(a) of the *Charter* without a factual foundation or proper argument. For that reason, we have not considered whether our decision appropriately balances Mr. Neufeld's religious freedoms.

[23] Finally, neither the parties nor the intervenor addressed *Ward*, which is the Supreme Court of Canada's most recent decision addressing the tension between freedom of expression and anti-discrimination law. Despite this gap, we have relied on *Ward* in our analysis, especially to guide our interpretation of s. 7(1)(a). In doing so, we are satisfied that there is no unfairness to the parties. First, the parties are aware of *Ward*; it was a focus of submissions in an earlier judicial review in this case: *British Columbia Teachers' Association v Neufeld*, 2023 BCSC 1460 at paras. 52-54. From this, we understand the parties are aware of the case and assume that they deliberately elected not to address it. Second, and most importantly, the principles in *Ward* are not new. They generally align with the cases concerning discriminatory and hate speech, which the parties have addressed.

[24] We turn now to a brief background to the complaint.

## IV BACKGROUND

### A. The witnesses

[25] We heard from nine witnesses in this complaint. The Complainant called:

- a. Glen Hansman (he/him): former president of BCTF;
- b. Ed Klettke (he/him): former president of CTA;
- c. Teacher A (she/they): District teacher;
- d. Teacher B (she/they): District teacher;
- e. Teacher C (she/her): former District teacher; and
- f. Dr. Elizabeth Saewyc (she/her): qualified as an expert in the impacts of stigma on sexual and gender minority populations: *Chilliwack Teachers' Association v. Neufeld (No. 5)*, 2024 BCHRT 332.

There is a publication ban in effect prohibiting the publication of any information that could identify the teachers who testified, or may have testified, in connection with this complaint: *Chilliwack Teachers' Association v. Neufeld (No. 2)*, 2024 BCHRT 180 [**CTA (No. 2)**]; amended by letter dated February 25, 2025.

[26] Mr. Neufeld testified and called three additional witnesses to support his case:

- a. Rob Bugonovic (he/him): former District teacher;
- b. Sylvia Dyck (she/her): former school trustee for the District; and
- c. Darrell Furgason (he/him): former school trustee for the District.

The Tribunal did not permit Mr. Neufeld to call three other witnesses because their proposed evidence was not relevant: *Chilliwack Teachers' Association v. Neufeld (No. 6)*, 2024 BCHRT 337. The Tribunal also denied Mr. Neufeld's request to limit publication of his witnesses' names, on

the basis that he had not provided enough information to show how the privacy interests of his witnesses outweighed the public interest in access to the Tribunal's process: *CTA (No. 2)* at para. 12.

[27] For the most part, the relevant facts in this complaint are not disputed. We have reached our decision without having to resolve contested issues of credibility or reliability. We have accepted the witnesses' evidence on issues that are relevant to the complaint.

## **B. The parties**

[28] The BCTF is the certified bargaining agent representing teachers employed by all public school boards in the province. CTA is a local of BCTF, and its members are teachers employed in the District.

[29] At all relevant times, Mr. Neufeld was an elected school trustee serving on the Board. However, Mr. Neufeld has a varied background, a brief preview of which will be helpful for giving context to the complaint.

[30] Mr. Neufeld has a degree in adolescent psychology, which led to an early interest in identity, which he defined by the question, "who am I really?"

[31] A large part of Mr. Neufeld's adult working life was spent as a corrections, probation, and restorative justice facilitation officer. In those roles, he felt a strong calling to work with child sex offenders. Mr. Neufeld says he had a "knack" for working with sex offenders because he "treated them with respect...[even though they] did horrendous things."

[32] As a corrections officer, Mr. Neufeld first became aware of transgender people. Since then, Mr. Neufeld has taken a keen interest in issues affecting trans adults and youth, and he considers himself well-read in this area. During the hearing of this matter, Mr. Neufeld self-identified as an expert in what he called "gender confusion."

[33] In the early 1990s, Mr. Neufeld sat on an advisory board of an alternative school, when he became interested in education. In 1992, he was elected as a school trustee in Chilliwack,

where he served until 2008, and then again from 2011 to 2022. In Mr. Neufeld’s role as a school trustee, he has supported other anti-bullying initiatives because of, as he described, his concern for marginalized kids. We accept that, because of these experiences, Mr. Neufeld sees himself as an advocate for and protector of children, particularly those whom he considers to be vulnerable and at-risk.

### **C. SOGI 1 2 3 in public education**

[34] The *School Act* governs the public education system in British Columbia. The importance of an inclusive public education system to our democratic society is highlighted in the *School Act’s* preamble:

WHEREAS it is the goal of a democratic society to ensure that all its members receive an education that enables them to become literate, personally fulfilled and publicly useful, thereby increasing the strength and contributions to the health and stability of that society;

AND WHEREAS the purpose of the British Columbia school system is to enable all learners to become literate, to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy;

As the Supreme Court of Canada has recognized, “The message of the preamble is clear. The British Columbia public school system is open to all children of all cultures and family backgrounds. All are to be valued and respected”: *Chamberlain v. Surrey School District No. 36*, 2002 SCC 86 para. 23.

[35] In providing public education to the province’s children, schools have an obligation to provide safe and inclusive learning environments for all students. “Among the public educational system’s core values are the promotion of tolerance and non-discrimination”: *Chiang v. Vancouver Board of Education and others*, 2009 BCHRT 319 at para. 18.

[36] SOGI is an acronym that stands for sexual orientation and gender identity. It is an inclusive term, which reflects that everyone has a sexual orientation and gender identity, each of which is distinct.

[37] In 2007, the Ministry of Education issued Ministerial Order 276/07, requiring all Boards of Education throughout the province to establish a code of conduct for schools within their respective districts and to ensure their schools implemented the codes. Around the same time, the Ministry of Education began consulting with various stakeholders to develop an understanding of issues facing LGBTQ+ students, families, and communities. These consultations continued through to 2014.

[38] In 2014, the Ministry of Education launched a new K-12 curriculum, with changes such as the inclusion of matters related to identity and social issues affecting LGBTQ people, for example the legal fight for same sex marriage.

[39] In the summer of 2016, gender identity and expression became protected under the *Code* (sexual orientation was already protected). That fall, the Minister of Education amended Ministerial Order 276/07 to require that all school districts and schools within each district make specific reference to sexual orientation and gender identity in their anti-bullying policies and codes of conduct.

[40] Shortly thereafter, the Ministry of Education collaborated with partner organizations to develop what became SOGI 1 2 3. The developers of SOGI 1 2 3 relied on a variety of research including the UBC School of Nursing's adolescent health survey, which contains information about the school experience of LGBTQ youth, as well as *The Every Teacher Project: On LGBTQ-Inclusive Education in Canada's K-12 Schools*, a 2015 report by the Manitoba Teachers' Society, which surveyed some 3400 teachers nationwide. The report concluded:

Teachers across the country have told the Every Teacher Project that they are ready for LGBTQ-inclusive education. They approve of it, they feel comfortable about doing it, and they know that it is much needed. But they are being held back by fears that they will not be supported and lack the training to do it properly.

[41] Mr. Hansman testified that it was important that SOGI 1 2 3 have the approval of the Ministry of Education because of the atmosphere in schools at the time, where some teachers were afraid to be out or to use resources with, for example, diverse family compositions.

Ministerial approval lent credibility to the content of the materials and gave teachers the confidence of the Ministry's backing when using the materials. Without Ministerial approval, it would be left to the individual school districts to encourage more inclusive learning environments.

[42] SOGI 1 2 3 launched during the 2017-2018 school year. It is a set of tools and resources aimed at supporting an inclusive learning environment for all students. It provides information and resources in three core areas: (1) policies and procedures, (2) inclusive environments, and (3) classroom resources.

[43] Contrary to some public perception, SOGI 1 2 3 is not a curriculum, nor is it mandatory for educators to use in their classrooms. It continues to be developed through partnerships with organizations such as BC Confederation of Parent Advisory Councils and the BC School Trustees Association.

[44] SOGI 1 2 3 acknowledges the reality and existence of 2SLGBTQIA+ people, different family structures, and the fact that one's gender may not be the same as the sex they were assigned at birth. It recognizes that teachers are equipped to determine what information is age-appropriate for their students. The intent of SOGI 1 2 3 is that the content of any lesson plans mature as the students mature. SOGI 1 2 3 does not advocate for a particular sexual orientation or gender identity. The SOGI 1 2 3 policies state that "[t]eaching about SOGI is similar to teaching about religions or cultures – we teach 'about' different religions, but don't teach that students should be any of those religions." This reflects the testimony of Teacher B, who in describing SOGI 1 2 3, said: "We are not...trying to get children to change. We just want them to be themselves...[Being in a non-heterosexual marriage], it's not that it's the norm, but it's normal."

#### **D. Mr. Neufeld's response to SOGI 1 2 3**

[45] Mr. Neufeld became aware of SOGI 1 2 3 in 2017, when another Chilliwack school trustee told him about it, and he attended a SOGI 1 2 3 "information night" hosted by TV

personality Laura-Lynn Tyler Thompson. Mr. Neufeld testified that he found it “preposterous” that a “boy could change into a girl, or a girl could change into a boy.”

[46] On October 23, 2017, Mr. Neufeld posted a long, public statement on Facebook, describing SOGI 1 2 3 as a “weapon of propaganda”, which instructs children about the “absurd theory” that “gender is not biologically determined, but a social construct”. He said “allowing” children to “change gender” was child abuse. Mr. Neufeld ended the post saying he belonged in a country like Russia or Paraguay, “which recently had the guts to stand up to these radical cultural nihilists”. He linked to an article called “Parents Defeat Gender Ideology in Paraguay”, about a resolution to prohibit educational materials “based on gender theory or gender ideology”.

[47] This post immediately raised alarms within and outside the District. Two days later, Mr. Neufeld issued a public apology:

My post on Facebook has created a lot of controversy and first of all, I want to apologize to those who felt hurt by my opinion, including members of the Chilliwack Board of Education. I am critical of an educational resource, not individuals. Those who have worked with me for over 24 years know that I DO believe in inclusion and a safe learning environment for all of our students: that they should be protected from all forms of bullying and intimidation.

I believe that in a free and democratic society, there should be room for **respectful** discussion and dissent. I firmly believe that implementation of the SOGI 1 2 3 resources needs to be reviewed by engaging parents and teachers in conversation on this topic before full implementation.

[Emphasis in original]

[48] Unfortunately, Mr. Neufeld’s commitment to respectful discussion and dissent did not last. Over the next five years, Mr. Neufeld made dozens of public statements expressing his opposition to SOGI 1 2 3 and gender affirming care for trans youth, characterizing the reality of transgender and gender diverse people as simply a “theory” or “ideology”, and warning that teaching children about SOGI undermines social order and primes them for abuse. Throughout, Mr. Neufeld has positioned himself as a dogged warrior in the “culture wars” and a fearless

advocate for children. Thirty-one of his public statements are at issue in this complaint. They were admitted as Exhibit 17 in this hearing, and throughout the decision we refer to their location within this exhibit.

[49] We refer to the specific content of Mr. Neufeld’s statements throughout these reasons and summarize each of them in Appendix A to this decision. Next, we offer an overview of two important themes in his rhetoric and their application to LGBTQ people.

### **E. Mr. Neufeld’s public rhetoric: themes and social context**

[50] Mr. Neufeld’s public rhetoric during the period of this complaint advances two big ideas, with a specific resonance in the historical and current context of discrimination against LGBTQ people:

- a. separating gender identity from assigned biological sex is a fiction and an “ideology” to be opposed, and
- b. teaching children about sexual orientation and gender identity, and/or affirming their LGBTQ identities, harms them and primes them for abuse.

[51] We briefly consider each in turn.

#### *1. “Gender ideology” and the erasure of trans people*

[52] The denial of trans identities is at the root of their historic and current oppression: *Oger (No. 7)* at para. 120. Historically, much of society’s attitudes towards trans and gender diverse people has been characterized by suspicion and prejudice: *Hansman v. Neufeld*, 2023 SCC 14 at para. 84. Trans identities have been conflated with mental illness and viewed as something to fix with conversion therapy and reconditioning: *Hansman* at para. 85. Trans people may be accused of “pretending” or “deceiving” others about their true identities: Talia Mae Bettcher, “Evil Deceivers and Make-Believers: On Transphobic Violence and the Politics of Illusion” 22-3 *Hypatia* 43, cited in *Oger (No. 7)* at para. 120. The construction of trans identities as fictitious casts trans people as “morally suspect” and legitimizes transphobic violence and exclusion:

Bettcher at 51. The result is that trans people continue to confront discriminatory attitudes in many facets of their daily lives, including housing, employment, healthcare, and access to justice: *Hansman* at para. 86. “They are at increased risk of violence, and report higher rates of poor mental health, suicidal ideation, and substance abuse as a means to cope with abuse or violence they have experienced”: *Hansman* at para. 86

[53] The denial of trans identities is the theme underlying all of Mr. Neufeld’s impugned publications. Mr. Neufeld believes that gender is static, binary, and determined by a person’s genitals at birth. He calls modern understandings of gender – including that it is socially constructed, may be fluid, and may be different from sex assigned at birth – an ideology that must be resisted. He calls it “a biologically absurd theory” (Ex 17, tab 1), a “lie” that “gaslights” children (Ex 17, tab 3), “delusional thinking” (Ex 17, tab 4), a “dangerous ideology” and a “fad” (Ex 17, tab 36). He posits that “the majority of children will grow out of” same sex attraction or “GENUINE gender Dysphoria” (as written) and “less than half of one percent of people ... experience fleeting [gender dysphoria]”: Ex 17, tab 5. From Mr. Neufeld’s perspective, people – especially children – who are identified as trans likely have other, unrecognized, mental disabilities or illnesses and traumas. He says, “policy makers and the media are doing no favors either to the public or the transgendered by treating their confusions as a right in need of defending rather than as a mental disorder that deserves understanding, treatment, and prevention”: Ex 17, tab 8. He calls “[t]ransgenderism ... a way of coping and surviving” “horrendous physical and sexual abuse as children” and says that the most “at risk children” are “disturbed and mentally ill children – especially autistic, obsessive/compulsive, sexual abuse survivors and post-traumatic Stress syndrome kids”: Ex 17, tabs 15-16, as written. He equates gender identity with the perception of sex offenders that “I was born this way!”: Ex 17, tab 22.

[54] Throughout this process, Mr. Neufeld and his counsel were incredulous at the suggestion that, by attacking “gender ideology”, he was denying the existence of trans people. This is reflected in his closing submissions:

Gender ideology may be summarized as the belief system that everybody has a gender identity; that this gender identity is not determined by the

biological sex of a person; that this gender identity therefore may be one of any number of gender identities such as masculine, feminine, “queer”, non-binary, or even more than one gender identity at a time; that anyone may assume any gender identity simply by self-identifying; and that a person actually is whatever gender identity that person thinks, regardless of biological sex. A believer of gender ideology therefore believes that if a person identifies as a man, that person actually is a man, regardless of whether the person is biologically male or female.

As is to be expected, believers of this ideology do not regard it as a belief system at all, but rather as an accurate and true account of the world. The teacher witnesses in this case repeatedly testified to this. However, the inescapable fact is that beliefs such as the belief that people have gender identities independent of biological sex, can change gender, or can hold more than one gender identity at a time are just that: beliefs. They are not hard, concrete, observable facts such as water is wet and fire is hot. In this way, gender ideology is no different than other belief systems, such as the belief system that people were created by a spirit-being (i.e. “God”), have a spirit themselves, and that spirit will live on in a spiritual place after the physical death of the body.

[55] We can think of no better example for how transpeople are denied than this passage. Transpeople are, by definition, people “whose gender identity does not align with the sex assigned to them at birth”: *Hansman* at para. 12. If a person elects not to “believe” that gender identity is separate from sex assigned at birth, then they do not “believe” in transpeople. This is a form of existential denial: *Oger (No. 7)* at para. 61. It is not, as Mr. Neufeld argues, akin to religious beliefs. A person does not need to believe in Christianity to accept that another person is Christian. However, to accept that a person is transgender, one must accept that their gender identity is different than their sex assigned at birth.

[56] As this Tribunal has recognized, “the question of whether transgender people exist and are entitled to dignity in this province is as valuable to ongoing public debate as whether one race is superior to another”: *Oger (No. 7)* at para. 119. People can and do live beyond the binary. People can and do decide that they were assigned the incorrect gender at birth. Trans people are here, existing in schools and homes and workplaces. As Mr. Hansman characterized it during his testimony, no matter the attempted erasure by some facets of Canadian society, the existence of trans and gender diverse individuals is a fact: “They are there...There are

students enrolled in British Columbia public schools who are transgender and non-binary. Likewise, school districts have employees that are transgender and non-binary.”

[57] Calling transness “gender ideology” allows anti-trans activists to hide behind a veneer of reasonableness. It allows them to say, as Mr. Neufeld did in his statements as well as at the hearing of this complaint, that they are not attacking human beings. They are simply opposing a set of ideas. But behind this insidious veneer is the proposition that transness is not real. Such phrasing can make it easier to ignore that trans people are human beings. Referring to “gender ideology” or “transgenderism” – “-ism” denoting a belief or ideology such as capitalism or communism – pushes the idea that trans people have an agenda rather than being just another demographic group. As this decision illustrates, such terms can create the conditions for discrimination and hatred to flourish.

[58] In the school context, it is worth noting that trans and gender diverse youth are “especially vulnerable to expression that reduces their worth and dignity in the eyes of society and questions their very identity”: *Hansman* at para. 9. Dr. Saewyc reported that “sexual minority and gender diverse youth are more likely to report nearly every type of violence and discrimination than their heterosexual and cisgender peers in school”: Ex 3, tab B at p. 5. Higher levels of violence, victimization, and discrimination, including for 2SLGBTQ+ kids, “...are strongly linked to harms that include poorer educational outcomes and poorer mental health...”, including higher rates of depression, anxiety or emotional distress, skipping school, substance misuse, and even suicidality: Ex 3, tab B at pp. 5 and 10. These are the harms that SOGI 1 2 3 was designed to address.

## 2. LGBTQ people and “threats to children”

[59] Efforts to delegitimize and marginalize LGBTQ people have often rested on a premise that they are a threat to children. Anti-LGBTQ advocates have long accused LGBTQ people of preying on, and trying to “recruit”, children. In *Rainbow Alliance Dryden et al v. Webster*, 2025 ONSC 1161, the Ontario Superior Court of Justice accepted expert evidence that:

...since the 1970s, anti-LGBTQ+ advocates promoted the notion that children were at risk from individuals who were part of the LGBTQ+ community and opposed their human rights protections in the workplace. Gays and lesbians were suspected of recruiting youth: since they could not reproduce, they were left to recruit. It was thought that being gay or lesbian was a choice and, therefore, that children could be trained to become gay. It was considered a matter of contagion. [para. 106]

[60] This is consistent with the expert evidence before us in this case. Equating sexual and gender diversity with sexual deviance, through allegations of child predation, pedophilia, and “grooming” children, lays the groundwork for anti-LGBTQ violence and social exclusion. In her report, Dr. Saewyc offers the example of Russia, which in 2013 passed an anti-gay propaganda law under the guise of protecting children. This is a connection that Mr. Neufeld also observed, when he expressed interest to know that Hungary’s anti-LGBTQ laws “began as an attempt to control pedophilia” (Ex 17, tab 32). At the same time, suggesting that LGBTQ people “recruit” children delegitimizes these identities by suggesting that they are obtained by contagion, rather than an authentic expression of self.

[61] Mr. Neufeld’s rhetoric during the period of this complaint is overwhelmingly focused on warning about threats to children, primarily through the implementation of SOGI 1 2 3 and the affirmation of trans identities in youth. In raising this alarm, he draws heavily – if not expressly – on these anti-LGTBQ stereotypes. Mr. Neufeld says repeatedly that teaching children about sexual orientation, gender identity, non-heterosexual people, and non-cisgender people confuses them and grooms them for abuse by sex offenders. He argues that affirming non-cisgender identities in children overlooks the root causes of their distress and allows vulnerable children to be manipulated into identifying as trans. These messages are grounded in discriminatory associations between sexual or gender diversity and sexual deviance, and the perception that sexual or gender identity is transmitted by contagion or efforts to recruit children to be LGBTQ.

[62] The immediate impetus for Mr. Neufeld’s public campaign was his opposition to SOGI 1 2 3, and that carries through as a theme throughout his public statements. Mr. Neufeld describes SOGI 1 2 3 variously as a “weapon of propaganda” (Ex 17, tab 1), a “great evil” (Ex 17,

tab 13), “state sponsored experimentation” (Ex 17, tab 24), and an “untried social experiment” (Ex 17, tab 15). He promoted the election of candidates to the Board who would oppose SOGI 1 2 3 and told parents they should pull their kids out of school while SOGI 1 2 3 resources were still being used. Underlying Mr. Neufeld’s opposition was his concern for the “MAJORITY of children”, that is, in Mr. Neufeld’s view, not trans or gender diverse kids:

But I am opposed to indoctrinating all of society (especially the little ones) with an unscientific gender fluid ideology to accommodate the less than half of one percent of people who experience fleeting [gender dysphoria]... My primary motivation is to protect the MAJORITY of children. [Ex 17, tab 10, as written]

[63] A second, related, theme in Mr. Neufeld’s statements is his strong opposition to any affirmation of trans gender identities in children. This extends from social acceptance (using affirmed pronouns and chosen names, allowing non-binary gender expression) to gender affirming medical treatment (including puberty blockers, hormones, or surgery). His view is simple: “allowing children to choose their gender is nothing short of child abuse”: Ex 17, tab 1. In one interview, Mr. Neufeld explained his perspective:

Instead of coddling and encouraging what I regard as the sexual addiction of gender confusion, I believe children should be gently encouraged to be comfortable with their bodies, to accept their own biology, their own biology, which can never be completely changed, and to love themselves.

I believe this is best done privately, by the parents of the child, perhaps with the aid of a psychotherapist, but not their school teachers or peers. The message of SOGI is a subtle but powerful suggestion that perhaps there is something wrong with the child, that all children should consider rejecting their own gender identity. In kindergarten books like Red, a Crayon’s story, educators prepared the lie that a child might actually be a girl in a male body, or vice versa.

This is gaslighting, the attack on the foundation of a child's being, which is child abuse. This won't have any effect on us. This will have the effect of confusing children, disturbing their personal security and mindful health.

Furthermore, I consider that the rushing into the use of puberty blockers, hormone therapy, and gender reassignment as child abuse. I'm especially

disturbed by the Ministry of Education and BCTF policy that if a child confides to their teacher that they have feelings of same-sex attraction or gender confusion, this will be kept confidential from parents. This is contrary to the *BC School Act*. [Ex 17, tab 3]

[64] Throughout his public statements, Mr. Neufeld’s tone is urgent. He spreads alarm and misinformation about gender affirming recognition and care for trans kids, especially in public schools. We accept Dr. Saewyc’s evidence that such misinformation creates conditions for discrimination, exclusion, and violence – both directly against LGBTQ people and those who care for them. For example, in *CD v. British Columbia (Provincial Health Services Authority)*, 2019 BCSC 603, overturned but not on this point in 2020 BCCA 11, the Court outlined extensive threats of violence that had been made against healthcare professionals caring for a trans child. The Court observed that there was “substantial online commentary analogizing AB’s medical treatment to child abuse, perversion, and even pedophilia”, which portrayed the professionals as “criminals who hurt children, and therefore give rise to related risks of incitement of violence against them”: para. 31. As Dr. Saewyc points out, this threat is heightened for LGBTQ people who work with children, given the pre-existing stereotypes we have discussed above. Critically in this case, we accept that this includes teachers.

[65] Contrary to Mr. Neufeld’s view, gender affirming recognition and care for trans and gender diverse children is life saving: Representative for Children and Youth, *The Right to Thrive: An Urgent Call to Recognize, Respect, and Nurture Two Spirit, Trans, Non-Binary and other Gender Diverse Children and Youth* (June 22, 2023) (Ex 3, tab 17) [**Right to Thrive**]. Conversely, “stigma-related stressors (e.g., discrimination, transphobia, lack of acceptance, peer victimization) that a child or youth asserting their gender identity experiences can directly impact their mental health”: *Right to Thrive* at p. 58. And “failing to acknowledge the existence of 2SLGBTQ people in schools reinforces hostile attitudes and behaviours with the message that queer matters are still not fit for polite discussion”: Egale, *Still in Every Class in Every School: Final report on the second climate survey on homophobia, biphobia, and transphobia in Canadian schools* (June 2021) at p. 8 (Ex 3, tab 12). Again, these are the harms that SOGI 1 2 3 is designed to address. In the school context, the benefits of SOGI education for all children,

especially 2SLGBTQ+ children, are well established, and was reflected in Dr. Saewyc’s expert evidence.

[66] Within this broader context, we turn now to the Complainant’s allegations under the *Code*. We begin with our finding that Mr. Neufeld discriminated against the Class in their employment.

## **V SECTION 13: DISCRIMINATION IN EMPLOYMENT**

[67] Public school teachers, like all employees, have the right to work in an environment that upholds their dignity. While they are at work, LGBTQ teachers are protected against the type of anti-trans and anti-gay speech that Mr. Neufeld was notorious for during his tenure as a school trustee, and the discriminatory workplace environment which that speech fostered.

[68] The starting point for our s. 13 analysis is the test for employment discrimination. The Complainant must prove an adverse impact to the Class with a sufficient connection to employment, and it must prove that at least one of the Class’s protected characteristics was a factor in the employment-related adverse impacts: *Moore* at para. 33; *British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62 [*Schrenk*] at para. 3.

[69] In the sections that follow, we explain our conclusion that Mr. Neufeld discriminated against the Class members in their employment, in violation of s. 13(1)(b) of the *Code*. We begin with our findings that Mr. Neufeld’s role as a trustee, and the school-related focus of many of his publications, support a strong connection to the Class members’ employment. We then explain our conclusion that Mr. Neufeld’s conduct adversely impacted the Class members in their employment, in connection with their sexual orientation, and/or gender identity and expression.

### **A. Sufficient connection to employment**

[70] The protection of s. 13 of the *Code* extends to “all employees who suffer discrimination with a sufficient connection to their employment context”: *Schrenk* at para. 3. The following

non-exhaustive factors inform the Tribunal’s analysis of whether there was a sufficient connection to the Class members’ employment context: whether the respondent was integral to the complainant’s workplace; whether the impugned conduct occurred in the complainant’s workplace; and whether the complainant’s work performance or work environment was negatively affected: *Schrenk* at para. 67. The relative importance of these factors depends on the circumstances: *Schrenk* at para. 67. In this case, aside from his statements during school board meetings, Mr. Neufeld’s statements did not directly occur in the workplace. However, we have found that Mr. Neufeld’s physical location when he made statements is not determinative. Rather, we have found it most significant that his statements permeated and poisoned the Class members’ workplace. We turn to that finding below.

[71] As a preliminary matter, Mr. Neufeld argues that he cannot be liable for employment discrimination because he did not employ the Class. He argues that, as an individual trustee, he had “no power to fire, suspend or discipline” and that the powers of the Board were limited by the collective agreement and the role of other actors like the BC Public School Employers’ Association. He argues that it is absurd to suggest that he was in any position of power respecting the Class members’ employment, when in fact they remained at all times duty-bound to promote values he was rallying against. Respectfully, we disagree.

[72] Section 13(1)(b) of the *Code* protects employees from discrimination “regarding” their employment. It does not restrict the categories of persons who can perpetrate discrimination: *Schrenk* at para. 38. The analysis is contextual and driven by the purposes of s. 13, which include protecting employees “from the indignity of discriminatory conduct in the workplace”: *Schrenk* at para. 53.

[73] In *Schrenk*, the Court specifically rejected the argument that only employers could violate s. 13(1)(b): para. 3. This is dispositive of Mr. Neufeld’s argument that he could not be liable for discrimination against the Class because he “was not the Complainant’s boss.”

[74] We are satisfied that Mr. Neufeld’s conduct in this case is sufficiently connected to the Class members’ employment, given (1) Mr. Neufeld’s role as a school trustee, (2) the content of

his public statements which focused on public education and the work of teachers, and (3) our finding – set out further below – that his conduct permeated, and adversely impacted, the Class members’ work environment.

*1. Mr. Neufeld was integral to the Class members’ workplace*

[75] This complaint arises from Mr. Neufeld’s conduct between 2017 and 2022, while he was serving as a trustee on the Board. We acknowledge, and accept, Mr. Neufeld’s argument that it is the Board as a whole, and not individual trustees, which exercises ultimate authority over teachers’ employment. A single trustee cannot exercise the rights, duties, and powers of the Board: *School Act*, s. 65(3). However, that is not the issue. The issue is whether, as a school trustee, Mr. Neufeld was in a position to affect the Class members’ employment. He clearly was.

[76] All the Class members were LGBTQ teachers employed by the Board: *School Act*, part 3; *Ross v. New Brunswick School District No. 15*, 1996 CanLII 237 (SCC), at para. 85. The Board is a corporation made up of elected trustees: *School Act*, ss. 30 and 65. Trustees, by virtue of their position, are in a position of power within a school district. As one of seven trustees making up the Board during the relevant time, Mr. Neufeld had a vote on the Board, and ability to influence other trustees. For the Class, Mr. Neufeld was a part of the Board which employed them and to which they owed a duty of fidelity: *McMahon v. TCG International Inc.*, 2007 BCSC 1003 at paras. 50-52; *British Columbia Public School Employers’ Assn. v. British Columbia Teachers’ Federation*, [2004] B.C.C.A.A.A. No. 82 at para. 53, aff’d 2005 BCCA 393.

[77] Trustees play an integral role in maintaining a discrimination-free work environment for teachers. In *Ross*, the Supreme Court of Canada explained:

A school is a communication centre for a whole range of values and aspirations of a society. In large part, it defines the values that transcend society through the educational medium. The school is an arena for the exchange of ideas and must, therefore, be premised upon principles of tolerance and impartiality so that all persons within the school environment feel equally free to participate. As the Board of Inquiry

stated, **a school board has a duty to maintain a positive school environment for all persons served by it.** [para. 42, emphasis added]

The Court went on to highlight the role that teachers play in upholding the “integrity of the school system”: para. 43. In our view, the same principles apply to school trustees. Like a teacher, the conduct of a school trustee “bears directly upon ... the community’s confidence in the public school system as a whole”: para. 43. They are directly responsible to ensure that the school board fulfills its duty to maintain a positive school environment – which, for teachers, is their workplace. Trustees must adhere to the purposes and requirements of the *School Act*, which include non-discrimination within “an atmosphere of tolerance and respect”: *Chamberlain* at paras. 18, 25, and 28.

[78] It is because of this special role that the conduct of a trustee, like a teacher, may be found to impact the school environment even when it occurs outside of the formal proceedings of a school board or directly within a school: *Ross* at paras. 43-45. That is the case here.

[79] Mr. Neufeld disagrees that he had any authority or ability to impact the Class members’ workplace. He views himself as an underdog, powerless in the face of the union, trustees who opposed him, directives of the Ministry of Education, and the legislated protections for LGBTQ people in the *School Act* and *Code*. He argues that “no class member ... could possibly have been in doubt as to who would win in a power struggle as between a teacher and Mr. Neufeld, and pretending otherwise is, if not disingenuous, certainly naïve”. Mr. Neufeld argues that “Pretending teachers thought they were obliged to heed Mr. Neufeld’s voice in the wilderness is almost comical”.

[80] Mr. Neufeld’s proposed narrative reflects the observation in *R v. Keegstra*, [1990] 3 SCR 697 that “persons accused of intentionally promoting hatred often see themselves as martyrs, and may actually generate sympathy from the community in the role of underdogs engaged in battle against the immense powers of the state”: para. 98. We do not find the narrative persuasive. That Mr. Neufeld may have been ineffective and politically isolated as a trustee does not change his role within the school system and his legislative responsibility to foster a

discrimination-free work and learning environment in the District. In any event, we have found that his conduct did affect the school environment.

[81] In sum, we find that, as a trustee, Mr. Neufeld was integral to the Class members' workplace and uniquely situated to negatively impact the work environment. Next, we turn to our finding that the content of Mr. Neufeld's public statements had a strong nexus to the Class members' employment: *Schrenk* at para. 67.

2. *Content of Mr. Neufeld's statements related to the Class members' employment*

[82] The content of Mr. Neufeld's public statements also supports a strong connection to the employment of the Class members. Nearly all of Mr. Neufeld's statements were focused on his opposition to "provincial efforts to promote inclusion and counter discrimination against transgender and other 2SLGBTQ people in schools": *Hansman* at para. 11. In doing so, Mr. Neufeld repeatedly referenced the role of teachers while positioning himself as a school trustee and part of the public school system. Further, some of his impugned comments were made during Board meetings: Ex 17, tabs 6, 7, 18, and 24.

[83] For example, Mr. Neufeld:

- a. warned that "the goal of radical educators is to indoctrinate all children with the dogma that heterosexuality is no longer the norm": Ex 17, tab 4; see also Ex 17, tab 10. He warned that this is "deliberately designed to alienate children from their parents" and to "recruit ... troubled kids into this new fad" of being trans (Ex 17, tab 4);
- b. alleged that the BC Ministry of Education was promoting "child abuse" and forcing a "biologically absurd theory on children in our schools" – through the medium of public-school teachers (Ex 17, tab 1);
- c. asserted that teachers were not qualified to talk to students about sexual orientation or gender identity and suggested that they were nefariously keeping secrets from parents (Ex 17, tabs 18 and 40);

- d. expressed certainty “that there are far more teachers who abuse kids than Catholic Priests. But the teachers seldom get caught because they have powerful unions to protect them” (Ex 17, tab 32);
- e. posited that there were “probably more victims” of child abuse in “today’s sexually charged school environments” than there were in residential schools (Ex 17, tab 46);
- f. accused “teachers from the LGBT” of being “very evangelistic” and suggested that schools were behaving like “sex offenders” by “getting kids to question their sexuality” (Ex 17, tabs 32, 33, 34, 40, and 47); and
- g. called teachers “groomers” who were sexualizing children and creating an “environment that will attract predators” (Ex 17, tab 47).

The content of these, and many other, statements, support a strong connection to the Class members’ employment. Mr. Neufeld’s statements were overwhelmingly focused on education in the District, and many specifically referenced the role of teachers. Mr. Neufeld repeatedly characterised SOGI-inclusive education, and the teachers imparting it, as a physical, sexual, and moral threat to children.

[84] Having found Mr. Neufeld integral to the Class members’ workplace and the content of Mr. Neufeld’s statements related to the Class members’ employment, next, we explain our finding that Mr. Neufeld’s conduct adversely impacted the Class members’ work environment. Together, these three factors support our conclusion that Mr. Neufeld’s statements are sufficiently connected to, and discriminated against, Class members in their employment.

## **B. Discriminatory work environment**

[85] We are satisfied that Mr. Neufeld’s public statements caused or contributed to a poisoned workplace for LGBTQ teachers and, as such, adversely impacted them in connection with their sexual orientation and gender identity.

[86] Our analysis is guided by the well-known human rights principles governing a poisoned work environment, including:

- a. A poisoned work environment is based on the nature of the comments or conduct and the impact of these on a person's employment.
- b. Even a single statement or incident, if sufficiently serious, can create a poisoned environment.
- c. Where there are multiple incidents – as in this case – their impact should be considered holistically without parsing or individually assessing each individual incident.
- d. Any person can create a poisoned environment, regardless of their position of authority or status.
- e. Behaviour need not be directed at, or directly witnessed by, any one individual.

*Brar and others v. B.C. Veterinary Medical Association and Osborne*, 2015 BCHRT 151 at para. 741; *Pillai v. Lafarge Canada Inc.*, 2003 BCHRT 26 at para. 68; *Naraine v. Ford Motor Co. of Canada (No. 4)*, 1996 CanLII 20059 (ON HRT)

[87] First, Mr. Neufeld denies that any of his statements were derogatory to LGBTQ people and argues that he was simply targeting a set of policies and ideas. We disagree. As the Supreme Court of Canada recognized, “his expression went beyond a critique of a government program”: *Hansman* at para. 90.

[88] On their face, Mr. Neufeld's comments were discriminatory towards LGBTQ people based on their sexual orientation and/or gender identity and expression. To reach this decision, we have considered all his statements in evidence – many of which are highlighted throughout the decision. Here we offer only a few examples.

[89] Regarding sexual orientation, Mr. Neufeld criticized lessons teaching that “heterosexual marriage is no longer the norm” and expressed concern about “children in gay marriages”: Ex 17, tabs 1, 12, 33, and 40. He expresses alarm that:

SOGI1-2-3 primary grade lesson plans... promote same sex marriages, question traditional marriage, teach children to question traditional gender expectations, disrespect and dishonour to parents and the values they teach. In grade 10-12, SOGI 1-2-3 introduces the topic of sodomy!!!  
[Ex 17, tab 11]

[90] Mr. Neufeld warned that teaching kids about diverse sexual orientations primes them for sexual abuse: “What better way to desensitize children to invasive sexual behavior than by introducing them to drag queen story hour or a lesson on how to enjoy safe anal sex!” (Ex 17, tab 32). Elsewhere, he put it this way:

[SOGI] grooms kids. Well, maybe the people who designed it didn't realize that it has that effect, but it's an unintended side effect. And it does a lot of the work that child predators used to have to do themselves. They don't have to do as much work now. Kids already know about things like oral sex, anal sex and other kinky stuff because they learned about it in school. [Ex 17, tab 33]

[91] In one publication, Mr. Neufeld warns that gay and lesbian people have joined together with trans people to form a “powerful lobby group” threatening religious families and children on a genocidal scale: Ex 17, tab 4. Below, we find that this publication exposes gay, lesbian, and trans people to hatred based on their sexual orientation and sexual identity.

[92] These types of comments denigrate LGB families, associate them with threats to children, sensationalizes their sexuality for negative effect, and – in one case – expose them to hatred. In the context of a workplace, they are discriminatory.

[93] Gender identity was Mr. Neufeld’s primary focus. As we have said, Mr. Neufeld characterized trans people, especially children, as confused, abused, manipulated, sexualized, mutilated, and deceptive. He suggested that they were being wrongly identified as trans, when in fact they more likely had undiagnosed mental illnesses or disabilities. He sexualized gender identity by conflating it with sexual orientation (for example, referring to “the sexual addiction

of gender confusion”: Ex 17, tab 3). He labelled transness as a fad or ideology, evoking the deceiver/pretender trope which denies that transpeople are real, or are who they say they are: *Oger (No. 7)* at paras. 120-121. In doing so, he engaged in the most invidious type of discrimination against transpeople: denying their existence. Later in this decision, we find that six of his publications expose trans people to hatred or contempt.

[94] While Mr. Neufeld is free to hold his views, he is responsible for the consequences that flow from the way he elected to express them. Mr. Neufeld’s persistent public insistence that being trans is a fad, a lie, and an ideology, perpetuates the conditions that continue to oppress trans people: *Oger (No. 7)* at para. 120; *Hansman* at para. 85. By bringing this commentary into the workplace of trans and gender diverse teachers, he discriminated against them.

[95] Next, Mr. Neufeld argues that the Complainant has not proven that any of his public statements had an adverse impact on Class members. He argues that the Complainant has not produced any “identifiable victims of the purported discrimination” or proven that the statements caused “harm that is both objective and probable, whether or not intended”. He seeks to distinguish other cases involving discriminatory harassment on the basis that his communications “targeted no one in particular” and that evidence of teachers’ subjective feelings of harm is insufficient to establish a breach of the *Code*. Mr. Neufeld does not cite any case law in support of these arguments. We do not find them persuasive.

[96] First, all the Complainant’s witnesses drew a direct connection between Mr. Neufeld’s high-profile rhetoric and a climate in the District’s schools that felt unsafe to many LGBTQ teachers and was more permissive of anti-LGBTQ discrimination against them. In our view, they were right to do so. We set out this evidence below.

[97] Second, courts and human rights bodies have long recognized the “power of words to maim”: *Report of the Special Committee on Hate Propaganda in Canada* (1966), cited in *R. v. Keegstra*, 1990 CanLII 24 (SCC) at para. 22. In a decision upholding the constitutionality of criminal prohibitions against hate speech, the Supreme Court of Canada observed:

... It is indisputable that the emotional damage caused by words may be of grave psychological and social consequence. In the context of sexual harassment, for example, this Court has found that words can in themselves constitute harassment... [*Keegstra* at para. 60]

[98] The same concerns arise from discriminatory speech endured by persons in the context of their employment. Human rights law recognizes that the atmosphere of a workplace is a term or condition of employment just like an employee's work hours or rate of pay: *Naraine* at para. 50. Employees are entitled to a workplace free of discrimination. Where employees are subjected to speech that denigrates or humiliates them based on characteristics protected by the *Code*, the harm in their employment is manifest. That is the case here.

[99] In considering Mr. Neufeld's argument that his publications did not target individuals, we find *Ross and Kempling v. British Columbia College of Teachers*, 2005 BCCA 327, most instructive. Both cases support the proposition that Mr. Neufeld's conduct can be discriminatory even if it is not directed at, or directly witnessed by, a specific person. Mr. Kempling was a secondary school teacher who, like Mr. Neufeld, publicly associated gay people "with immorality, abnormality, perversion and promiscuity": para. 3. The BC Court of Appeal upheld the finding of the BC College of Teachers that Mr. Kempling's off-duty conduct "caused harm to the integrity of the school system" and "undermined access to a discrimination-free education environment": para. 46. The Court reasoned:

... the harm in evidence in this case is not that of discriminatory actions directed against particular individuals, but rather is that sustained by the school system as a whole. In his writings, Mr. Kempling made clear that his discriminatory beliefs would inform his actions as a teacher and counsellor. His writings therefore, in themselves, undermine access to a discrimination-free education environment. Evidence that particular students no longer felt welcome within the school system, or that homosexual students refused to go to Mr. Kempling for counselling, is not required to establish that harm has been caused. **Mr. Kempling's statements, even in the absence of any further actions, present an obstacle for homosexual students in accessing a discrimination-free education environment.** These statements are therefore inherently harmful, not only because they deny access, but because in doing so they have damaged the integrity of the school system as a whole. [emphasis added, para. 79; see also paras. 43-45]

[100] Similarly, in *Ross*, the Supreme Court of Canada upheld the Board of Inquiry's finding that it was reasonable to infer that Mr. Ross's notorious anti-Semitic publications played a role in a school environment that was hostile to Jewish students. This finding was made without evidence to establish a direct connection between Mr. Ross's publications and anti-Semitic incidents in public schools: para. 41.

[101] The same reasoning applies here. Mr. Neufeld's statements communicated that he intended to exercise his duties as trustee in an intolerant and discriminatory manner: *Kempling* at para. 45. His statements, in themselves, undermined the Class members' access to a discrimination-free work environment. In addition, we find it reasonable to infer that Mr. Neufeld's conduct had a wider impact, creating a workplace poisoned by discrimination.

[102] Controversy about Mr. Neufeld's public commentary, and the community's response, garnered local, national, and international media attention, sparked duelling protests, and created such a heated local environment that Board meetings required security: *Hansman* at paras. 14-37. Teacher C testified, and we accept, that Mr. Neufeld's publications were hard to avoid.

[103] Various actors in the education system were vocal about their view that Mr. Neufeld was negatively affecting the education environment in the District and should be removed from his role. Mr. Hansman, then President of the BCTF, publicly criticized Mr. Neufeld and accused him of "creating a school environment for [BCTF] members and students that is discriminatory and hateful", prompting Mr. Neufeld to sue Mr. Hansman unsuccessfully for defamation. In December 2017, the Chilliwack District Parents Advisory Council openly called for Mr. Neufeld's resignation, explaining that "Parents in our district expect their children to be provided with a safe learning environment, but while Trustee Neufeld continues to encourage intolerance and spread misinformation about what is being taught in our schools, that expectation cannot be fulfilled". In January 2018, the CTA passed a motion of non-confidence in the Board for its failure to intervene in the wake of Mr. Neufeld's statements: *Hansman* at para. 25.

[104] In January 2018, the School Board and the Minister of Education asked Mr. Neufeld to resign from his position: *Hansman* at para. 26. He refused. In a media release dated January 19, 2018, the Board explained that it had requested Mr. Neufeld’s resignation “because of a loss in confidence, by Partners in Learning and the Board of Education, in Trustee Neufeld’s ability to effectively perform the duties of a Trustee” arising from his public comments about sexual orientation and gender identity. Subsequently, responding to concerns of school administrators, the Board removed Mr. Neufeld’s school liaison duties, ensuring he would not be physically present in District schools.

[105] We accept that LGBTQ teachers felt the impact of Mr. Neufeld’s discriminatory rhetoric directly. In her expert report, Dr. Saewyc cited research finding that navigating stigma and discrimination at work has negative impacts on mental health, including “higher rates of depressive symptoms, anxiety, and poorer general mental health”: Ex 3, tab B p. 8. This aligns with the expert evidence that the Human Rights Tribunal of Ontario accepted in *Naraine*:

A person who must endure a poisoned work environment is constantly in pain, is constantly humiliated ... is always under stress because he/she knows that an evaluation is being formed on irrelevant criteria. No matter how good you do the job, you're still going to be perceived in negative terms. So, the immediate effect on the victim is incredible stress, pain, suffering, humiliation, and at the same time the knowledge that a job has to be maintained, because one's own survival and the survival of one's family is dependent on earning a living. [para. 90]

[106] These impacts are heightened in the unique context of this case, which involves LGBTQ people working with children. By calling teachers “groomers” and suggesting that they are part of an agenda to prime children for sexual and other abuse, Mr. Neufeld drew directly on one of the most harmful tropes about LGBTQ people – that they are a risk to children: *Rainbow Alliance* at para. 20. As Dr. Saewyc explained, this kind of rhetoric “creates worry for 2SLGBTQIA+ people about their ability to work in fields that involve children and youth, whether in education, health care or social services, and has a substantive influence on careers and job security”: Ex 3, tab B, p. 6. In our view, it is reasonable to infer that this applies to members of the Class.

[107] For LGBTQ people, one method of coping is to conceal their sexual orientation or gender identity at work. Dr. Saewyc explains that, “[w]hen homophobic and transphobic speech occurs in educational environments, employees are less likely to disclose their own 2SLGBTQ+ status, for fear of being accused of being part of that group and facing direct harassment, discrimination, or even fear for their continued employment”: Ex 3, p. 11. In *Keegstra*, the Court identified this as one of the harms of hate (and to this we add discriminatory) speech:

This impact may cause target group members to take drastic measures in reaction, perhaps avoiding activities which bring them into contact with non-group members or adopting attitudes and postures directed towards blending in with the majority. Such consequences bear heavily in a nation that prides itself on tolerance and the fostering of human dignity through, among other things, respect for the many racial, religious and cultural groups in our society. [at para 61]

[108] This was Teacher A’s experience. Teacher A is a secondary school teacher who identifies as queer by virtue of their sexual orientation and gender identity. When they were initially hired by the District in 2019, other teachers and people in their life had urged them to strongly consider whether they wanted to be out in a place like Chilliwack, given the climate. Ultimately, they chose to conceal their queer identity from their colleagues. Teacher A explains it was “a real fear not only for myself but for people who cared for me”. As a result of not feeling safe to go to work as their authentic self, Teacher A felt isolated and vulnerable. They testified that it was:

... a lot of missing barbeques and get togethers and other things where you would bring a partner or a family member. It was avoiding a lot of conversation in the staff room about, you know, husbands or even about extended family...It was very isolating, I would say.

Teacher A eventually came out once they had a permanent teaching position and felt more secure in their employment. Teacher A testified that “it’s always in the back of your mind – am I gonna be not hired because of who I am and who I love?”

[109] For LGBTQ teachers who are out at work, Mr. Neufeld’s publications created an environment in which they were more likely to be exposed to discrimination from students,

parents, and colleagues. In her expert report, Dr. Saewyc cited research finding that anti-LGTBQ speech like Mr. Neufeld's creates conditions which legitimize violence and social exclusion and gives "tacit permission" for others, including students, to "engage in similar speech": Ex 3, tab B, p. 11. Again, this was reflected in the evidence we heard from the teacher witnesses. Teacher A testified, and we accept, that:

The ongoing comments that Barry had made, particularly in these Facebook posts but also in person, emboldened the wider community to do the same. And that ripple effect went through the Board, through the people viewing, into the schools, into the broader community.

[110] During the relevant period, Mr. Klettke was the Vice President and then President of the CTA. In that role, he was responsible for member support and wellness. He testified that, following Mr. Neufeld's initial Facebook post in October 2017, the CTA received calls from gay, lesbian, and trans teachers expressing shock and concern. Throughout the period of the complaint, he testified, and we accept, that the impact of Mr. Neufeld's rhetoric on LGBTQ teachers was very significant. Several trans teachers expressed feeling that Mr. Neufeld's frequent messages that trans people were psychologically damaged were "dismissing them as people". This made them feel that "a member of the employer group didn't accept them for who they were". Gay or lesbian members expressed that "their employer didn't value them the same as other employees because of their sexual orientation". Teachers came to the union expressing concern about the resources they were using in the classroom. For example, several teachers asked about using a children's book called the "Red Crayon", which is about accepting the talents of a blue crayon in a red wrapper, and which Mr. Neufeld specifically criticized in one of his speeches: Ex 17, tab 3. Teachers felt stressed and worried and were limited in their ability to respond given their duty of fidelity to the Board and its trustees, including Mr. Neufeld. Again, this burden was felt most acutely by LGBTQ teachers.

[111] Teacher A said that some of their teacher colleagues ended their friendships after they came out at work. They described seeing staff make comments under their breath or stop talking when they came into the room. They were not invited to social gatherings, and other teachers did not extend collegial courtesies. For example, Teacher A's colleagues refused to

relieve them for a washroom break while they were sitting at a table promoting the school gender-sex/gay-straight alliance. A parent removed their child from Teacher A's class because of the SOGI resources they were using.

[112] Teacher B's experience was similar. Teacher B is a middle school teacher, who identifies as gay and uses she/they pronouns. They testified that the atmosphere in the Chilliwack school district during the period of the complaint was much different from the two other school districts where they have worked. They testified, and we accept, that Mr. Neufeld:

created this culture where it was ok to say extremely inappropriate things. I've had multiple other teachers feel like they can say the same kind of stuff he's saying as a leader in our community and as a leader in our school district.

And it also [emboldened] children. So children started saying slurs in the hallways. And I've had arguments with other teachers.

[113] Teacher B described the climate as "really scary". They were targeted for heightened scrutiny by parents and administrators, especially in connection with their lessons related to sexual orientation and gender identity. After one lesson about the 2SLGBTQIA+ acronym, a stepparent circulated a video accusing Teacher B of teaching "the gay agenda" and "[cutting] body parts off" and "encouraging people to cut body parts off". In response, the school administrators asked Teacher B to "take a step back". Teacher B rightly questioned: "How can I step back? It's who I am". The climate continued beyond Mr. Neufeld's tenure as a trustee, and the timeframe of this complaint. In 2024, a parent took a picture of one of Teacher B's posters advertising an "Ally Day" for the GSA Acceptance Club. The poster advertised there would be candy at the event. The picture was sent to Rebel News, which posted it on social media. Mr. Neufeld then re-posted the image, writing:

The Chilliwack Teachers Association is suing me for hate speech. One of my trigger words they don't like is "Grooming". If enticing kids with candy to come to a meeting isn't grooming, what is?

This is a repugnant message to amplify about a public school teacher.

[114] In September 2021, Teacher C chose to resign from her role as a teacher, in large part because of the climate created by Mr. Neufeld's comments and her disappointment in the District's response. Teacher C identifies as a female and transwoman. In her public resignation letter, she wrote:

I am probably the most open member of the SD33 learning community about being trans. Trustee Neufeld's repeated transphobic comments, while not aimed at me directly, have hurt me personally. But even more hurtful was the lack of action and support by the rest of the district. I've written many emails and had many phone calls, none of which has changed anything. Everyone is only concerned with what I've personally experienced in schools, and reminding me that I have a "fiduciary duty" to not publicly criticize the employer.

It was extremely hard to get hired as a TTOC in Chilliwack, or any district, after I transitioned.

....

In the following four years, little direct effort has been made by the district to make transgender students and staff feel welcome as members of our learning community, despite Trustee Neufeld's repeated comments and anti-transgender Culture Guard rallies.

....

Near the beginning of the pandemic, Trustee Neufeld made yet another series of ignorant and offensive remarks. This time, he stated that transgender people who have transitioned have "spent a major portion of their [lives] deceiving people as to who [they] truly [are]." This applies to me. I transitioned nearly a decade ago. Trustee Neufeld would say that I am deceiving people when I go shopping, when I use a public ladies' washroom, and when I teach and ask students to call me "Ms." ... [Ex 18, tab 17]

[115] We accept the Complainant's evidence that there was a direct connection between Mr. Neufeld's high-profile rhetoric and a climate in schools that felt unsafe to many LGBTQ teachers and was more permissive of anti-LGBTQ discrimination. As a public figure and member of the Board that employed them, Mr. Neufeld was uniquely positioned to affect the teachers' working conditions, and he did. For five years, he publicly denigrated LGBTQ people and

teachers and associated them with the worst forms of child abuse. The effect was a discriminatory work environment for LGBTQ teachers in the District.

### **C. Conclusion on s. 13**

[116] We find that Mr. Neufeld discriminated against the Class based on their sexual orientation and gender identity and expression, in violation of s. 13 of the *Code*. This part of the complaint is justified.

## **VI SECTION 7(1)(b): HATE SPEECH**

[117] The Complainant alleges that 19 of Mr. Neufeld’s publications contravene s. 7(1)(b) of the *Code*. This provision prohibits the publication of speech that “is likely to expose a person or a group or class of persons to hatred or contempt” because of their protected characteristics. This is colloquially referred to as “hate speech”.

### **A. General principles**

[118] The test for hate speech was developed in *Whatcott* and slightly restated by the majority of the Supreme Court of Canada in *Ward*. It requires a complainant to prove that:

- a. "in the view of a reasonable person aware of the context and circumstances, the representation exposes or tends to expose any person or class of persons to detestation and vilification on the basis of a prohibited ground of discrimination"; and
- b. the expression, “when viewed objectively and in its context, has the potential to lead to discriminatory treatment of the targeted group”.

*Whatcott* at paras. 178 and 191; *Ward* at para. 75

[119] It is an objective test, targeted to extreme manifestations of hatred or contempt, and focused on the effect of the expression at issue: *Whatcott* at paras. 56–58. Properly applied,

the test “embodies a proper balancing of the *Charter* interests and the objectives of human rights legislation”: *Oger (No. 7)* at para. 57.

[120] The analysis of hate speech is driven by the dual harms it is intended to address: (1) the “grave psychological and social” harms experienced by individual members of the targeted group, and (2) the larger social harms caused by speech which “propagates, within social discourse, premises of inferiority that may gradually desensitize the majority and lay the groundwork for later, broad attacks”: *Whatcott* at paras. 73-74; *Ward* at para. 62. This second, social, harm is rooted in the recognition that “the end goal of hate speech is to shift the environment from one where harm against vulnerable groups is not tolerated to one where hate speech has created a place where this is either accepted or a blind eye is turned”: *Whatcott* at para. 131. This purpose-driven perspective must account for the specific context affecting the targeted group and the types of speech that, by drawing on pre-existing fears or stereotypes, is likely to expose that group to hatred or contempt.

[121] A finding of hate speech is reserved for extreme and egregious examples of delegitimizing expression, whose harms “cannot be prevented by the discernment and critical judgment of the audience”: *Ward* at para. 61; *Whatcott* at para. 46. Section 7(1)(b) of the *Code* does not protect against “hurt feelings, humiliation or offensiveness”: para. 47. It does not capture speech that is derogatory, false, or discrediting, or which ridicules, belittles or affronts the dignity of a group of people, including through the application of stereotype. Importantly for the purposes of this case, it does not capture speech which debates or speaks out “against the rights or characteristics of vulnerable groups”, unless the speech is made in a manner “which is objectively seen to expose them to hatred and its harmful effects”: *Whatcott* at para. 145.

[122] Hate speech exposes its targets to detestation and vilification. It includes “a component of looking down on or denying the worth of the other”: *Whatcott* at para. 43. Speech that exposes a target group to detestation tends “to inspire enmity and extreme ill-will against them, which goes beyond mere disdain or dislike”: *Whatcott* at para. 41. It seeks to “abuse, denigrate or delegitimize [the group], to render them lawless, dangerous, unworthy, or

unacceptable in the eyes of the audience”. Speech vilifying a group accuses “them of disgusting characteristics, inherent deficiencies or immoral propensities which are too vile in nature to be shared by the person who vilifies”: *Whatcott* at para. 43.

[123] *Whatcott* offers useful examples to understand where the line is to be drawn. In that case, the Supreme Court of Canada was considering four flyers printed and circulated by William Whatcott, a well-known anti-2SLGBTQ+ activist. The Court found two flyers constituted hate speech, in violation of Saskatchewan’s human rights legislation. In doing so, the Court noted that the flyers portrayed gay people as “a menace that could threaten the safety and well-being of others”, invoked the Bible to lend credibility to negative generalizations, and delegitimized gay people “by referring to them as filthy or dirty sex addicts and by comparing them to pedophiles, a traditionally reviled group in society”: para. 187. The Court summarized those messages as follows:

Some of the examples of the hate-inspiring representations in Flyers D and E are phrases such as: “Now the homosexuals want to share their filth and propaganda with Saskatchewan’s children”; “degenerated into a filthy session where gay and lesbian teachers used dirty language to describe lesbian sex and sodomy to their teenage audience”; “proselytize vulnerable young people”; “ex-Sodomites and other types of sex addicts”; and “[h]omosexual sex is about risky & addictive behaviour!” The repeated references to “filth”, “dirty”, “degenerated” and “sex addicts” or “addictive behaviour” emphasize the notion that those of same-sex orientation are unclean and possessed with uncontrollable sexual appetites or behaviour. The message which a reasonable person would take from the flyers is that homosexuals, by virtue of their sexual orientation, are inferior, untrustworthy and seek to proselytize and convert our children.

The flyers also seek to vilify those of same-sex orientation by portraying them as child abusers or predators. Examples of this in Flyers D and E would include: “Our children will pay the price in disease, death, abuse...”; “Sodomites are 430 times more likely to acquire Aids & 3 times more likely to sexually abuse children!”; and “[o]ur acceptance of homosexuality and our toleration [*sic*] of its promotion in our school system will lead to the early death and morbidity of many children.” [paras. 188-189]

[124] The Court concluded that, “by equating homosexuals with carriers of disease, sex addicts, pedophiles and predators who would proselytize vulnerable children and cause their premature death, Flyers D and E would objectively be seen as exposing homosexuals to detestation and vilification”: para. 190. In expressly calling for the discriminatory treatment of gay people, the flyers were likely to expose the group to hatred.

[125] In contrast, the Court found that Mr. Whatcott’s other two flyers did not rise to the level of hate speech. Those flyers reproduced a Classifieds page which included personal ads. Mr. Whatcott circled a personal ad seeking “boys/men”. On top of the page, he handwrote:

Saskatchewan’s largest gay magazine allows ads for men seeking boys!

The ads with men advertising as bottoms are men who want to get sodomized. This shouldn’t be legal in Saskatchewan!

“If you cause one of these little ones to stumble it would be better that a millstone was tied around your neck and you were cast into the sea” Jesus Christ

[126] The Court acknowledged that these flyers were offensive but found that a reasonable person would not conclude they exposed gay people to detestation or vilification: para. 196. It noted that Mr. Whatcott’s comments were presented as his interpretation of the personal ads, and that the Biblical quote was capable of more than one meaning. Importantly, the Court found that, even if the text was interpreted to call for criminalizing homosexuality, it was not “combined with any representations of detestation and vilification delegitimizing those of same-sex orientation”: para. 200. Rather, the Court held, “the flyers are potentially offensive but lawful contributions to the public debate on the morality of homosexuality”: para. 200. Elsewhere in the decision, the Court affirmed Mr. Whatcott’s right to:

- a. “express disapproval of homosexual conduct and advocate that it should not be discussed in public schools or at university conferences”, and
- b. “preach against same-sex activities, to urge its censorship from the public school curriculum and to seek to convert others to [his] point of view”

without violating the prohibition on hate speech: para. 118.

[127] In *Whatcott*, the Court endorsed the “hallmarks of hate” set out by the Canadian Human Rights Tribunal in *Warman v. Kouba*, 2006 CHRT 50. The Court explained that these hallmarks reflect “the types of expression and devices used to expose groups to hatred”: para. 44. It summarized some of them as follows:

Hate speech often vilifies the targeted group by **blaming its members for the current problems in society**, alleging that they are a “**powerful menace**” (para. 24); that they are carrying out secret conspiracies to gain global control (*Citron v. Zündel (No. 4)* (2002), 41 C.H.R.R. D/274 (C.H.R.T.)); or **plotting to destroy western civilization** (*Taylor*). Hate speech also further **delegitimizes the targeted group** by suggesting its members are **illegal or unlawful**, such as by labelling them “liars, cheats, criminals and thugs” (*Citron*, at para. 140); a “parasitic race” or “pure evil”: *Warman v. Tremaine (No. 2)*, 2007 CHRT 2, 59 C.H.R.R. D/391, at para. 136.

Exposure to hatred can also result from expression that equates the targeted group **with groups traditionally reviled in society**, such as **child abusers, pedophiles** (*Payzant v. McAleer* (1994), 26 C.H.R.R. D/271 (C.H.R.T.), *aff’d* (1996), 26 C.H.R.R. D/280 (F.C.T.D.)), or “deviant criminals who prey on children”: *Warman v. Northern Alliance*, 2009 CHRT 10 (CanLII), at para. 43. One of the most extreme forms of vilification is to **dehumanize a protected group** by describing its members as animals or as subhuman. References to a group as “horrible creatures who ought not to be allowed to live” (*Northern Alliance*, at para. 43); “incognizant primates”, “genetically inferior” and “lesser beasts” (*Center for Research-Action on Race Relations v. www.bcwhitepride.com*, 2008 CHRT 1 (CanLII), at para. 53); or “sub-human filth” (*Warman v. Winnicki (No. 2)*, 2006 CHRT 20, 56 C.H.R.R. D/381, at para. 101) are examples of dehumanizing expression that calls into question whether group members qualify as human beings. [paras. 44-45; emphasis added]

In this case, the Complainant has relied heavily on the hallmarks of hate. To assess these arguments, we find it useful to review the hallmarks which the Complainant says are present in Mr. Neufeld’s publications.

## B. Hallmarks of hate

[128] In *Warman v. Kouba*, the Canadian Human Rights Tribunal summarized some of the “hallmarks of material that is more likely than not to expose members of the targeted hatred or contempt”: para. 22. These hallmarks are not exhaustive, but they do highlight prominent themes from cases which have found hate speech. Speech that promotes hate against LGBTQ people contain many of the hallmarks, as well as other dehumanizing features.

[129] In the following sections, we summarize the applicable hallmarks of hate from *Warman v. Kouba* and then address Mr. Neufeld’s arguments about their application in *Elmasry and Habib v. Roger’s Publishing and MacQueen (No. 4)*, 2008 BCHRT 378. Finally, we identify some specific hallmarks of hate against LGBTQ people.

### 1. Hallmarks of hate in *Warman v. Kouba*

[130] The **Powerful Menace Hallmark** is present where “the targeted group is portrayed as a powerful menace that is taking control of the major institutions in society and depriving others of their livelihoods, safety, freedom of speech and general well-being”: *Warman v. Kouba* at para. 23. Examples include:

- a. Claiming that Jewish people are engaged in a global conspiracy to extort money and amass power, including by duping the world into believing in the Holocaust in order to extort billions of dollars in reparations: *Citron v. Zundel (No. 4)*, 2002 CanLII 78205 (CHRT).
- b. Accusing Indigenous people of “extorting ‘billions’ of dollars from Canadian taxpayers and claiming title to land that was never theirs”: *Warman v. Kouba* at para. 26.
- c. Asserting that “Jews have taken over our education, our media, our governments, etc”, putting non-Jewish people in grave danger: *Warman v. Kouba* at para. 28.

[131] The **Reputable Source Hallmark** applies where “the messages use true stories, news reports, pictures and references from purportedly reputable sources to make negative generalizations about the targeted group”. It encourages “readers to accept, without question, gross generalizations and stereotypes about the targeted group”: *Warman v. Kouba*, at para. 30. In some cases, invoking Biblical passages to lend credibility to a message can support a finding of hate speech: *Whatcott* at para. 187; *Oger (No. 7)* at para. 164.

[132] The **Predator Hallmark** is present where “the targeted group is portrayed as preying upon children, the aged, the vulnerable, etc.”: *Warman v. Kouba* at para. 40. Examples include:

- a. Graphically describing the filming of the sexual torture and rape of children for the purpose of producing pornography, and claiming that, although not all consumers of child pornography are Jewish people, Jews are disproportionately represented among them: *Warman v. Kyburz*, 2003 CHRT 18 at paras. 25 and 26.
- b. Portraying “Black men as ‘cannibals’ and ‘head hunters’ who have sex with animals; when they cannot do this, they resort to raping white women”: *Warman v. Kouba* at para. 42.

[133] The **Cause of Society’s Problems Hallmark** is present where “the targeted group is blamed for the current problems in society and the world”. The Cause of Society’s Problems Hallmark offers the listener a scapegoat for the world’s problems, tapping into negative emotions and diverting them towards the targeted group. Examples are:

- a. Blaming Jewish and Muslim people for the terrorist attacks on September 11, 2001, which killed thousands of “white folk”, and encouraging racialsists to respond with violent acts against these groups: *Warman v. Alexan Kulbashian et al*, 2006 CHRT 11.
- b. Linking the integration of non-white races into Canadian society with the decline in the quality of health care services, and blaming Jewish people for unemployment, inflation, and the encroaching Third World War: *Taylor and the*

*Western Guard Party v. Canadian Human Rights Commission and Attorney General of Canada* (1979), T.D. 1/79.

- c. Blaming Indigenous people for poor health care and education in Canada:  
*Warman v. Kouba* at para. 47.
- d. Blaming Jewish people for robbing Canadians of free speech, by controlling the media, education, and government: *Warman v. Kouba* at para. 47.
- e. Asserting that Muslim women who cover their faces in public are able to commit acts of terrorism: *Warman v. Kouba* at para. 47.

[134] The **Dangerous by Nature Hallmark** asserts that the targeted group is dangerous or violent by nature. Examples include: any African person who comes to Canada will inevitably bring violence or death (*Warman v. Winnicki*); Aboriginal people commit most crime in Canada, including 50% of rapes; Black men are responsible for the other 50% of rapes; Asian people are “murdering gang members”; Muslim people are terrorists; Jewish people are taking control of Canadian Society; and gay people are pedophiles (*Warman v. Kouba* at para. 50).

[135] The **No Redeeming Qualities Hallmark** applies to messages that “convey the idea that members of the targeted group are devoid of any redeeming qualities and are innately evil”: *Warman v. Kouba* at para. 51. For example:

- a. referring to Zionist Jews as “being frauds, criminals, war mongers, pedophiles, anti-life and full of hate is part of them ... it is their nature. They will not and cannot change”: *Warman v. Kyburz*.
- b. “Sooner or later those Indians all break the law, its their DNA to be bad” and “Just one instance that a injun is good, ... I can hear a pin drop in the forest with this defining (sic) silence”: *Warman v. Kouba* at para. 53.
- c. Calling the Roma “a filthy group of Hindus” and “thieves, murders, pimps and molesters”: *Warman v. Kouba* at para. 55.

[136] The **Sub-human Hallmark** is present where a group of people are compared to, or associated with, “animals, vermin, excrement, and other noxious substances”: *Warman v. Kouba* at para. 62. For example, calling Black people cockroaches or apes (*Warman v. Winnicki*); calling Jewish people “sub-human” and “vermin” (*Warman v. Kyburz*); or calling Indigenous people “primitive savages” (*Warman v. Kouba*).

[137] The **Tone of Extreme Hatred and Contempt Hallmark** refers to the use of epithets and slurs, and language that is vitriolic, vulgar and incendiary: *Warman v. Kouba* at paras. 67-69. Examples include using the n-word or other racial slurs, swearing, and using a “hysterical tone of rage”. For example, in *Warman v. Winnicki*, one message said “[N-WORDS] AND EAST INDIANS ARE SHIT!!!! GET OUT OF OUR CIVILIZATION YOU FUCKING MUDS!!!!”

[138] The **Trivializing or Celebrating Hallmark** is reflected in messages which trivialize or celebrate past persecution or tragedy involving members of the targeted group. For example, speech ridiculing or joking about the Holocaust was found to “dehumanize members of the targeted group and to set a tone for denigration that would allow hatred and contempt to flourish”: *Warman v. Kouba* at para. 72, citing *Warman v. Kulbashian*. Other examples are posts celebrating the death of Hindu people and the transmission of HIV/AIDS to women who had sex with Hindu people, and mocking the loss of Indigenous land: *Warman* at para. 73-775.

[139] The **Call for Action Hallmark** calls on listeners to take violent action against the targeted group. For example: “The non-whites who pop out kids just to get more welfare money are the ones who should be castrated” and “YOU FINALLY HAVE TO GET UP AND DO SOMETHING ABOUT THE PROBLEM”: *Warman v. Kouba* at paras. 78-81.

## 2. *Elmasry*

[140] Mr. Neufeld relies heavily on the Tribunal’s decision in *Elmasry* as an example of a publication which bore many of these hallmarks of hate and yet was found by the Tribunal not to violate s. 7(1)(b). This case involved an article published in Maclean’s magazine called “The New World Order”. The author argued that Muslim populations were growing and replacing European and “native” populations, threatening European laws and culture. It argued that

“Islam ... has serious global ambitions, and it forms the primal, core identity of most of its adherents”, and that Muslim people were bound more by “the jihad” than the lands of their citizenship. The article was a warning that these trends were a grave threat to the “West”.

[141] The Tribunal accepted that the article was “hurtful and distasteful” and sought to instill fear in the reader about rising Muslim populations: paras. 150 and 157. It invoked common Muslim stereotypes and contained “historical, religious, and factual inaccuracies”: paras. 140 and 142. However, ultimately the Tribunal concluded that the article was not hate speech. It found that, understood in context, the article was “essentially an expression of opinion on political issues which, in light of recent historical events involving extremist Muslims and the problems facing the vast majority of the Muslim community that does not support extremism, are legitimate subjects for public discussion”: para. 150. It reasoned that the article “may attempt to rally public opinion by exaggerations and causing the reader to fear Muslims, but fear is not synonymous with hatred and contempt”: para. 157.

[142] In his submissions, Mr. Neufeld makes a strong case for the opposite conclusion. He analyses the article in detail, highlighting many hallmarks of hate within it. He argues that, in *Elmasry*, the presence of these hallmarks was not enough to ground a finding of hate speech, and so it would be unreasonable to place undue emphases on such concepts in this case.

[143] The difficulty with Mr. Neufeld’s argument is that *Elmasry* was released before the Supreme Court of Canada endorsed the hallmarks of hate in *Whatcott*. If the Tribunal in *Elmasry* had had the benefit of the Court’s reasoning in *Whatcott*, and Mr. Neufeld’s submissions about the presence of the hallmarks in the article, perhaps it would have reached a different conclusion.

[144] Regardless, we agree that the hallmarks are not a checklist by which to assess impugned speech. Rather, they offer important guidance about “the types of expression and devices used to expose groups to hatred”: *Whatcott* at para. 44. They are helpful to guide a more robust analysis of whether the speech at issue is extreme and egregious, and whether it contains delegitimizing or dehumanizing language. A publication may contain phrases that evoke the

hallmarks of hate, but the overall message may be softened by the broader context of the publication. We have found that to be the case in several of Mr. Neufeld's impugned statements. Ultimately, this is a fact-specific exercise, which turns on the full context of the impugned publication and the evidence before the Tribunal.

### 3. Hate speech against LGBTQ people

[145] Some hallmarks and rhetorical techniques have specific resonance in assessing hate speech against LGBTQ people.

#### i. Associations with pedophilia, deviant sexual acts, grooming, and child abuse

[146] Speech against LGBTQ people that associates them with pedophilia, deviant sexual acts, grooming, and child abuse can be communicated in a way that invokes the hallmarks of a Powerful Menace, Predator, Dangerous by Nature, and Cause of Society's Problems. This was highlighted in Dr. Saewyc's report and is found in the case law: *Trinity Western University v. Nova Scotia Barristers' Society*, 2015 NSSC 25 at paras. 85-89; *Rainbow Alliance* at para. 106. For example, in *Schnell v. Machiavelli and Associates Emprize Inc (No. 2)*, 2002 CanLII 78260 (CHRT), the impugned website contained the following message: "Warning: the gay and lesbian 'educators' of British Columbia (gale) live and practice a repugnant 'lifestyle' into which they intend to lure and abuse our children" (as written). The website explicitly and repeatedly asserted that all gay people were pedophiles, and that "homosexuals have an agenda" to "pave the way for legalized pedophilia" and "to regress our society back to ancient Greece where men had 'boy toys' and sheep were nervous". The Canadian Human Rights Tribunal found the offending portions of the website likely to expose gay people to hatred and contempt: see paras. 103-104. In *Payzant v. McAleer*, 1994 CanLII 2035 (CHRT), upheld in 1996 CanLII 4026 (FC), the message called an 2SLGBTQ+ newsletter a "newsletter for child molesters" who believe "in legalized sex with children". It called for the execution of "child molesters, homo or otherwise" and went on:

Hell the ancient Celts used to take their queers and trample them into the peat bogs. It's not such a bad idea, maybe. Perhaps we have finally stumbled across the argument which will save the Burns Bog in Delta from

development because it is the only bog big enough to service the needs of the progressive city of Vancouver.

[147] Similar themes are found in Mr. Whatcott's flyers which claimed that "homosexuals want to share their filth and propaganda with Saskatchewan's children" and "proselytize vulnerable young people" and characterized gay people "as child abusers or predators": *Whatcott* at paras. 188-189. And in *Oger (No. 7)*, Mr. Whatcott's flyer called transgender people, and those who supported them "liars and sexually immoral", accused them of promoting "falsehoods", and cited a Biblical passage warning "the cowardly, the faithless, the detestable ... murders, the sexually immoral, sorcerers, idolators, and all liars" that "their portion will be in the lake that burns with fire and sulfur, which is the second death".

ii. Recruitment or contagion of children

[148] The trope that LGBTQ people "recruit" children or contaminate them through "contagion" is related to the Predator Hallmark. The history of this recruitment trope and its application to gay and lesbian people was summarized in *Rainbow Alliance*, and is repeated here for ease of reference:

Gays and lesbians were suspected of recruiting youth: since they could not reproduce, they were left to recruit. It was thought that being gay or lesbian was a choice and, therefore, that children could be trained to become gay. It was considered a matter of contagion. [para. 106]

The same theory applies to non-cisgender gender identities. The recruitment/contagion trope positions LGBTQ people as a threat to children.

iii. Erasure of trans people

[149] Again, hate speech against trans people often rests on the proposition that their gender identity is an impossibility, casting them as delusional or deceptive: *Oger (No. 7)* at para. 120. In this case, Mr. Neufeld does this by insisting that trans identities rest on a belief system that he calls "gender ideology".

[150] This rhetorical technique – to love the person and hate the “ideology” – aligns with research identifying that modern hate speech is “shifting away from demonizing people as a category to demonizing belief systems”: Cervone C, Augoustinos M, Maass A, (2021) “The Language of Derogation and Hate: Functions, Consequences and Reappropriation”, *Journal of Language and Social Psychology*, 40(1), 80-101 (Ex 3, tab C2) [Cervone] at p. 83. It allows the speaker to project that they are “reasonable and rational” and morally justify their hostility: Cervone at p. 83. In the context of trans people, it has a uniquely harmful effect:

... for many social groups, public statements that they are not real and that members of the group lie about who they are may not expose them to hatred. Most protected groups do not have a social context or history of being told they do not exist and that people who claim to be a part of the group are lying or mentally ill. For example, "a publication stating that women are not real, and all people who call themselves 'women' are deluded men pretending to be other than they are" is unlikely to expose women to detestation and vilification because these are "not stereotypes ascribed to women as a group".

However ... this is perhaps the most pernicious stereotype about transgender people, and is one found at the root of most discrimination against them. Here again I rely on Dr. Bettcher's explanation for how the deceiver/pretender construct is harnessed to justify the marginalization of, and violence against, transpeople, on the basis that their very existence is — at best — an act of misguided make-believe or — at worst — a deliberate and malevolent deception. The effect of this stereotype is to dehumanize transgender people. They are rendered "invisible, deviant or inhuman": Barbara Perry and D. Ryan Dyck, "I Don't Know Where it is Safe: Trans Women's Experiences of Violence" (2013) 21-4 *Critical Criminology* 6. As West Coast LEAF points out, the stereotype allows the conditions for discrimination to flourish, because "the rights of those who do not exist, by extension, do not exist".

*Oger (No. 7)* at paras. 156-157

[151] The message that trans people are deceptive by nature reflects the No Redeeming Qualities hallmark, positing that trans people are “innately devious”: *Warman v. Kouba* at para. 51. It is seen clearly in *Oger (No. 7)*, where the Tribunal considered a flyer called "Transgenderism vs. Truth in Vancouver-False Creek". It referred to Ms. Oger as a "biological male who has renamed himself ... after he embraced a transvestite lifestyle" and expressed

concern "about the promotion and growth of homosexuality and transvestitism in British Columbia and how it is obscuring the immutable truth about our God given gender". The flyer described being transgender as an "impossibility" and a "false narrative", which "is harmful and displeasing to God". It said "the truth is there are only two genders, male and female and they are God given and unchangeable", "'transgenderism' is an impossibility"; "a male cannot transition' into a female, nor can a female 'transition' into a male". This type of speech delegitimizes trans people and casts them as authors of their own misfortune. This is a theme in Mr. Neufeld's publications, and we return to it below.

[152] We agree with the Complainant that speech which denies the authentic existence of trans and gender diverse people bears a hallmark of hate against them. However, we do not conclude that any speech questioning or denying the existence of trans people is, on its own, hate speech. This would be too restrictive of free expression and would effectively sidestep the test for hate speech outlined in *Ward* and *Whatcott*. The Tribunal recognized this in *Oger (No. 7)*, where it said:

... The question of whether transgender people exist and are entitled to dignity in this province is as valuable to ongoing public debate as whether one race is superior to another. This does not mean that all expression that criticizes or questions the existence of transgender people violates the *Code*. Here I distinguish between public debate about, for example, the scope of rights that different groups in society may be afforded, and commentary like that which is in the Flyer, which denies the very existence of transpeople. Understood in its proper context, it is simply not accurate to place this type of expression at the core of s. 2(b) values.  
[para. 119]

[153] This principle aligns with the Supreme Court of Canada's recognition, in the context of anti-LGB speech, that preaching against "homosexual conduct" and calling for legal restrictions is not, on its own, enough to meet the threshold for hate: *Whatcott* at paras. 119, 163, and 200; see also *Payzant* at para. 43.

[154] Rather, an impugned publication must be assessed holistically to determine whether it exposes or tends to expose LGBTQ people, or an LGBTQ person, to detestation and vilification:

*Whatcott* at para. 174. In this case, we have not found it sufficient that Mr. Neufeld states his belief that gender is static and binary. While this idea does underly existential threats to trans and gender diverse people, it is not enough to amount to hate speech in every case.

iv. Dehumanization of gender affirming care

[155] Finally, hate speech has used dehumanizing language to talk about trans people who access gender affirming medical treatment. In *Whatcott*, the Court explained that “where the conduct that is a target of speech is a crucial aspect of the identity of the vulnerable group, attacks on this conduct stand as a proxy for attacks on the group itself”: para. 124. For trans people, accessing gender affirming medical care may be a crucial aspect of their identity and, in some cases, attacking these medical treatments may be a proxy for attacking trans people. Hate speech against trans people has associated their access to gender affirming medical care with “disgusting characteristics, inherent deficiencies or immoral propensities which are too vile in nature to be shared by the person who vilifies”: *Whatcott* at para. 43. For example, in *Oger (No. 7)*, the Tribunal found that Mr. Whatcott’s graphic description of a person “[cutting] off his penis, and [injecting] himself with female hormones” characterized those choices as “gross and wanton acts of self-mutilation and, in doing so, [positioned Mr. Whatcott] above any person who would engage in such behaviour”: para. 161.

**C. Mr. Neufeld’s publications: context**

[156] We begin by situating Mr. Neufeld’s publications in four important contexts.

[157] First, during the period of this complaint, Mr. Neufeld was an elected school trustee. Throughout his public statements, he frequently invoked his status and self-proclaimed credentials to lend credibility to his ideas. We agree with the Complainant that “Mr. Neufeld’s position as a public figure increases the likelihood that his publications will expose 2SLGBTQ+ people to hatred and contempt because they are likely to be seen as more credible”.

[158] We accept Dr. Saewyc’s evidence that there is an intensified risk of harms to targeted group when hate speech is used by political or public figures. Discriminatory speech by public

figures tacitly encourages others to imitate that discriminatory speech or to engage in other, discriminatory behaviours: *Borderland Pride v. Corporation of the Township of Emo*, 2024 HRTO 1651 at para. 73. For example, as the Human Rights Tribunal of Ontario summarized in *Borderland Pride*, another case where Dr. Saewyc was an expert witness:

[Dr. Saewyc] testified that in longitudinal qualitative research with more than 1,200 people in the United States, people described how the anti-LGBTQ rhetoric by President Trump, Vice President Pence, and members of Trump's cabinet during his [first] presidency visibly increased the amount of hate and violence publicly expressed by others who were strongly affiliated with Trump's political views (at para. 73).

[159] Mr. Neufeld took issue with the comparison of his public, elected position to those of higher elected position, such as the United States President, Donald Trump. He said that a public figure such as the president of the United States has more influence than a school board trustee of a small city in Canada. While Mr. Neufeld's sphere of influence may be smaller than President Trump's, Mr. Neufeld had the potential to be influential within at least Chilliwack. Mr. Neufeld's opposition to SOGI 1 2 3 garnered significant attention in the community which he served. Newspaper articles, public Facebook posts, interviews with journalists and others, and public school board meetings reflect the scope of Mr. Neufeld's local influence. The LGBTQ teacher witnesses described, and we accept, that District employees, parents, and students increased their anti- LGBTQ speech and behaviour after Mr. Neufeld's initial Facebook post. Mr. Neufeld has supporters who watched the hearing of this complaint from as far away as the midwestern United States.

[160] This is not to say that public figures, including school board trustees, cannot engage in public debate and disagreement about what is taught in schools, including topics on diverse family structures, trans and gender diverse identities, or other issues affecting the 2SLGBTQIA+ community. There are certain school subjects that incite questions about, for example, age-appropriate learning, what should be taught to kids, and the role of teachers and parents in their children's academic and personal development. And SOGI 1 2 3 has been vigorously debated on these very questions at the school board level across British Columbia. But where, as here, a school board trustee's participation in that debate exposes LGBTQ people to

discrimination or hate, then a school board trustee may be found to have breached the *Code*. “That the rights of a vulnerable group are a matter of ongoing discussion does not justify greater exposure by that group to hatred and its effects”: *Whatcott* at para. 171.

[161] Second, most of Mr. Neufeld’s impugned speech was published via social media and the internet – a medium which courts have recognized “now allow some of the darkest forces in our society to receive attention” and “provides the potential for a wide audience”: *Paramount v. Kevin J. Johnston*, 2019 ONSC 2910 at para. 88; *R. v. Topham*, 2017 BCSC 551 at para. 332; *Whatcott* at para. 72. As Dr. Saewyc points out, social media is “a particularly powerful tool for hate speech”: Cervone at p. 82. It is uniquely effective; it can be produced instantaneously with a much farther reach than off-line communication. Digital media users are more exposed to hate speech and some research supports that the effect of this greater exposure is higher levels of discriminatory prejudice against the targeted group: Cervone at p. 85. This is consistent with the observation that increasing use of social media “has coincided with increases in the reported incidence of hate crimes throughout the world”: Cervone at p. 87.

[162] Third, driven in large part by Mr. Neufeld, the climate in Chilliwack during the relevant period was one in which people were actively debating topics of acute importance to LGBTQ people. In this context, the *Charter* requires us to tolerate expression that is “unpopular, distasteful or contrary to the mainstream”: *Irwin Toy* at 968. Here we invoke the observation of McLachlin J (as she then was) that “[t]he view of the majority has no need of constitutional protection”: *R. v. Zundel*, 1992 CanLII 75 (SCC) at p. 753. In protecting Mr. Neufeld’s right to express his views on these subjects, we uphold a “public good, a benefit which respect for the right of free expression brings to all those who live in the society in which it is respected”: J. Raz, “Free Expression and Personal Identification” (1991), 11 *Oxford J. Leg. Stud.* 303 at p. 305, cited in *Ward* at para. 60. At the same time, we are mindful that “the harmful effects of hate speech are not “cleansed” simply because the speech arises “in a ‘moral’ context or ‘within a public policy debate’”: *Whatcott* at para. 116

[163] Finally, we are mindful that Mr. Neufeld’s publications arise in the context of ongoing and pervasive discrimination against LGBTQ people. As we have said, there are some unique

features of this type of discrimination, which must be considered in assessing allegations of hate speech against the group.

#### **D. Mr. Neufeld's publications**

[164] Viewed globally, and in context, Mr. Neufeld's intent and the likely effect of his publications is clear. It is the very outcome which prohibitions against hate speech aim to avoid: shifting the environment from one where harm against LGBTQ people – especially trans people and trans youth – is not tolerated to one where the harm is accepted or ignored: *Whatcott* at para. 131. For five years, Mr. Neufeld inundated public discourse in Chilliwack with speech that degraded and denied trans people, sought to eliminate public policies for their inclusion, and sounded alarms about an imaginary threat posed by their social acceptance. He spread misinformation and inflamed anti-LGBTQ animus in the District.

[165] Analyzing Mr. Neufeld's publications individually strips them of this broader context and impact. However, this is the perspective that the Supreme Court of Canada has said we must take to justify the infringement on free expression: *Whatcott* at para. 201. Considered individually, we have found Mr. Neufeld adept on many occasions – consciously or subconsciously – at stopping just before the threshold of hate. His rhetoric is not as direct as some of the other hate speech cases we have canvassed, and the target of his speech is not always clear. To the extent any of his publications are capable of more than one interpretation, we have found they do not violate s. 7(1)(b).

[166] We have summarized the publications which the Complainant alleges violate s. 7(1)(b) in Appendix A to this decision. In reaching our decision, we have considered each of the publications individually, within the context we have set out above. In doing so, we highlight and focus on phrases or excerpts which “draw nearer to the purview” of s. 7(1)(b): *Whatcott* at para. 174. We find that six publications violate s. 7(1)(b) of the *Code*. We find that the remainder of the publications do not violate s. 7(1)(b).

1. *Publications which violate s. 7(1)(b)*

[167] Six of Mr. Neufeld’s publications violate s. 7(1)(b). We refer to them jointly as the **Hate Speech Publications**. Given their context (set out above), and the expert evidence we have accepted about how this type of speech creates conditions for hatred and discrimination, we are satisfied these publications tend to expose trans and/or lesbian, gay and trans people to detestation and vilification based on their sexual orientation or gender identity, and have the potential to lead to their discriminatory treatment.

i. December 18, 2017 Facebook post

[168] This is a Facebook post which Mr. Neufeld posted on December 18, 2017: Ex 17, tab 4. In this lengthy post, Mr. Neufeld says that he has been “thrown into the role of a prophet: speaking out to the lawmakers in Victoria and trying to motivate lukewarm Christians who are sitting idly by as all of society “Slouches towards Gomorrah””. He encourages his audience to follow him and “push back” against the “powerful” LGBTQ+ “lobby group”. He calls being gender fluid “delusional thinking”. He accuses LGBTQ+ people of seeking priority status as “the most downtrodden of victims” and says that “the many new categories that are included in the long list of letters now added after LGBTQ are a new ‘Caste system’.” He warns:

But the scary thing is that [promoting this gender bending theory] has already demonized people of faith who believe that God created humans male and female: In the Image of God. Here is my prophecy to the Church. If you don’t get off your duffs and push back against this insidious new teaching, the day is coming (maybe it is already here) when the government will apprehend your children and put them in homes where they will be encouraged to explore homosexuality and gender fluidity. There already is a Special group foster home for LGBT+ kids in Red Deer, AB.

You think that is impossible? Well the Canadian government did exactly that to Aboriginal families until a few decades ago. Determined to destroy the traditional teachings of their culture and re educate children into the prevailing worldview of the government. The Government have already ensured that families with traditional Family values will not be approved as foster homes and are refused the right to adopt children. But the government has always done a horrid job of being a parent. [as written]

[169] We agree with the Complainant that this post contains hallmarks of hate and that a reasonable person, aware of the context, would conclude it exposes gay, lesbian, and trans people to hatred.

[170] By invoking Biblical authority and claiming he has been “suddenly thrown into the role of prophet”, Mr. Neufeld first positions himself as a credible authority (Reputable Source Hallmark). He then squarely identifies gay, lesbian, and trans people as a Powerful Menace, describing how gay and lesbian people joined together with trans people to form a “powerful lobby group” and promote “the controversial and unscientific gender fluidity theory”. The impact, he warns, will be the demonization of “people of faith” and destruction of families, by separating children from their parents. He says that the government has and will apprehend children and “put them in homes where they will be encouraged to explore homosexuality and gender fluidity”. He uses a purported example of a “Special group foster” home to lend credibility to this threat. And finally, he analogizes to residential schools, one of the most horrific chapters in Canadian history and part of a concerted act of “cultural genocide” against Indigenous peoples: Truth and Reconciliation Commission, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015). For a Canadian audience, this reference offers a real-world example, from recent memory, of the government apprehending children and forcibly separating them from their families, land, culture, and identities. The threat that this could happen again could reasonably be expected to incite powerful emotions, capable of mobilizing people to take action against the people said to be behind it – here, lesbian, gay, and trans people.

[171] Read in context, Mr. Neufeld warns that gay, lesbian, and trans people are a powerful menace threatening religious families and children on a genocidal scale. This supports that the message is likely to expose gay, lesbian, and trans people to hatred and has the potential to lead to discriminatory treatment. We find that it violates s. 7(1)(b) of the *Code*.

ii. December 8, 2018 Facebook post

[172] This is a Facebook dated December 9, 2018: Ex 17, tab 17. This post links to an article on [lifesitenews.com](https://www.lifesitenews.com) called “Kids are turning to blackmarket sex-change hormones for secret transitions”. The image above the article is the cover of National Geographic with a picture of a child and headline “GENDER REVOLUTION”. Mr. Neufeld writes:

The elites will destroy all gay kids. They are culling them from the gene pool. Make no mistake about it. The trans agenda is eugenics. They are not on the side of LGBT+. Don't ever think they are. Snakes are everywhere. More division and the destruction of humanity.

[173] First, this post argues that the “trans agenda”, perpetrated by “elites”, is a Powerful Menace threatening to cull gay kids from the gene pool, and foster the “division and destruction of humanity”. The reference to eugenics evokes a strong reaction, given its well known association with racist and able-ist ideas that certain groups in society are superior to others, and the existential threat it poses to the targeted group, by forcibly removing their ability to have children.

[174] Second, by putting the message alongside the picture of a child and a shocking claim that “kids are turning to black market sex-change hormones for secret transitions”, the post uses inflammatory images and language to invoke fear and a threat to children.

[175] Third, the link to a “news” article purporting to set out a factual basis for Mr. Neufeld’s message lends credibility to the negative generalization and communication that the threat is already upon us (Reputable Source Hallmark).

[176] Finally, the reference to “snakes” is dehumanizing (Sub-human Hallmark). Calling a group of people “snakes” evokes the notion that they are deceitful and dangerous (No Redeeming Qualities Hallmark).

[177] We find that a reasonable person, aware of the context, would find this message tends to expose trans people to hatred.

iii. July 24, 2020 Newsletter

[178] This is Issue 11 of the “Neufeld Newsletter”, written and published under the banner of the “Coalition of Concerned Canadians” and dated July 24, 2020: Ex 17, tab 22. Mr. Neufeld begins with a brief update about various legal cases – including this human rights complaint. He then shares the text of a letter that he sent to his Member of Parliament. It is the publication of this letter which we find violates s. 7(1)(b).

[179] In the letter, Mr. Neufeld attempts to influence the MP to endorse Derek Sloan as Conservative party leader on the basis that his policies are “the only solution to stop the downward cultural spiral in Canada”. The bulk of his letter sets forth his views on gender identity and SOGI 1 2 3 :

I am anything BUT a hateful person. My concern is and has always been to protect minor children of school age from being persuaded that they can solve their emotional problems by taking pills to irreversibly alter their bodies. In my humble opinion, this gender fluid ideology now being forced on school children is the **most organized and sinister attack on nuclear family values in History**. While gender dysphoria affects an extremely small percentage of children (<1%), the goal of the radical educators is to indoctrinate all children with the dogma that heterosexuality is no longer the norm. This is the foundation of being ‘inclusive!’ It is deliberately designed to alienate children from their parents: especially religious parents who look forward to grandchildren and rightfully try to instill traditional family values in their offspring. But even worse, it is confusing troubled and traumatized children causing them to think they might be ‘trans’. There are blatant efforts to recruit these troubled kids into this new fad ... [emphasis in original]

[180] Mr. Neufeld describes his qualifications as “the only School Trustee in Canada who has spent a career dealing with people with sexual problems and also trained in Theology”. He asserts that “Sex offenders are clamoring to be accepted by society because their favorite argument is: **“I was born this way!”** [emphasis in original]. He says, “I also knew that the false idea that it was possible for a boy to be born into a girls body (or vice versa) was the old First Century Gnostic heresy of dualism. But I believe that **Trying to alter ones’ body to conform an imagined self image is no more than idolatry of the self: worship of the created rather than**

**the creator**” [emphasis in original]. He claims to have traced “the genesis of this gender fluid ideology of SOGI 123 back to U.N.E.S.C.O and the World Health Organization”, which he says is **“controlled by communist China”** (emphasis in original). In returning to his endorsement of Derek Sloan, he cites Mr. Soan’s support for efforts to call for a “National Inquiry into the Mass Medical Gender Transitioning / “Sex Reassignment” of Vulnerable Children and Youths”.

[181] Like all of Mr. Neufeld’s publications, this online post is rooted in the premise that trans people are not real. But Mr. Neufeld goes further, to cast acceptance of trans gender identities as a type of heresy and analogous to accepting sex offenders into society (Predator Hallmark). He uses inflammatory language to describe trans gender affirming care as mutilation and calls for a national inquiry into so-called “Mass Medical Transitioning / “Sex Reassignment” of Vulnerable Children and Youths”. He invokes the anti-gay trope that children are being “indoctrinated” to believe that “heterosexuality is no longer the norm”, though in context it appears here he is confusing sexual orientation and gender identity, or using them interchangeably. He uses the anti-trans trope that vulnerable children are being “recruited” into being trans, or that being trans is a contagion. Mr. Neufeld invokes his so-called credentials, and allegedly true stories, to lend credibility to his ideas (Reputable Source Hallmark). The tone of the letter, with its use of bolding and exclamation marks, is incendiary. He harnesses the Powerful Menace hallmark by predicting that “this gender fluid ideology now being forced on school children is the **most organized and sinister attack on nuclear family values in History**” (emphasis in original). The anticipated harms include separating parents from their children and interfering with Christian religious practices. He contends there has been a “mass medical transitioning of vulnerable children in BC”. He connects the threat to a more global menace, going all the way to **“communist China”**, which is in turn responsible for the “Chinese Communist Virus” (COVID-19) and “flooding illicit Canadian markets with shipping containers” full of fentanyl (emphasis in original) (Cause of Society’s Problems Hallmark). His letter is a call to action, to advance policies that are an express attack on trans people, especially trans kids.

[182] We find that a reasonable person, aware of the context, would find this message tends to expose trans people to hatred.

iv. June 29, 2021 Facebook post

[183] This is a Facebook post dated June 29, 2021 (Ex 17, tab 32). It links to a YouTube video called “Could the EU Kick Hungary Out over LGBTQ+ Laws?”. Mr. Neufeld’s thesis is that teaching kids about gender identity grooms them for sexual abuse.

[184] Mr. Neufeld expresses particular fascination to learn that Hungary’s laws “began as an attempt to control pedophilia”. He connected that to his own view that there is a “connection between grooming children for abuse and confusing them about their gender identity”. He says he shared that view with a specialist in treating sex offenders: “What better way to desensitize children to invasive sexual behavior than by introducing them to drag queen story hour or a lesson on how to enjoy safe anal sex!”. He says that sex offenders “all smugly agree that the new se[x]uality education in public school makes it MUCH easier for them to persuade a victim to trust them, and even enjoy the abuse!” [as written]. He expresses certainty that “there are far more teachers to abuse kids than Catholic Priests”. He says little is being done about “child trafficking, and that “It is no coincidence in my opinion that there may be a connection between child exploitation and the ‘transgender craze’ which is spreading among young teenage girls who had no prior evidence of gender dysphoria”. He concludes that Hungary is “on the right track”.

[185] In this post, Mr. Neufeld begins by associating the recognition and support for trans people with pedophilia (Predator Hallmark). He analogizes trans gender identities with being a sex offender. This associates trans people with “disgusting characteristics, inherent deficiencies or immoral propensities which are too vile in nature to be shared by the person who vilifies”: *Whatcott* at para. 43. The tone of this piece is sensationalized, including the frequent use of exclamation marks. Mr. Neufeld invokes his own credentials, having worked with “convicted sex offenders and child molesters” and the credentials of a purported “specialist in treating sex offenders” to lend credibility to his claims (Reputable Source Hallmark).

[186] Mr. Neufeld uses sensationalized and inflammatory language to claim that children are being desensitized to “invasive sexual behavior” by drag queen story hours or lessons “on how to enjoy safe anal sex!”. He conflates gender identity with sexuality and the sexualization of children, warning that it leads children to trust sex offenders “and even enjoy the abuse!”. He relies on the recruitment/contagion trope to claim that there is a “transgender craze” which is “spreading among young teenage girls who had no prior evidence of gender dysphoria”. He associates this “craze” with “child exploitation” and “child trafficking” on “epidemic proportions” (Cause of Society’s Problems Hallmark). The reference to “Epstein’s Little Saint James Island” is used as an allegedly true story to bolster his claims of a sinister international threat (Powerful Menace and Reputable Source Hallmarks). Mr. Neufeld calls for the adoption of anti-LGBTQ+ laws akin to those adopted in Hungary (Call to Action Hallmark).

[187] We find that a reasonable person, aware of the context, would find this message tends to expose trans people to hatred.

v. June 12, 2022 Facebook post

[188] This is a Facebook post dated June 12, 2022 (Ex 17, tab 37). It links to a Youtube video called “FOX DOES TRANS RIGHTS”, which Mr. Neufeld says “attempts to put a positive spin on encouraging kids to transition” by featuring a family with a trans child. The image with the video is a smiling family.

[189] Mr. Neufeld says it is easy to see the “logical fallacies” in the story: the parents were manipulated by the “blackmail that ‘it is better to have a live son instead of a dead daughter’” and “threats and even attempts at suicide”; there is nothing “authentic” “about a person who has a girls’ body but has altered their appearance to look like a boy”; the mother’s conservative faith is “shallow” and inconsistent with the Bible; and “Everyone is making money off this child”. He said that the child in the video was in the “honeymoon stage of being trans”. He speculates that the child is taking a “chemical castration drug” and warns:

The fun will wear off in about ten years, probably after lots of hormones and some barbarous surgeries, and they find themselves in a transgender

ghetto, unable to find a faithful life partner and raise a family. THAT is the time when suicide becomes a very real possibility.

[190] We find this post is deeply dehumanizing of trans people. Mr. Neufeld says that a trans child is not “authentic”. He delegitimizes the documented suffering of trans youth by dismissing their risk of suicide as a manipulation and invokes the authority of “the courts” to claim that they rarely commit suicide. He uses inflammatory language to describe his wild speculations about the child’s medical treatment, referring to “chemical castration” and “barbarous surgeries”, contrasted with the image of a smiling family. He claims that a transgender life is loveless and outside the bounds of proper society, to the point that their lives are no longer worth living.

[191] This post communicates contempt about trans people, by placing Mr. Neufeld above them. It vilifies them by “accusing them of disgusting characteristics, inherent deficiencies or immoral propensities which are too vile in nature to be shared by the person who vilifies”:  
*Whatcott* at para. 43.

[192] We find that a reasonable person, aware of the context, would find this message tends to expose trans people to hatred.

vi. September 24, 2022 interview

[193] This is an interview that Mr. Neufeld gave to “RH Media” during his campaign for re-election as a school trustee: Ex 17, tab 41. The title of the interview is “Defending Children’s Rights in Schools”. Like some of the other publications that violate s. 7(1)(b), the interview makes a slow build towards hate.

[194] Mr. Neufeld begins by establishing his credentials, describing his work as a correctional officer looking after “some of the most notorious sex offenders in the province” and with “at risk kids”. He says that he has stuck his neck out as a school board trustee because “I am so concerned about protecting kids from dangerous grooming ideology that is so harmful, not just to the kids but even more so to the families.”

[195] Mr. Neufeld says that schools should be doing things to help kids with “genuine gender dysphoria” – which he posits is about “one half of one percent” – but says that “changing the whole culture of all the schools is having unintended side effects”. These side effects include “rapid onset gender dysphoria” and growing number of kids “bugging their parents for hormone blockers”. He says this is largely happening to teenage girls and “if these girls were thriving I might be tempted to go along with it but they’re not, they’re miserable, they’re sullen, they’re angry at the world”. He says that the language of “being born a boy in a girl’s body” “sounded like the language of sex offenders who use this to confuse and groom children”.

[196] Mr. Neufeld laments policies which he says allow schools to keep information from parents. He says this is a response to the experience of “transgender activists”: “when they decided to come out as transgender, they got resistance and cautions and warnings from their parents”. He says that it starts with social transitioning. Teachers start using a different name chosen by the child, without telling the parents, and then secretly allow the child to change into different clothes at school: “the school provides a confidential closet, a transition closet so Mary can change into ... boys’ clothes and henceforth be treated as Jerry and be treated as a boy”. The next step is “puberty blockers” – “all being done behind parents’ backs”.

[197] Mr. Neufeld is asked about a court case involving a father who was opposing gender affirming care for his child. He says that the consequences for that father were that the father was “charged with contempt of court and thrown into jail”. He says that public initiatives in schools and health systems are “turning all the children into disciples of this new ideology that gender is on a spectrum and you can change from a boy into a girl anytime you want. And even if a kid has no inclination to do that, they firmly believe that this is a new science”. He says that this is “grooming them to reject all the wisdom and culture of the past and create some new untried and untested culture ... where, you know, everybody’s just going to sit around being a robot for big business and not produce any families or children”.

[198] Mr. Neufeld says that there are some other trustees who are aligned with him in opposition to SOGI in schools, but they are “in the minority”. He talks about his defamation suit against Mr. Hansman and says, “I’m not doing it for myself”. He warns, “If I lose on this, every

teacher, every parent who has conservative family values will be considered to be unsafe to be around children, and we're going to start seeing a movement like the Sixties Scoop, where they go around grabbing kids out of homes where the parents are anti-LGBTQ". He says that "the idea that gender is on a spectrum and you can change it at will is a lie" that "hates to be challenged". He says, "Our sex is in every DNA string in our bodies, in every cell. And just by taking some chemicals and doing a little bit of cosmetic surgery does not turn a man into a woman, neither does it turn a woman into a man".

[199] Mr. Neufeld says he was initially reticent about running for re-election as school trustee, given how "emotionally exhausting" the last election was. He asked himself, "why am I beating my head against the wall for public education? Because it is going to hell in a handbasket". But ultimately, he thought "Do I want to be remembered as a quitter? I thought, no, I'm not going to quit".

[200] The interviewer asks Mr. Neufeld whether has any advice for parents. In response, he acknowledges that not all parents are able to homeschool their children or pay for private school. He encourages conservative parents to "get involved in the local school parent advisory committee". He says that is what "activists" have done, and refers to Ms. Oger, who he describes as "a man who claims he's a woman" and got on the Vancouver parents advisory committee. He says that "parents with family values need to take their public schools back". He also suggests running for school trustee, giving the example of a parent who opposed gender affirming care for their child and ended up running for school trustee. Mr. Neufeld later adds that kids aren't necessarily "safe" in private schools either, given that SOGI 1 2 3 is taught there too. He warns that children in schools today will be "taking care" of their parents in the next few years and "if they're being taught to hate cisgender, white, heterosexual people ... do you think they're going to make an effort to ... keep your heart beating? No way".

[201] Although verbose and meandering, throughout the interview Mr. Neufeld paints "transgender activists", both in the community at large, such as Ms. Oger, and in the BCTF, as the threat to the province's children. He describes this threat in outlandish, highly inflammatory terms, suggesting that teaching kids "gender ideology" is leading to miserable children who will

ultimately fail to have children of their own (Powerful Menace Hallmark). He again uses the analogy of the state apprehending Indigenous children, to incite powerful emotions in the listener. He couples this analogy with a story about a parent who was put in jail for opposing gender affirming care for his kid, heightening the stakes of the threat posed by trans inclusion. Mr. Neufeld lends credibility to these statements by highlighting his credentials at the beginning of the interview (Reputable Source Hallmark).

[202] In so doing, Mr. Neufeld slowly builds his case for hate. Mr. Neufeld suggests that trans people are to blame for the current problems in society and that those opposing “gender ideology” are powerless against this powerful menace, which has infiltrated the state, the schools, and the judiciary. The end goal of these trans activists is characterized as the disruption of the heteronormative social order since trans kids will, in his view, not have grow up to have families, will turn on their parents, and will simply act as robots working their lives away. We find that a reasonable person, aware of the context, would find this message tends to expose trans people to hatred.

## *2. Publications which do not violate s. 7(1)(b)*

[203] Mr. Neufeld’s remaining publications have many similarities with the ones we have found violate s. 7(1)(b). All of them contain some expression bearing hallmarks of hate against trans people, including the denial of trans people, deceiver/pretender tropes, recruitment/contagion tropes, warning of threats to children and social order, dehumanizing descriptions of gender affirming medical treatments, and references to allegedly reputable sources and true stories.

[204] However, in our view, the impact of these hallmarks in these publications are diluted or tempered by the broader context of the publication – by its length, its thesis, its target, its tone, or its use of oblique language. In some cases, Mr. Neufeld roots his message in his concern for children and other vulnerable people – not hate for LGBTQ people. We appreciate that the test is objective and does not turn on “the intensity with which the author of the expression feels the emotion”: *Whatcott* at para. 56. However, this type of tone tempers or militates against a

finding that his message communicates detestation and vilification toward the targeted group: *Whatcott* at para. 41.

[205] In many of these publications, Mr. Neufeld does not clearly blame LGBTQ people for the problems he is responding to, or the threats he says are posed to children. Rather, Mr. Neufeld blames the threat to children, variously, on education about SOGI, access to gender affirming care, unions, the government, teachers, doctors, and “Communist China”. This distinguishes these publications from other examples of hate speech against LGBTQ people, which have expressly connected gay people to pedophilia or child abuse: *Schnell, Payzant, Whatcott*. Insofar as a publication does not squarely target LGBTQ people as the threat to children, Mr. Neufeld leaves his message open to more than one interpretation and, in doing so, precludes a finding of hate speech against a protected group.

[206] We appreciate that, in all these publications, Mr. Neufeld is pressing to roll back hard-won gains made by LGBTQ people in Chilliwack. Advocating for discrimination against, or exclusion of, a protected group may be a factor to support a finding of hate speech: *Oger* at para. 165; *Whatcott* at paras. 191-192. However, on its own, “advocacy of discriminatory treatment is neither necessary nor sufficient to establish that expression exposes a protected group to hatred”: *Whatcott* at para. 191.

[207] On its own, it is not hate speech to criticize SOGI 1 2 3, or advocate against LGBTQ inclusive education or gender affirming care. It is not hate speech to advocate in favour of a heteronormative world order. This is the type of speech that the Court in *Whatcott* said was protected: “[preaching] against same-sex activities, [urging] its censorship from the public-school curriculum and [seeking] to convert others to their point of view”: para. 163. It is not hate speech to oppose gender affirming medical treatment, just as it is not hate speech to oppose abortion or medically assisted dying (in his publications, Mr. Neufeld occasionally links all three).

[208] We say this understanding the impact that this speech has on LGBTQ people, including to the point of influencing the passage of laws and policies which have direct, serious, negative

impacts on them, as highlighted in Dr. Saewyc’s expert report. We outlined some of this evidence above.

[209] However, speech can cause harm “without being hateful”: *Ward* at para. 157, per Abella and Kasirer JJ. in dissent but not on this point. These harms are not synonymous with the harms of “detestation and vilification” targeted by the hate speech prohibition: *Whatcott* at para. 41. The Supreme Court of Canada has said clearly that Mr. Neufeld’s speech pushing to roll back gains made by LGBTQ people is the type of speech that must be tolerated in a free and democratic society, so long as – in doing so – it does not expose them to hatred or contempt: *Whatcott*.

[210] We find that, in the following publications, Mr. Neufeld does not call on the audience to hate LGBTQ people; he asks them to support his ideas about sex education, and sexual orientation and gender identity in public schools and health care. To the extent he warns of threats to children, these publications do not target LGBTQ people directly or blame them for the perceived problems that Mr. Neufeld is rallying against. He primarily positions LGBTQ people as victims rather than perpetrators of social harms. Like Mr. Whatcott’s flyers that the Supreme Court of Canada found did not amount to hate speech, Mr. Neufeld’s posts are presented as his interpretation of, and opinion about, current understandings of gender and its inclusion in school curriculum, and what is best for children. Read in their entirety, we find that a reasonable person would not conclude these publications expose LGBTQ people to detestation or vilification. They do not contain the extreme or overt manifestations of hatred or contempt that trigger the application of s. 7(1)(b).

i. October 23, 2017 Facebook post

[211] This post is primarily a critique of the Ministry of Education and SOGI 1 2 3, albeit influenced by a “LGBTQ lobby”: Ex 17, tab 1. It communicates Mr. Neufeld’s opinion in support of “traditional family values” and against “allowing little children [to] choose to change gender identity”. It does not target LGBTQ people as a threat or menace or incite detestation or vilification of them as a protected group.

ii. November 21, 2017 Culture Guard speech

[212] This 20-minute speech is focused on Mr. Neufeld's views about "implementation of SOGI 1 2 3 lesson plans to the new BC public education curriculum": Ex 17, tab 3. He agrees that "public schools should be safe and inclusive places for all children", but states his opinion that SOGI has the opposite effect. While using inflammatory, discriminatory, and sexualized rhetoric, a reasonable listener would understand this speech to be Mr. Neufeld's critique of the curriculum and the school system's approach to addressing bullying and fostering an inclusive environment, not an incitement to hate LGBTQ people.

iii. March 19, 2018 Facebook post

[213] This post is aimed primarily at "the Medical Profession". Mr. Neufeld sets out his passionate opposition to allowing youth to access gender affirming medical treatment (along with abortion and medically assisted dying): Ex 17, tab 8. The end of the post does refer to "trans ideologues", which he describes as muffling "skeptical voices" and using "mafia and Bolshevik techniques" to assert power. However, read in context, the post is mainly about medical practices, and does not expose trans people to extreme vilification or detestation based on their gender identity.

iv. August 29, 2018 Facebook post

[214] In this post, Mr. Neufeld communicates his opposition to SOGI 1 2 3, rooted in his motivation "to protect the MAJORITY of children" from "an unscientific gender fluid ideology": Ex 17, tab 10. He expresses sympathy with those struggling with gender dysphoria and same-sex attraction but says that most kids will "grow out of it".

[215] Read in its entirety, we find that the post does not expose trans people to hatred or contempt. While some of the language used is meant to play on people's fears, the overall tone of the post is one of concern for kids experiencing gender dysphoria. We are of the view that a reasonable person would be able to discern the overall tone and message of the post and not conclude that it tends to expose trans people to detestation or vilification.

v. October 19, 2018 Facebook post

[216] This post encourages readers to vote for a candidate for school trustee whose views align with Mr. Neufeld's: Ex 17, tab 11. He criticizes SOGI 1 2 3, which he says "promote[s] same sex marriages, question[s] traditional marriage, teach[es] children to question traditional gender expectations, disrespect and dishonor to parents and the values they teach. In grade 10 -12, SOGI1-2-3 introduces the topic of sodomy!!!". A reasonable person would understand these are Mr. Neufeld's values and opinions about the heteronormative social order and school curriculum, and not a message of hatred or contempt towards LGBTQ people.

vi. November 17, 2018 fundraiser and November 20, 2018 Facebook post

[217] These publications are grounded in Mr. Neufeld's purported concern for "vulnerable children" and his view that supporting gender affirming care for children is a wrong approach: Ex 17, tabs 15 and 16. He blames teachers and public schools for risks posed to children. He blames "radical trans activists" not as a powerful menace, but for the firing of a doctor who was a proponent of "watchful waiting" and "did not encourage social transitioning". While Mr. Neufeld uses graphic language to fearmonger about gender affirming medical care, denies the existence of trans people, and uses purportedly true stories to support his claims, he concludes with a call for "caring, loving, and compassionate therapy", not hatred. A reasonable person would not understand this message communicates hatred or contempt.

vii. May 9, 2020 Facebook post

[218] In this post, Mr. Neufeld takes aim at the World Health Organization and Dr. Theresa Tam: Ex 17, tab 21. The deceiver/pretender construct of trans identity is seen clearly in this post, where he writes:

It just dawned on me! Who is perpetrating all this fear over the dreaded Corona Virus? Why it is the World Health Organization, the same outfit that claims easy access to abortion is a human right, and that gender is NOT binary: pre pubescent children should be allowed to choose their gender, sterilize themselves and pretend they have successfully changed their gender to comply with what [they] FEEL they are. And Dr. Theresa Tam, Canadian Head of Public Health is suspected by Wikipedia of being

Transgender! If this person who has spent a major portion of their life deceiving people as to who she/he truly is and is now a major player in the corrupt World Health Organization, why should we believe anything he/she says? [Ex 17, tab 21]

[219] However, we do not find that a reasonable person, informed of the context, would conclude that Mr. Neufeld's post exposes or tends to expose trans people to detestation or vilification. The post is inflammatory, conspiracy-minded, and draws on an invidious stereotype about trans people. It is offensive and derogatory. However, it is not an "extreme [manifestation] of hatred or contempt" against trans people: *Whatcott* at para. 57. Its focus is primarily on the World Health Organization and Mr. Neufeld's opinion that the organization is corrupt and perpetrating fear about the corona virus. It is not as virulent or direct as the other examples of hate speech highlighted throughout our reasons. We find that this post does not violate s. 7(1)(b).

viii. April 14, 2022 interview

[220] This interview contains many of the messages we have found communicated hatred or contempt in the Hate Speech Publications: Ex 17, tab 33. However, it is a long interview and those messages are diluted by Mr. Neufeld's broader focus on SOGI 1 2 3 and his views about how we should teach children about gender identity. He repeats his message that he is motivated by his care for kids. Given the tone of the interview, a reasonable person would not understand the message to communicate hatred or contempt towards LGBTQ people.

ix. May 10, 2022 interview

[221] Again, this interview contains many of the messages we have found communicated hatred or contempt in the Hate Speech Publications: Ex 17, tab 34. However, Mr. Neufeld does not target or blame LGBTQ people as a threat; a reasonable person would understand he is expressing his interpretation and opinion about what kids should be taught in schools about gender identity, without exposing LGBTQ people to hatred or contempt.

x. May 11, 2022 Facebook post

[222] This post rallies against “Health Authorities” and “Education ministries”, not LGBTQ people: Ex 17, tab 35. While Mr. Neufeld denies the existence of trans people and uses dehumanizing language to describe gender affirming medical treatment, the overall message in this post is to encourage Christian people to oppose social policies and practices like abortion, euthanasia, “gender transition surgery” and “vaccine mandates”. Read in its entire context, we find a reasonable person would not conclude it exposes trans people to extreme detestation or vilification.

xi. May 17, 2022 Facebook post

[223] In this post, Mr. Neufeld sends a warning to parents that public schools are teaching their kids “gender ideology” without their “awareness or consent”: Ex 17, tab 36. It infers that the state is stepping in to act in the role of parent and analogizes this to the “deplorable history” of residential schools. It ends by calling “gender ideology” “a strange, new twisted religion.”

[224] Here, the target of the post is the state and its educators. While calling transness “gender ideology” is offensive and harmful for the reasons listed above, in the entire context of the publication, we disagree with the Complainant that it would expose LGBTQ people to extreme detestation and vilification. Further, while Mr. Neufeld again analogizes to residential schools, unlike the post above, Mr. Neufeld does not blame “trans activists” or the trans community for the threat to kids or suggest that kids will be apprehended from their parents as a result of the influence of a powerful trans menace. The post calls on people to oppose the state and educators, not LGBTQ people.

xii. August 2, 2022 Facebook post

[225] This post appears over the image of a letter from the Campbell River School District about SOGI 1 2 3: Ex 17, tab 39. Mr. Neufeld says that he has “not experienced any Diversity, inclusion and Equity in SD33”. He says that “Because I beg to differ with the current gender fads, I have been humiliated for the past four years by being barred from schools”. He says he

will persevere “because I care about ALL kids, and want them to concentrate on academic achievement instead of obsessing about their genitals. I am determined to protect them from a dangerous ideology that is causing too many to ruin their bodies with puberty blockers and hormones”.

[226] This post sets out Mr. Neufeld’s opinions about inclusion in the school district and opposition to teaching about gender identity in schools. It does not name LGBTQ people as a threat or target for hatred or contempt.

xiii. October 19, 2022 video

[227] In this interview, Mr. Neufeld is focused primarily on SOGI 1 2 3 and his views that it is “wrong”, “doesn’t meet common sense”, and not the right way to be “loving” towards children who are suffering: Ex 17, tab 45. Read in context, a reasonable person would understand that it is Mr. Neufeld’s view of how to care for kids and not a message of detestation or vilification towards LGBTQ people.

xiv. Conclusion on publications that do not violate s. 7(1)(b)

[228] Our conclusion that these publications do not violate s. 7(1)(b) should not be read as condoning them. They are offensive and harmful to LGBTQ people, including and especially LGBTQ children. In the context of the social areas protected by the *Code*, including employment, they are discriminatory. Where they relate to public education, we find below that they are discriminatory publications in violation of s. 7(1)(a) of the *Code*. However, “the repugnancy of the ideas being expressed is not, in itself, sufficient to justify restricting the expression” as prohibited hate speech: *Whatcott* at para. 58. We are not satisfied that these impugned publications expose or tend to expose LGBTQ people to hatred or contempt.

**E. Conclusion on s. 7(1)(b)**

[229] We conclude that six of Mr. Neufeld’s publications expose trans, or gay, lesbian, and trans people to hatred or contempt based on their gender identity and/or sexual orientation.

Viewed objectively and in context, these publications have the potential to lead to their discriminatory treatment. These publications violate s. 7(1)(b) of the *Code*.

[230] We conclude that the remaining publications do not represent the type of extreme or egregious expression that tends to expose LGBTQ people to hatred or contempt. This part of the complaint is dismissed.

## **VII SECTION 7(1)(a): DISCRIMINATORY PUBLICATIONS**

[231] The Complainant identifies 30 publications that it says violate s. 7(1)(a) of the *Code*. Section 7(1)(a) prohibits a person from publishing anything that “indicates discrimination or an intention to discriminate against a person or group or class of persons.”

[232] Section 7(1)(a), like s. 7(1)(b), deliberately and exclusively targets public expression. Finding a violation of s. 7(1)(a) engages the *Charter* right to freedom of expression, guaranteed by s. 2(b) of the *Charter: Oger (No. 7)* at para. 103. The Tribunal’s analysis under s. 7(1)(a) aims to give effect to the *Charter* right to freedom of expression as much as possible, while fulfilling the statutory purpose of identifying and eradicating discrimination at its source.

[233] To establish a violation of s. 7(1)(a), the complainant must demonstrate that the publication at issue:

- a. targets a protected characteristic,
- b. expressly or implicitly relies on, or promotes, negative beliefs or stereotypes about persons with the protected characteristic, or disregards their inherent dignity, and
- c. uses those negative messages as a basis for an actual or intended adverse effect or to urge others to act to bring about the same result. The actual or intended harms of the publication must be specific, “real-world”, and such that they “cannot be prevented by the discernment and critical judgment of the audience”: *Ward* at para. 61; *Oger (No. 7)* at para. 103. Their intended

effect, whether or not achieved, is to prevent “a person or class of persons from truly participating in the political process and the ordinary activities of society just like everyone else”: *Ward* at para. 63.

[234] Each of these elements must be assessed contextually, considering factors like: whether the publication targets a specific individual or group; the vulnerability and social context of discrimination against the targeted person or group; the degree to which the publication on its face contains hateful words or reinforces existing stereotypes; the content and tone of the message; the social and historical background for the publication; the credibility likely to be accorded the publication; and how the publication is presented: *Elmasry* at paras. 84-85; *Watt v. The Abbotsford Times and others*, 2009 BCHRT 141 at para. 10. The Tribunal must consider the publication as a whole, rather than focusing on specific words and phrases. In doing so, however, it may give “closer scrutiny” to those parts of the impugned publication that lie closer to violating the *Code*: *Whatcott* at para. 174.

[235] In the following sections, we ground these principles, and our analysis, in the values underlying the right to freedom of expression, and the purpose, language, and context of s. 7(1)(a). We then apply these principles to Mr. Neufeld’s publications and explain our finding that Mr. Neufeld breached s. 7(1)(a) for 24 of the 30 publications.

### **A. Freedom of expression and its limits**

[236] The right to free expression serves three purposes: fostering Canada's democracy, enabling the search for truth, and nourishing self-fulfillment: *Grant v. Torstar Corp.*, 2009 SCC 61 at paras. 47–50. These purposes are animated by those values which the Supreme Court of Canada has recognized as "essential to a free and democratic society":

...respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.

*R. v. Oakes*, 1986 CanLII 46 (SCC) p. 136, cited in *Keegstra* at para. 45

[237] Canadian society prizes a diversity of ideas and opinions as valuable to both the community and the individual: *Irwin Toy* at 968. The protection requires tolerance for a range of expression, accounting for the recognition that “Not every abuse of human communication can or should be controlled by law or custom”: *Keegstra* at para. 22, quoting *Report of the Special Committee on Hate Propaganda in Canada*. As members of a free and democratic society, we must encounter speech that is offensive, even speech that disgusts and enrages us. In *Ward*, the majority put it this way:

As McLachlin J. (as she then was) wrote in *R. v. Zundel* ... “[t]he view of the majority has no need of constitutional protection” (p. 753). In fact, the exercise of freedom of expression presupposes, at the same time that it fosters, society’s tolerance of expression that is unpopular, offensive or repugnant ... Freedom to express harmless opinions that reflect a consensus is not freedom ... This is why freedom of expression does not truly begin until it gives rise to a duty to tolerate what other people say ... It thus ensures the development of a democratic, open and pluralistic society. Understood in this sense, “a person’s right to free expression is protected not in order to protect him, but in order to protect a public good, a benefit which respect for the right of free expression brings to all those who live in the society in which it is respected, even those who have no personal interest in their own freedom” ... [para. 59, references omitted]

[238] The stakes are high: the lack of free expression is common to dictatorships and tyrannical regimes: *C.H.P. v. City of Hamilton*, 2018 ONSC 3690 at para. 39.

[239] At the same time, freedom of expression has never been absolute: *Grant* at para. 2. The Supreme Court of Canada cautions decision makers against uncritically accepting the proposition “that the suppression of expression must always and unremittingly detract from values central to freedom of expression”: *Keegstra* at para. 91. To treat all expression as equally important to the purposes of s. 2(b) is “destructive of free expression values, as well as the other values which underlie a free and democratic society”: *Keegstra* at para. 82. To avoid that outcome, the law has long distinguished between expression which furthers the values underlying s. 2(b) and expression which detracts from them. The significance of infringing a person’s right to free expression varies depending on its proximity to those core values.

[240] Freedom of expression may be limited where “in a given context, there are serious reasons to fear harm that is sufficiently specific and cannot be prevented by the discernment and critical judgment of the audience”: *Ward* at para. 61. Examples include the law of defamation, restrictions on “obscene” material, and prohibitions against hate speech: *Ward* at para. 62.

## **B. Section 7(1)(a): purposes**

[241] Within these constitutional parameters, the Tribunal’s interpretation and application of s. 7(1)(a) should be no broader than necessary to achieve its purposes.

[242] We begin with the recognition that the *Code* is quasi-constitutional legislation, whose protections are “fundamental to our society”: *Zurich Insurance Co. v. Ontario (Human Rights Comm.)*, 1992 CanLII 67 (SCC) at para. 18; *Schrenk* at para. 31. It is the “law of the people” and often the “final refuge of the disadvantaged and the disenfranchised”: *Tranchemontagne v. Ontario (Dir., Disability Support Program)*, 2006 SCC 14 at para. 33; *Zurich* at para. 18. The *Code* must be interpreted generously to achieve its purposes, set out in s. 3:

- a) to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;
- b) to promote a climate of understanding and mutual respect where all are equal in dignity and rights;
- c) to prevent discrimination prohibited by this Code;
- d) to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code; and
- e) to provide a means of redress for those persons who are discriminated against contrary to this Code.

[243] The *Code*’s protections aim to reduce prejudice and disadvantage against protected groups, as well as “the perpetuation of stereotyping that does not correspond to the actual circumstances and characteristics of the claimant group”: *Whatcott* at para. 79.

[244] To further these purposes, s. 7 of the *Code* acknowledges and responds to the harms experienced by protected groups who are “particularly vulnerable” to hate and discriminatory speech: *Schrenk* at para. 48. In *Oger (No. 7)*, the Tribunal reviewed the history and interpretation of s. 7(1)(a), which was originally intended to combat “whites only” signs displayed in public places: para. 94. That history reveals a strong unifying theme throughout the parliamentary debates and subsequent legislative amendments: free expression is protected up to the line where harm or injury is caused to a party, or where the intent of the speech is to do so. This is reflected in the remarks of the Honourable Mr. Andrew Petter, explaining in 1993 why the *Code* was being amended to remove an acknowledgement that s. 7 was not intended to interfere with “the free expression of opinions upon any subject”:

The intent of the bill is clear. The Canadian *Charter of Rights and Freedoms* guarantees to all Canadians the fundamental right of freedom of expression. The Charter allows no limits on expression except those that are reasonable in a free and democratic society. What we do not have in B.C. is an effective recourse for citizens whose own rights are infringed by those **who would go beyond the line of reasonableness and abuse their freedom of expression in order to cause harm to others**. This bill provides that recourse which exists in many other Canadian provinces, and which B.C. is late in providing. This is the intent here today, and this is the issue.

British Columbia, *Debates and Proceedings* (June 17, 1993), p. 7392 (emphasis added)

[245] Section 7(1)(a) filled a gap in the legislation to address speech that did not arise in a protected area of life, or inspire hatred or contempt, but nonetheless conveyed discrimination, or an intention to discriminate, against a protected group: *Oger (No. 7)* at para. 104.

[246] To establish a violation of s. 7(1)(a), a complainant must show that the publication “had a discriminatory effect, or likely effect, or was intended to do so”: *Stacey v. Kenneth Campbell et al.*, 2002 BCHRT 35 at para. 48; *Oger (No. 7)* at paras. 91-104. A discriminatory effect is one with specific adverse consequences for the class or group or person: *Stacey* at para. 40; *Oger (No. 7)* at paras. 91-104. “Discrimination” in s. 7(1)(a) is not limited to the areas of social activity governed by other sections of the *Code*: *Koehler v. Carson and others (No. 2)*, 2006 BCHRT 178

at para. 46, upheld in 2006 BCSC 1779. Rather, it captures publications which promote “stereotypical, pejorative assumptions” about a protected group and negatively impact their “ability to participate fully and equally in society”: *Koehler* at para. 44. Here we invoke the BC Court of Appeal’s description of discrimination as grounded in the “inherent dignity of the individual”:

... A central tenet of democratic society is the belief that all people are equally deserving of respect, concern and consideration, and this belief flows from a recognition that each individual is inherently valuable. Statements critical of a person’s way of life or which denounce a particular lifestyle are not in themselves discriminatory. In my view, it is only when these statements are made in disregard of an individual’s inherent dignity that they become so. To hold an individual in contempt or to judge them, in the words of Abella J.A., as she then was, in *R. v. Carmen M.* ... “based not on their actual individual capacities, but on stereotypical characteristics ascribed to them because they are attributed to the group of which the individuals are a member”, is to treat that individual in a manner which is not consonant with their inherent dignity. Statements and actions based on such judgments are the hallmark of discrimination.

*Kempling* at para. 33

[247] The prohibition on discriminatory publications, therefore, is consistent with the majority’s recognition in *Ward* that expression may be limited where it:

...is used to disseminate expression that, even if it does not fully meet the definition of hatred set out in *Whatcott*, nonetheless forces certain persons “to argue for their basic humanity or social standing, as a precondition to participating in the deliberative aspects of our democracy” (*Whatcott*, at para. 75; see also *Keegstra*, at p. 765). As Professor Waldron writes:

[A] person [must be able] to walk down the street without fear of insult or humiliation, to find the shops and exchanges open to him, and to proceed with an implicit assurance of being able to interact with others without being treated as a pariah.  
[p. 220]

Freedom of expression would not benefit society as a whole if it prevented a person or class of persons from truly participating in the

political process and the ordinary activities of society just like everyone else. [para. 63]

In our view, this passage reflects the purposes underlying s. 7(1)(a), and the harms it is intended to address. Discriminatory publications deny the inherent dignity of the targeted group and impede their equitable participation in the economic, social, political, and cultural life of the province: *Code*, s.3(a).

### **C. The Tribunal's case law on s. 7(1)(a)**

[248] The Tribunal's case law reflects a sensitivity to the tension that can arise between full and free expression in a democratic society, and s. 7(1)(a)'s purpose of eliminating discrimination at its source: *Oger (No. 7)* at para. 104. To balance those interests, the Tribunal considers each publication contextually, accounting for factors like: the vulnerability of the target group; the degree to which the publication on its face contains hateful words or reinforces existing stereotypes; the content and tone of the message; the social and historical background for the publication; the credibility likely to be accorded the publication; and how the publication is presented: *Elmasry* at paras. 84-85; *Watt* at para. 10. In our view, these factors allow the Tribunal to balance a respondent's right to free expression with the *Code's* purposes of reducing discrimination, by assessing the publication's proximity to the core values underlying s. 2(b) and only finding violations of the *Code* where necessary to prevent harm to an individual or group.

#### *1. Publications targeting individuals*

[249] A brief review of the Tribunal's case law reveals that s. 7(1)(a) has been most readily applied to publications which: (1) target a specific individual or group based on their protected characteristics, (2) convey the publisher's intention to discriminate, and (3) call on others to do the same. For example, in *Dahlquist-Gray v. Hedley (No. 2)*, 2012 BCHRT 50, the Tribunal found that Ms. Hedley had violated s. 7(1)(a) when she distributed posters in response to Ms. Dahlquist-Gray's bid to erect sculptures in a city park. The posters read:

IF YOU LOVE GOD DO NOT Support ART IN THE PARK by Kathi Dahlquist-Gray. SHOW UP at City Hall on September 22.09 7:00 p.m. AND SAY NO! to Kathi Dalhlquist Gray AN American Wiccen Lesbian who wants to line her and her wife's pockets with Canadians Money! Stop giving her her 15 minutes of fame. We don't need a monument forever reminding us that God has been replaced by Kathi Dahlquist Gray, a goddess-loving American Wiccen Lesbian. [as written]

[250] The Tribunal found that, in distributing the posters, Ms. Hedley "clearly intended to injure and, regardless of her intent, did injure the complainants' privacy, dignity, artistic and economic interests by calling attention to their religion, marital status, and sexual orientation, and to [Ms. Dahlquist-Gray's] place of origin, and by urging others to act on what she took to be shared prejudices about those characteristics": para. 59. This was a violation of s. 7(1)(a).

[251] Similarly, in *Li v. Mr. B*, 2018 BCHRT 228, the Tribunal found a violation of s. 7(1)(a) when a landlord went to his tenant's place of work and showed his tenant's boss a picture of the male tenant in a dress, saying that this was "what kind of people you have working for you": para. 124. The Tribunal found that the landlord's conduct clearly revealed an attempt to interfere in the tenant's employment, based on a perception that the photograph would elicit a negative reaction from the employer and therefore carry job-related consequences for the tenant.

[252] And most recently, in *Oger (No. 7)*, the Tribunal found that Mr. Whatcott violated s. 7(1)(a) by widely distributing a flyer entitled "Transgenderism vs. Truth in Vancouver-False Creek". In the flyer, Mr. Whatcott called Ms. Oger, a transgender woman running as an NDP candidate, a "biological male", misgendered Ms. Oger, and expressed a concern "about the promotion and growth of homosexuality and transvestitism in British Columbia and how it is obscuring the immutable truth about our God given gender". He described being transgender as an "impossibility" and ultimately called on people in Ms. Oger's riding not to vote for her. The panel hearing the complaint concluded that Mr. Whatcott's flyer indicated an intention to discriminate against Ms. Oger in violation of s. 7(1)(a). In doing so, the Tribunal said:

I am satisfied that the Flyer violates s. 7(1)(a) of the *Code*. Mr. Whatcott deliberately identified Ms. Oger as a transgender woman and, on that basis alone, impugned her moral integrity and fitness to hold public office.

Critically for the purpose of s. 7(1)(a), the Flyer then went on **to advocate a specific adverse outcome for Ms. Oger** and groups like the NDP which would support transgender people: do not vote for them. Indeed, in his submissions Mr. Whatcott says that "close scrutiny of [the Flyer] reveals that his goal was to persuade other voters not to vote for the NDP, a political party advocating the political, legal, and social agenda of Oger". This intention, based as it is purely on Ms. Oger's gender identity, is sufficient to demonstrate an intention to discriminate against Ms. Oger in a critical area of public life. [emphasis added, para. 135]

[253] In each of these cases, the publisher clearly stated an intention to discriminate against an identifiable person, based on their protected characteristics, by taking a concrete action against them (boycotting an art show, talking to the employer, opposing their candidacy for political office), and called on others to do the same.

[254] In contrast, the Tribunal has not found publications to violate s. 7(1)(a) where the publisher is opining on matters of public policy, without targeting a specific individual or calling for a specific adverse outcome against them. Those cases have been interpreted to create an exemption from s. 7(1)(a) for publications that express an opinion or engage in an ongoing public debate. Mr. Neufeld argues his publications fall within this category and, as such, cannot violate s. 7(1)(a). BC's Human Rights Commissioner urges us to revisit these principles, to better align s. 7(1)(a) with a proportionate balancing of *Charter* values. We agree that some clarification is required.

## 2. *Statements of opinion absent evidence of discriminatory harm*

[255] BC's Human Rights Commissioner urges us to revisit the Tribunal's statements in *Stacey, Palmer, and Watt* which, she says, appear to exempt publications from s. 7(1)(a) where they reflect the author's "mere opinion" or engage in public comment on matters of "legitimate public interest". She argues that excluding opinions from the ambit of discriminatory speech creates an exemption for opinion or political commentary. She says that this exemption is unclear, difficult to apply, and does not reflect either the purposes of the *Code* or an appropriate balancing of *Charter* values. She says that there should be no general defense for expressions of opinion and that the Tribunal must approach the analysis on a case-by-case

basis. In doing so, it may be that some expressions of opinion, including on matters of political or public debate, violate s. 7(1)(a).

[256] Exemptions to human rights legislation are construed narrowly: *Zurich Insurance* at para. 18. Section 7(1) is subject to the exemption in s. 7(2), which says that it “does not apply to a private communication, a communication intended to be private or a communication related to an activity otherwise permitted by this Code.” There is no statutory exemption for publications that express an opinion or engage in a policy debate. And nor, in our view, does the Tribunal’s case law import such an exemption.

[257] The Commissioner cites three decisions, where she says the Tribunal applied a “defense of ‘mere opinion’”: *Palmer*, *Stacey*, and *Watt*. None, in our view, creates a blanket exemption. Rather, in each case, the Tribunal considered it important – in the context of an intention to discriminate – that the publication expressed the author’s opinion, including about what the government should do as a matter of public policy. Each case was decided based on the evidence and argument presented by the parties. The Tribunal was not satisfied that the complainant had produced evidence capable of proving that the publisher intended to cause real-world harm (discrimination) to a protected group, and/or that the publication was likely to do so: *Palmer* at para. 9; *Stacey* at para. 51; *Watt* at para. 24. We must read the Tribunal’s comments about matters of “mere opinion” within this context.

[258] In *Stacey*, the publication at issue was a full-page advertisement in the *Globe and Mail*. The advertisement criticized the Supreme Court of Canada’s *Vriend* decision, the result of which was to add sexual orientation as a prohibited ground of discrimination under Alberta’s human rights legislation. The advertisement’s headline read: “CANADA’S SUPREME COURT HAS NO BUSINESS IMPOSING ‘BATHHOUSE MORALITY’ ON THE CHURCHES AND IN THE NATION’S LIVING ROOMS!” The advertisement was lengthy and included an article written by the respondent as well as two letters by other individuals, an invitation to hear the national director of HOPE (Homosexuals Opposed to Pride Extremism) speak, and a “Manifesto of Hope”, which contained seven statements of principle or recommendations. The advertisement relied heavily on passages from the Bible, as well as the respondent’s view of religious

teachings concerning homosexuality. Mr. Stacey, a gay man, saw the advertisement, was “disgusted and enraged”, and filed a human rights complaint under s. 7(1)(a). In dismissing the complaint, the Tribunal first found that Mr. Stacey had not proved the publication had a discriminatory effect or likely effect: paras. 48-50. On the question of intention to discriminate, the Tribunal reasoned:

As already discussed, the words “intention to discriminate” indicate that the prohibition is not limited to statements that have an actual discriminatory effect; it is sufficient that such an effect be intended. Other than the Complainant’s submission that it is not necessary to show an actual effect, neither party made any submissions on what is required to establish an intention to discriminate. According to the *Canadian Oxford Dictionary* (Toronto: Oxford University Press, 1998), “intention” means “an aim or purpose”. In my opinion, the statement must be more than a mere statement of opinion.

The Complainant submitted that the purpose of the advertisement was to gain support for his view that the rights granted to gays and lesbians by the *Vriend* decision should be rolled back. I agree that was the purpose. I also accept that, if he gained such support, and if the Alberta government responded as the Respondents hoped, that could result in discrimination in Alberta on the basis of sexual orientation. In my view, the reach of s. 7(1)(a) of the Code does not extend to discriminatory effects in Alberta. **However, if it did, the statements reflecting the Respondents’ purpose do not indicate an intention to discriminate. Rather, they are merely the authors’ opinions about what the government ought to do.** [paras. 51-52, emphasis added]

[259] The Tribunal’s decision in *Palmer* is along similar lines. In that case, members of the fundamentalist Mormon community at Bountiful brought a complaint about three publications by the BCTF. The publications urged the government to investigate allegations of child sexual abuse and human trafficking within the Bountiful community, including allegations about: female students being encouraged to leave school before the age of sixteen; male students being turned out of the community and school because of failing to abide by the religious code of their faith; low school completion rates; teaching racial and ethnic superiority and religious intolerance; girls being told they need to learn only what would prepare them to be wives and mothers; and failing to teach the full school curriculum. The complainants argued

that the publications targeted them based on their religion and marital status (plural marriage).

[260] The Tribunal dismissed the complaint, finding that the publications did not indicate an intention to discriminate. Rather, they reflected the BCTF's opinion about what the government should do in respect of a well-known matter of ongoing public debate: *Palmer* at paras. 52–53. The Tribunal grounded its decision in the purposes of the *Code*, reasoning:

In light of those purposes, I agree with the respondents' submission that restating allegations of wrongdoing, which are already in the public domain, about a matter of legitimate public interest, and calling on government to investigate those allegations, cannot be a contravention of s. 7(1)(a) of the *Code*. I also agree with the respondents' submission **that it is not a purpose of the *Code* to stifle public comment, and I would add, democratic political action, on matters of legitimate public interest; nor is it a purpose of the *Code* to prevent persons and groups with an interest in such matters from requesting government to investigate.**

To interpret s. 7(1)(a) so as to potentially capture the publications in issue here would be contrary to the purposes of the *Code*, and in particular, to “foster[ing] a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia”; “promot[ing] a climate of understanding and mutual respect where all are equal in dignity and rights”; and identify[ing] and eliminat[ing] persistent patterns of inequality associated with discrimination prohibited by this Code”. **These purposes of the *Code* can only be fostered and promoted in a society where individuals and groups are free to comment on, and take political action, with respect to matters of public interest.** Section 7(1)(a) must not be interpreted and applied so as to prevent full and free participation in the social and political life of British Columbia. The letter to the Premier, the newsletter and the petition are all mechanisms through which the respondents sought to participate in, and encourage others to participate in, the social and political life of the province. [paras. 55-56, emphasis added]

[261] The third case is *Watt*, which considered a column published in The Abbotsford Times, titled “Men, women are meant to be different – They are created equally, but each has a responsibility to live worthy of his or her calling”. The author described feminists as bent on

world domination, opining: “These women are often single or in a bad relationship, watching *The View*, are stubborn and pushy, gossip maliciously and are submissive to no one else but their own plans and desires often disguising their feminism under the slogan of ‘freedom from male tyranny’”: para. 3. The Tribunal dismissed the allegation that the publication violated s. 7(1)(a) of the *Code*, reasoning:

Here, it is apparent that Ms. Watt has taken offence to the column. She believes that it denigrates women, and inaccurately portrays feminists. Other readers may well have felt the same. However, Ms. Watt has no reasonable prospect of establishing that the column had or was likely to have an adverse effect on women or feminists, or that the respondents intended to cause an adverse effect to women or feminists. Mr. Postal’s column was, in its essence, “a mere statement of opinion”, through which he attempted to persuade others to adopt his view of the proper relationship between men and women. [para. 24]

[262] Having reviewed the Tribunal’s decisions in *Palmer*, *Stacey*, and *Watt*, we agree with the Commissioner that it is possible for statements of opinion about issues of public or political debate to be discriminatory and that the Tribunal must approach its analysis of s. 7(1)(a) on a case-by-case basis. As the Commissioner points out, characterising a publication as political, or mere opinion, does not imbue it with value. The fact that it engages questions of morality or public policy cannot be determinative: *Whitcott* at para. 116. We agree with, and adopt, the Commissioner’s argument that:

... A political opinion that is based on mis or disinformation and that is expressed publicly may cause harm by seeking to promote laws and policies that entrench barriers for equality-seeking groups. When a political opinion comes from a person in power such as an elected official, it may be perceived by the public as having greater weight than the views of the average person. Today, such statements can reach wide audiences and create confusion, echo chambers and the illusion of debate where there is objectively none. Such statements may be far removed from the core values underlying the right to free expression, like the search for truth, participation in political decision making, and diversity in forms of self-fulfillment and human flourishing ... there is no reason to exempt them from scrutiny under the *Code*. [citations omitted]

[263] In our view, these principles can be reconciled with the Tribunal’s caselaw. Again, in *Palmer, Stacey, and Watt*, the Tribunal had insufficient evidence and/or submissions before it on the issue of harm. Absent evidence of intended or likely harm to a protected group, it is accurate to say that a “mere statement of opinion” does not violate the *Code*. This does not create an exemption for “opinions”; it simply reflects that s. 7(1)(a) is not an invitation for the Tribunal to police all expression that targets or affects groups protected by the *Code*, even where that expression is “unpopular, offensive or repugnant”: *Ward* at para. 60. Rather, the harms targeted by s. 7(1)(a) must be specific, and such that they “cannot be prevented by the discernment and critical judgment of the audience”: *Ward* at para. 61. In this way, s. 7(1)(a) rests comfortably within the Tribunal’s mandate to remove barriers which prevent equitable participation in the life of the province, and provide individuals affected by discrimination with access to a remedy.

#### **D. Mr. Neufeld’s publications**

[264] This case is unique because it involves 30 impugned publications. The parties take no position on whether we should assess these publications individually or as a whole. In closing submissions, the Complainant said the law is not clear and there are arguments for and against individually assessing each of the publications. The Complainant said that a decision under s. 7(1)(a) evaluating the publications as a whole could lead to disproportionate outcomes in limiting Mr. Neufeld’s freedom of expression. On the other hand, under the other sections of the *Code*, the Tribunal can consider distinct actions, words, and behaviours together to determine whether, as a pattern of conduct, they constitute discrimination. Mr. Neufeld made no submissions on this issue.

[265] We conclude that, under s. 7(1)(a), the publications should be assessed individually. This will ensure that the Tribunal’s decision is proportionate considering the constitutional rights and values at stake. The danger to freedom of expression is too great to consider the publications as a compendium. This is consistent with the methodology employed in *Whatcott*, where the Supreme Court of Canada evaluated the publications individually. Indeed, there is even more reason to assess the publications one-by-one in a s. 7(1)(a) analysis

where the bar for finding discriminatory speech is arguably lower than it is for hate speech. This approach, however, remains grounded in the broader contextual factors we have outlined above.

[266] The Complainant argues that, in 30 publications, Mr. Neufeld employs stereotypes and negative tropes about LGBTQ people with the end goal of discriminating against them.

It identifies the following broad harms flowing from the publications:

- a. eliminating recognition within the District’s school system that trans and non-binary people exist, that there may be more than two genders, and/or that people not fitting within Mr. Neufeld’s binary approach to gender are equally deserving of recognition, support, and inclusion;
- b. preventing teachers from delivering public education in a manner and/or in an environment that recognizes, includes, and values LGBTQ people;
- c. preventing teachers from recognizing the inherent dignity and human rights of LGBTQ students and staff;
- d. preventing LGBTQ teachers from being “out” at school so as to support 2SLGBTQ+ students by acting as positive role models; and
- e. hindering or preventing transgender students and people from accessing gender affirming health care.

[267] In response, Mr. Neufeld says that he was participating in public debate about issues of legitimate public interest and, in doing so, cannot be held to violate the *Code*. In Mr. Neufeld’s view, no harm could flow to the LGBTQ community from contributing his opinion to the public discourse around SOGI 1 2 3 and “gender ideology”.

[268] We begin by once again grounding our analysis in the recognition that, despite significant strides, LGBTQ people continue to face stigma and discrimination in BC: *Simpson v. City of Langley*, 2020 BCHRT 92 at paras. 35-36. They remain vulnerable to the negative effects

of discriminatory speech. Trans people, in particular, remain among the most marginalized in society: *Hansman* at paras. 84-86; *Oger (No. 7)* at para. 62. In today's heated political climate, trans people often find themselves as lightning rods for the "culture wars" and scapegoated for some of society's biggest ills. They are especially vulnerable to the harms of discriminatory speech. This is reflected in Dr. Saewyc's evidence, highlighting that:

Decades of research in Canada and beyond have documented that 2SLGBTQ people have persistently been stigmatized for their sexual orientation and/or gender identity and expression. Studies have documented social attitudes and stereotypes, as well as negative public messages about them as a group, or about specific subgroups. ... These negative societal messages, i.e., homophobic and transphobic speech, in turn can motivate overt acts of hostility and discrimination towards such people. [Ex 3, tab B, p. 3].

We have referenced the historical and current social context of discrimination against LGBTQ people throughout our decision and have considered it also in this part of our analysis.

[269] Within this context, we turn first to Mr. Neufeld's broad argument that his publications do not violate s. 7(1)(a) because they engage in a legitimate public policy debate. Second, we set out our finding that six of Mr. Neufeld's publications do not violate s. 7(1)(a), because they do not relate to public education and, in context, their potential harms are too remote to bring about an actual or intended adverse effect against LGBTQ people. Finally, we explain our decision that, given his position as a sitting school trustee, 24 of Mr. Neufeld's publications indicate discrimination or an intention to discriminate against LGBTQ people in public education in the District. This includes members of the Class. These publications violate s. 7(1)(a).

#### *1. Engagement in public policy*

[270] Mr. Neufeld argues that his publications cannot offend s. 7(1)(a) because they are part of a legitimate debate about "gender ideology". He argues:

Mr. Neufeld's is but one voice dissenting in a national, and indeed, international discussion on the variety of ways in which persons understand issues of gender identity and legal systems evolving around the same. While this re-examination of the law in this area has not yet

reached the Canadian legal system, **the status of the topic as a legitimate issue for discussion cannot be in doubt**. To declare otherwise is disingenuous and an insult to the intelligence of the public, whose trust the Tribunal is obligated to maintain. [emphasis in original]

[271] In support of this position, Mr. Neufeld cites the recent decision in *For Women Scotland Ltd v. The Scottish Ministers*, 2025 UKSC 16, in which the United Kingdom Supreme Court interpreted “man” and “woman” in the *Equality Act* to refer to biological sex. He says this case is evidence that “the gender identity debate is alive, well, and ongoing”. He invokes the observation from *Palmer* that “it is not a purpose of the *Code* to stifle public comment, and I would add, democratic political action, on matters of legitimate public interest”: para. 55.

[272] There are two primary difficulties with Mr. Neufeld’s argument.

[273] First, Mr. Neufeld has defended himself at a level of abstraction that is divorced from the publications at issue. We are not asked to decide whether, in general, a person may engage in political and social debates about the status and rights of trans people. Clearly, they can. We are asked to decide whether, in 30 specific publications, Mr. Neufeld has engaged in this debate in a way that discriminates against LGBTQ teachers in the District. Aside from his passionate defence of debating “gender ideology”, Mr. Neufeld has not addressed any of the Complainant’s arguments about why his specific publications violate s. 7(1)(a) of the *Code*. In the absence of a meaningful response, we have found many of the Complainant’s submissions more persuasive.

[274] Second, this Tribunal has already held that “[t]he question of whether transgender people exist and are entitled to dignity in this province is as valuable to ongoing public debate as whether one race is superior to another”: *Oger (No. 7)* at para. 119. The Court’s decision in *For Women Scotland Ltd* does not say otherwise. The issue in that case was one of statutory interpretation. The Court concluded that “[g]ender reassignment and sex are separate bases for discrimination and inequality”, which the government had elected to address separately: para. 265. Nothing in the Court’s reasons supports that “gender ideology” – i.e. whether trans people exist and are entitled to dignity – is a live debate in BC. We remain of the view that speech

which posits that transgender people are delusional, manipulated, or lying about their gender identity “strays some distance from the spirit of s. 2(b)” of the *Charter: Keegstra* at para. 94.

## 2. *Publications outside the context of public education*

[275] Notwithstanding these difficulties with Mr. Neufeld’s argument, we agree with him in one respect. To the extent that, in a specific publication, he is opining about the rights and status of LGBTQ people in areas of life over which he has no credible influence, the prospect of harm is too remote to engage s. 7(1)(a). Acknowledging that these publications may be offensive and hurtful to LGBTQ people, any harm flowing from them can be effectively mitigated “by the discernment and critical judgment of the audience”: *Ward* at para. 61. We find these publications akin to those in *Stacey, Palmer, and Watt*, in the sense that they set out Mr. Neufeld’s opinion about matters of public policy but do not cause a discriminatory effect, or likely effect: *Stacey* at para. 48. And notwithstanding that Mr. Neufeld likely hopes that his publications will influence public policy – and in this sense “intends” a discriminatory outcome – his influence is too remote to find that, in making the publication, he intends to discriminate (i.e. effect real-world harm) against LGBTQ people.

[276] This reasoning applies to six of Mr. Neufeld’s impugned publications which do not reference or relate to public education:

- a. **March 19, 2018 Facebook post (Ex 17, tab 8):** This post is Mr. Neufeld’s rant about the “Medical Profession” and his view that they are preying on vulnerable young people by offering gender affirming care. While Mr. Neufeld expresses discriminatory views about trans people, the intention or likely effect of the post is not to cause real world harm; it is to express Mr. Neufeld’s views on an issue over which he has no influence.
- b. **December 9, 2018 Facebook post (Ex 17, tab 17):** This post warns that the “trans agenda is eugenics”. Above we have found it amounts to hate speech. However, it does not express an intention to discriminate in a real-world way, or have a specific discriminatory effect, or likely effect.

- c. **May 9, 2020 Facebook post (Ex 17, tab 21):** This post questions the advice of the World Health Organization, in part based on its association with Dr. Theresa Tam, who Mr. Neufeld accuses of deceiving the public about her gender identity. The Complainant argues, and we accept, that it “advocates for others to not follow public health advice issued by the chief public health officer of the country, during a global pandemic, because of her perceived gender identity”. However, in context the reader can discern that this is just a Facebook post by a man with no influence over public health policy. The prospect of discriminatory harm flowing from the publication is too remote to engage s. 7(1)(a).
- d. **September 24, 2020 Facebook post (Ex 17, tab 23):** This is a post commenting on an article called “Vatican Rejects Notion that Gender Identity Can be Fluid”. Mr. Neufeld opines that “it is a great injustice to gender confused individuals to pretend to believe the comforting lie that they were born with a male mind in a female body or vice versa”. He calls for people to encourage trans people “to live the life they were created to live”. Read in context, this is simply Mr. Neufeld’s commentary. He does not intend, and nor is he likely to effect, any specific real-world harms for the Class.
- e. **November 10, 2020 Facebook post (Ex 17, tab 26):** This is a post commenting on a CBC news article called “BC judge blocks transgender teen’s gender affirming surgery after disapproving mother sues”. Mr. Neufeld opines that the teenager in the article “has probably modified (ie: damaged) her body so much that she can never have children and thus her breast are useless. She will probably threaten suicide. I just hope and pray she does not succeed”. This is an offensive and disturbing post, which likely misgenders a child and suggests that, as a trans person, they may soon find their life not worth living. However, it does not intend or call for any specific discriminatory harm. It is Mr. Neufeld’s commentary about an issue where he has no influence.

f. **August 18, 2022 Facebook post (Ex 17, tab 40):** In this post, Mr. Neufeld expresses his view that gay couples should not be able to adopt children. However, read in context, this is an expression of his opinion about the rights of gay couples. Mr. Neufeld does not articulate or suggest any concrete steps be taken to restrict those rights, and is not in a position to effect a discriminatory outcome for anyone. Any prospect of harm is too remote to engage s. 7(1)(a).

[277] We dismiss the allegations that these publications violate s. 7(1)(a).

[278] We reach a different conclusion about Mr. Neufeld’s publications, made while he was a sitting school trustee, in which he expresses an intention, or advocates for others, to discriminate against LGBTQ people in the public education system in the District. We turn to those publications next.

3. *Publications which indicate discrimination, or an intention to discriminate, in public education*

[279] Twenty-four of Mr. Neufeld’s impugned publications set out his view that LGBTQ people, especially trans people, should be discriminated against in the public school system: Ex 17, tabs 1, 3, 4, 5, 10, 11, 12, 13, 15, 16, 18, 22, 24, 28, 30, 31, 32, 33, 34, 35, 36, 39, 41, and 45 [Education Publications]. The Education Publications are summarized in Appendix A to this decision, and many of them have been addressed elsewhere in our reasons. Considering the content and context of these publications, we find that they violate s. 7(1)(a) of the *Code*.

[280] At the outset, we stress that it is possible to engage in public discourse and debate about SOGI education without violating s. 7(1)(a) of the *Code*. In this exercise, speakers are not held to a standard of perfection. Listeners may be exposed to speech that is unpopular, offensive, and with which they strongly disagree. People can debate the protections afforded to different groups of people, express disapproval of sexual orientations or gender identities, and opine on what the government should do. Tolerance of such speech is a pillar of our democracy, which nourishes self-fulfillment and furthers the search for truth.

[281] However, as we have said, this is not what Mr. Neufeld did. Contrary to his argument that he was merely expressing his opinion about legitimate topics of political and social debate, “his expression went beyond a critique of a government program”: *Hansman* at para. 90. Mr. Neufeld’s publications are replete with negative stereotypes and pejorative assumptions about LGBTQ people, which undermine their inherent dignity and discriminate against them. Given his role and stature as a school trustee, he was uniquely positioned to adversely impact LGBTQ people in the public education system in the District. We found that this was the intention and effect of the Education Publications.

[282] As a school trustee, Mr. Neufeld was in a position of power within the District: see above at paras. [75]-[81]. In that role, he was bound to maintain a discrimination-free education environment and fulfill his duties in a manner that “promotes respect and tolerance for all the diverse groups that [the Board] represents and serves”: *Chamberlain* at para. 25; *Ross* at para. 42. He was obliged to refrain from advocating for policies that promote his personal view “that a certain lawful way of living is morally questionable”: *Chamberlain* at para. 20.

[283] SOGI inclusive education furthers the *School Act’s* purpose of fostering a learning environment that will “enable all learners to become literate, to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic, and pluralistic society and a prosperous and sustainable economy”. It responds to decades of research about the barriers faced by LGBTQ people in public education and implements evidence-based strategies for their reduction: Ex 3, tab B, pp. 10-11. Its aims are articulated in one Ministry of Education Policy Guide as:

- a. **Visibility:** the diversity of sexual orientations, gender identities and expressions are recognized and valued.
- b. **Protection:** The dignity of all people across the sexual orientation and gender identity (SOGI) spectra is intended to be preserved, as well as protected from harm.

- c. **Inclusion:** Equitable treatment and inclusion are a reality for people of all sexual orientations, gender identities and expressions.

Ministry of Education SOGI Policy Guide “Supporting Diverse Sexual Orientations, Gender identities and Expressions” (Ex 18, tab 42)

These aims are consistent with, and reflect, the purposes of the *Code*.

[284] In the Education Publications, Mr. Neufeld attacked each of these three pillars of SOGI-inclusive education. In doing so, he repeatedly and publicly reaffirmed his intention to perform the duties of a school trustee in a way that discriminated against LGBTQ people, especially trans people. In some publications, he expressly stated that he is using his position as a trustee to “speak out” against SOGI-inclusive education before proceeding to do so in a discriminatory way: e.g. Ex 17, tab 28 and 39. Even where not expressly stated, his intention is clear. Mr. Neufeld invoked negative and insidious stereotypes about LGBTQ people, especially trans people, which denied their inherent dignity and, in some cases, reflected the hallmarks of hate against them as a group. He used his platform, and these negative messages, to advocate against making public education inclusive of LGBTQ people, including by:

- a. **Reducing their visibility and advocating their erasure.** For example:
  - i. lamenting education which normalizes and supports same-sex families and/or diverse gender identities, casting this as a threat to families and “traditional family values”: Ex 17, tabs 1, 3, 11, 12, 33, 22, 28, and 33;
  - ii. calling for educators to stop affirming the gender identities of students, and likening gender affirmation in schools to “child abuse”: Ex 17, tab 1, 3, 33, and 45.
- b. **Undermining their dignity.** For example:
  - i. portraying trans people as ill, misdiagnosed, delusional, or manipulated (Ex 17, tab 3, 15, 16, 45), and calling trans gender identities “a biologically absurd theory” (Ex 17, tab 1), a “lie” that “gaslights” children (Ex 17, tab 3),

- “unscientific” (Ex 17, tab 5), “delusional thinking” (Ex 17, tab 4), a “dangerous ideology” (Ex 17, tab 39), a “strange, new twisted religion” (Ex 17, tab 36), and an “unfounded and dangerous experiment” (Ex 17, tab 30);
- ii. likening trans gender identities to sex offenders’ “favorite argument”: “**I was born this way!**” (emphasis in original): Ex 17, tab 22 and 32;
  - iii. conveying that SOGI-inclusive education confuses, manipulates, and recruits vulnerable children into identifying as trans (Ex 17, tab 10, 15, 16, 22, 54); suggesting that trans gender identities are a contagion, “craze” or a “fad” (Ex 17, tab 15, 16, 18, 28, 32, 36, 34, 41); and calling on people to pull their kids out of public schools to avoid the contagion of trans gender identities (Ex 17, tab 30, 31);
  - iv. sensationalizing and denigrating the sexuality of LGBTQ people, for negative effect: “In grade 10 -12, SOGI1-2-3 introduces the topic of sodomy!!!” (Ex 17, tab 11); “Kids already know about things like oral sex, anal sex and other kinky stuff because they learned about it in school” (Ex 17, tab 33); “what better way to desensitize children to invasive sexual behavior than by introducing them to drag queen story hour or a lesson on how to enjoy safe anal sex!” (Ex 17, tab 32).
- c. **Advocating their exclusion.** This is the theme in all the Education Publications. For example:
- i. Calling to follow the lead of countries like Russia, Paraguay, and Hungary to remove SOGI-inclusive learning resources from schools (Ex 17, tabs 1 and 32); referring to SOGI-inclusive education as an “insidious new teaching” (Ex 17, tab 4), indoctrination (Ex 17, tab 10), an “evil ideology” (Ex 17, tab 11), “state-sponsored experimentation” (Ex 17, tab 24); and advocating to prohibit teaching about “gender ideology and sexual identity” (Ex 17, tab 33);

- ii. Calling for educators to teach “what is obvious”, that “Gender is ... rooted in biology”: Ex 17, tab 3;
- iii. Calling for the election of school board candidates who would fight against SOGI-inclusive education: Ex 17, tab 11;
- iv. Associating educators teaching SOGI-inclusive material with grooming, sex offenders, child predators (Ex 17, tab 32, 33, 34, 41) and, as such, discouraging them from supporting LGBTQ students;
- v. Calling on Christians to stand up to “Education ministries”, “especially in the area of sexuality”: Ex 17, tab 35.

[285] These examples are not exhaustive.

[286] Mr. Neufeld’s stature as a trustee, and the notoriety of his publications, lent credibility to his statements. His publications garnered local, national, and international media attention, which amplified their reach and impact: see above at para. [102]. Their spread was further accelerated by the internet: see above at para. [161]. Above we have accepted that these factors increased the prospect that Mr. Neufeld’s publications could inspire discrimination against his targeted group: see above at paras. [157]-[163].

[287] We have found that, given his role and public notoriety, Mr. Neufeld’s publications adversely impacted the school environment for LGBTQ teachers and students: see above at paras. [85]-[116]. This follows the Court’s recognition in *Kempling* that “when a teacher [and here we add trustee] makes public statements espousing discriminatory views, and when such views are linked to [their] professional position... harm to the integrity of the school system is a necessary result”: para. 43. This finding is also grounded in the extensive evidence presented in this complaint that Mr. Neufeld’s publications caused discriminatory harm within the District. This distinguishes Mr. Neufeld’s Education Publications from the publications in *Stacey, Watt, and Palmer*, where the Tribunal found that the complainants had failed to adduce evidence of intended, likely, or actual harm.

[288] We agree with the Complainant that, rather than foster an environment where potentially controversial or sensitive subjects could be debated, Mr. Neufeld’s Education Publications aimed to cut off any “path of reply” by LGBTQ people by forcing them “to argue for their basic humanity or social standing, as a precondition to participating in the deliberative aspects of our society”: *Whatcott* at para. 75. The Court’s example in *Whatcott* is apposite:

... the suggestion that homosexual conduct should not be discussed in schools because homosexuals are pedophiles requires the protected group to first defeat the absolutist position that all homosexuals are pedophiles in order to justify a level of societal standing that would then permit participation in the larger debate of whether homosexual conduct should be discussed in schools. In this way, the expression inhibits the protected group from interacting and participating in free expression and public debate. [para. 76]

We agree with the Complainant that:

... the same is true of Mr. Neufeld’s accusations that an ‘out’ 2SLGBTQ+ teacher being in the classroom, the use of SOGI 1 2 3 resources, the recognition of students’ preferred pronouns as being instruments of child abuse, or the accusation that a transgender person is delusional, requires 2SLGBTQ+ persons to first argue for their very humanity, dignity, and existence. As such, these statements prevent the Class from fully and freely participating in their chosen occupation, in political processes, and in social life by imposing a significant impediment.

[289] Understood in their full context, we are satisfied that the Education Publications violate s. 7(1)(a).

### **E. Conclusion on s. 7(1)(a)**

[290] We find that 24 of Mr. Neufeld’s publications violate s. 7(1)(a) of the *Code*. We find that six of Mr. Neufeld’s publications do not violate s. 7(1)(a), and we dismiss the allegation related to those publications.

## VIII REMEDY

[291] We find that Mr. Neufeld violated ss. 7(1)(a), 7(1)(b), and 13 of the *Code*. The Complainant is entitled to remedies under s. 37(2) of the *Code*.

[292] In addition to the mandatory order under s. 37(2)(a), the Complainant seeks discretionary remedies under ss. 37(2), (b), (c)(i), and (d)(iii). We consider each in turn. Mr. Neufeld did not reply to the Complainant's submissions on remedy other than to say that he is impecunious and any order of the Tribunal to cease the discrimination would be "blatant censorship."

### A. Declaration of discrimination and cease and refrain order

[293] We have found that Mr. Neufeld violated ss. 7 and 13 of the *Code*. We declare that his conduct was discrimination contrary to the *Code*: s. 37(2)(b). We order him to cease the contravention and refrain from committing the same or a similar contravention: s. 37(2)(a) and (b).

### B. Ameliorative steps

[294] Section 37(2)(c)(i) provides the Tribunal with the discretion to order a person who has been found to have discriminated to "take steps [...] to ameliorate the effects of the discriminatory practice". In order to ameliorate the effects of Mr. Neufeld's discrimination against the Class, in particular in relation to their employment, the Complainant seeks an order that he complete training at his own expense from a recognized LGBTQ rights or human rights organization before running for election as a school board trustee in the future.

[295] The Complainant points out that the Tribunal has previously exercised its discretion under s. 37(2)(c)(i) to order corporate respondents to provide mandatory training on human rights obligations: *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*, 2021 BCHRT 137 at para. 143 (mandatory training for staff); *Beckett and Kuan v. The Owners, Strata Plan NW 2603*, 2016 BCHRT 27 at para. 172 (mandatory training for strata council members). The Tribunal has found that such "orders aim to further the *Code*'s purposes of

identifying and eliminating patterns of inequality and preventing discrimination”: *The Sales Associate v. Aurora Biomed Inc. and others (No. 3)*, 2021 BCHRT 5 at para. 198, citing *Ontario Human Rights Commission v. Christian Horizons*, 2010 ONSC 2105 (Ont. Div. Ct.) at para. 276.

[296] We accept that, in some cases, it may be appropriate to order an individual respondent to undergo mandatory training. However, in this case, we are not persuaded such an order would have any beneficial effect in this complaint, given Mr. Neufeld’s clearly entrenched views. These fixed views were demonstrated time and again in the hearing. Mr. Neufeld’s views appear rooted in deeply held assumptions and beliefs rather than a lack of access to information. There is little indication that further exposure to information would materially alter Mr. Neufeld’s established perspective. Further, Mr. Neufeld is no longer a trustee, so we do not find this remedy necessary or responsive to restore a discrimination-free workplace to the Class. The prospect that he may one day run again to be a school trustee, and be elected, is in our view too speculative to warrant an order that he complete training. In the event that outcome manifests, he is already bound by our order not to repeat his contraventions of the *Code*.

### **C. Expenses incurred by the contravention**

[297] Under s. 37(2)(d)(ii), the Tribunal may order the person who contravened the *Code* to compensate the person discriminated against for all or a part of any wages or salary lost, or expenses incurred, by the contravention. The Complainant seeks compensation for the expenses Teacher C incurred because of the contravention: s. 37(2)(d)(ii).

[298] Teacher C was a member of the Class when the discrimination occurred. Teacher C testified that she lost 17 hours of wages in order to attend the hearing and give her testimony. This amounted to \$442.00 in lost wages.

[299] Wages lost to attend a hearing are compensable: *Cassidy v. Emergency and Health Services Commission and Another (No. 3)*, 2009 BCHRT 110, at para. 100. This request for remedial relief clearly falls under s. 37(2), and we consider it appropriate.

[300] We order Mr. Neufeld to pay \$442.00 to Teacher C under s. 37(2)(d)(ii).

#### **D. Compensation for injury to dignity, feelings, and self-respect**

[301] To be eligible for a compensatory award under s. 37(2)(d)(iii), a person must have experienced discrimination and be either a party to the complaint or an identifiable member of a group or class on whose behalf a complaint was filed. The Complainant seeks an order awarding a global amount of \$750,000 in compensation to the members of the Class, comprised of CTA members identifying as LGBTQ between October 2017 through 2022, for injury to their dignity, feelings, and self-respect. We stress again that Mr. Neufeld made no submissions about this issue.

[302] In assessing compensation for injury to dignity, feelings, and self-respect, the Tribunal generally considers three broad factors: the nature of the discrimination, the complainant's vulnerability, and the effect on the complainant: *Oger (No. 7)* at para. 225. The purpose of this award is to compensate the Class for the harms of discrimination. It is not punitive. The quantum is “highly contextual and fact-specific”, and the Tribunal has considerable discretion to award an amount it deems necessary to compensate a person who has been discriminated against: *Gichuru v. Law Society of British Columbia (No. 9)*, 2011 BCHRT 185, aff'd in 2014 BCCA 396 at para. 260; *University of British Columbia v. Kelly*, 2016 BCCA 271 [*Kelly*] at paras. 59–64. Whether a respondent is pecunious, as Mr. Neufeld says he is, is not relevant to the analysis.

##### *1. Nature of the discrimination*

[303] We begin with the nature and duration of the discrimination. We agree with the Complainant that it was extensive. The discrimination occurred over a period of five years, repeatedly at regular intervals, in a variety of fora. Mr. Neufeld's publications were widely circulated on the internet, garnering considerable public and media attention. The Class members endured discrimination in two areas of life covered by the *Code: Gibbons v. CML Contracting and another*, 2024 BCHRT 220 at para. 120.

[304] We have found that Mr. Neufeld poisoned the Class members' workplace with anti-LGBTQ discrimination. A person's employment "is an essential component of [their] sense of identity, self-worth and emotional well-being": *Reference Re Public Service Employee Relations Act (Alta.)*, 1987 CanLII 88 (SCC) at p. 368. The right to work free of discrimination is a "fundamental right in societal participation": *Malin v. Ultra Care and another (No. 2)*, 2012 BCHRT 158, at paras. 197-198. Recent Tribunal cases finding a poisoned work environment reflect that this type of discrimination is serious and can attract increasingly high awards. For example, in *Francis v. BC Ministry of Justice (No. 5)*, 2021 BCHRT 16, the Tribunal found the respondent liable for creating a poisoned work environment and awarded the complainant \$176,000 for injury to dignity: para 218. In *The Sales Associate*, the Tribunal considered gendered comments in the workplace and the complainant's eventual termination, finding that \$20,000 was an appropriate award in the circumstances: at para. 197.

[305] We have also found that Mr. Neufeld exposed the Class to hatred or contempt, and published materials indicating discrimination against them. In doing so, Mr. Neufeld exposed the members of the Class to repeated messages that their very existence was a threat to children, families, and social order. He invoked the most insidious discriminatory stereotypes and tropes to denigrate their efforts to create an education environment that is inclusive for 2SLGBTQIA+ students. He used his power and public platform to call for their erasure in the public school system that they dedicate their working lives to. He described their lives and their loved ones in language that was dehumanizing, delegitimizing, and sought to strip them of their inherent dignity. These harms of hate and discriminatory speech are extremely serious and damaging: *Oger (No. 7)* at para. 226.

## 2. Vulnerability and social context of the Class

[306] We are satisfied that the Class members were uniquely vulnerable to the discrimination in this case. In describing the Class members as "vulnerable", we stress that their vulnerability derives from "systemic patterns of inequality and oppression" and are not features endemic to them as individuals or a group: *Nelson* at paras. 130-131. In considering an appropriate award for injury to dignity, we have considered the social and historical context of discrimination

against LGBTQ people presented by the Complainant and set out in this decision. Here we highlight three considerations.

[307] First, like any employee, members of the Class are uniquely vulnerable in the context of their work. They are “a captive audience to those who seek to discriminate against them”: *Schrenk* at para. 44. That was the case for the Class, who were repeatedly advised by their union that they owed Mr. Neufeld a duty of fidelity and could not speak out against him.

[308] Second, LGBTQ people, especially trans people, are vulnerable because of the forces of systemic inequality that continue to oppress, marginalize and discriminate against them: *Oger (No. 7)* at paras. 60-62; *Nelson* at para. 132; *Hansman* at paras. 84-89. As Dr. Saewyc noted in her expert report, stigma against LGBTQ people remains persistent: Ex 3, tab B at p. 3. We have highlighted this social context throughout our reasons. We have set out our findings that this inequality makes LGBTQ people especially vulnerable to the harms of discriminatory and hate speech. We further recognize that, in our current political climate, trans people in particular are vulnerable to messages that seek to deny their gender identity and authentic existence and mobilize people and governments to discriminate against them.

[309] Finally, as employees in a public education system, the professional standing and employment status of the Class was tied to their work with school-aged children. Given the nefarious social context of linking LGBTQ people with pedophilia, grooming, recruitment, and other harms to children, the Class members were vulnerable to serious harm flowing from Mr. Neufeld’s publications connecting them with these social ills. Such unfounded allegations are deeply injurious to a person’s dignity, feelings, and self-respect and posed a serious threat to the reputations, employment, and safety of LGBTQ teachers during the period of this complaint.

### 3. *Effect on the Class*

[310] We accept that Mr. Neufeld’s discrimination had a serious negative impact on the dignity and self-respect of the Class members during the period of the complaint. In reaching this conclusion, we note that it is not necessary to hear from every member of the Class to infer

injury to them and render an award to compensate them for the injury to their dignity:

*C.S.W.U. Local 1611 v. SELI Canada and others (No. 8)*, 2008 BCHRT 436 [*SELI*] at para. 549. As the Court of Appeal has observed:

... the possibility that a victim of discrimination might not testify is contemplated by the availability of representative complaints; as this one was. The *Code* contemplates that awards may be made in favour of groups or class members who are not parties to the complaint and that in the context of representative complaints not all affected individuals will give evidence: see ss. 21(4) and 37(2).

*Silver Campsites Ltd. v. James*, 2013 BCCA 292 at para. 40

In this case, we rely on the social context evidence from Dr. Saewyc as well as the firsthand evidence from Teachers A, B, C, and Mr. Klettke to conclude that the impact on the Class was profound.

[311] Teachers A, B, and C testified about the impact of Mr. Neufeld’s public anti-LGBTQ rhetoric on their employment as District teachers. Generally speaking, these adverse impacts included reconsidering whether to work as a teacher, making the decision to leave the teaching profession entirely, choosing to conceal their identity and not to be out at work, being the subject of complaints from parents and other teachers in connection with their LGBTQ identity, being apprehensive about using SOGI 1 2 3 materials in the classroom, and fearing verbal and physical harassment.

[312] Mr. Neufeld’s discrimination impacted Teacher A at the very moment when they were entering the teaching profession. Teacher A testified that they first heard about Mr. Neufeld when they were going into the Professional Development Program at Simon Fraser University’s Faculty of Education. They said that Mr. Neufeld’s Facebook posts were “notorious online” and were being shared amongst educators. They said they were concerned to become an educator and “almost didn’t do it” because of the political climate in Chilliwack at the time.

[313] For Teacher A, becoming a teacher at that time was a “scary step to take”. They said, “The comments that [Mr. Neufeld] was making had an impact and made the people in my life

ask me to reconsider going into teaching.” Nevertheless, they entered the profession not only because they love students and the classroom but also because they have a family that they need to support. However, when asked what impact Mr. Neufeld’s publications had on them as they became an educator, they said that they initially chose not to be professionally out as a queer person because they and their family feared for their safety. Not being out at work was “tough” and “isolating”. Teacher A spoke about missing barbeques and get togethers with their colleagues because they could not bring their family members to the events like the other teachers could. They said they always had in the back of their mind that they might not be hired because of “who I am and who I love”. They considered moving districts to be closer to Vancouver but that it was “not really an option” because their family lives in Chilliwack and their children go to school there. Finally, Teacher A explained how it impacted their ability to show up in the classroom as their best self, saying, “I think that teachers teach with their heart, and a lot of our personality goes into that, and without being able to be your authentic self, you’re not able to show up wholly.”

[314] Teacher A testified that once Mr. Neufeld began making his public statements, there was a “ripple effect” through the Board, people observing Board meetings, and the broader Chilliwack community. They said that others in the District’s education system felt emboldened to also engage in anti-LGBTQ+ speech. Teacher A testified that they never publicly posted online about Mr. Neufeld’s statements because “being a queer person myself”, “I wouldn’t make myself a target like that”. They expressed the fear of being doxed, a form of online harassment.

[315] Eventually, Teacher A came out at work once they got a permanent position in the District and felt more secure in their role. They said that some of their professional relationships dissolved once they came out, but that it was important to be there for queer students at their school. They explained, “For too long, I couldn’t be the teacher I wanted my kids to have because of the political climate that [Mr. Neufeld] helped to create... It’s important for [queer] youth to see happy, healthy adults in roles like teachers.” Showing up authentically as a teacher “let[s] [kids] know they can show up authentically in the world as well.”

[316] Teacher B is a middle school teacher in the District. They have family in Chilliwack and moved to the District around 2017. When they moved to Chilliwack with their spouse and kids, Mr. Neufeld became Teacher B's direct neighbour. They said that once Mr. Neufeld began posting his anti-LGBTQ publications, it was "really devastating" because he "seemed nice" "but it turned out he had a lot of hate." They testified that Mr. Neufeld's statements "created a culture" in Chilliwack. For example, their colleagues would say similar things as Mr. Neufeld "because he was a leader in our school district."

[317] Teacher B talked about the impact of Mr. Neufeld's discrimination on their work. They said that if they happened to encounter Mr. Neufeld, they would be so upset that they would need someone to cover their class. Teacher B contrasted the climate in the District before Mr. Neufeld's discriminatory conduct, which they said was more "open". It was different once things were "said out loud" and Mr. Neufeld's rhetoric became a "model" for other people, including teachers. When asked why they did not leave the District, they said their wife grew up in Chilliwack and they too had put down roots in the community. They said that despite the workplace impacts they described, "It's my home, it's where I belong."

[318] Teacher C grew up in Chilliwack and held the position of District Teacher Teaching on Call from 2017 to 2021, at the time when Mr. Neufeld was a Board trustee. She learned about Mr. Neufeld's first post while on break from her job as a teacher. She said that post made her feel uncomfortable when she returned to school after the break. Teacher C recalled in particular Mr. Neufeld's post about Dr. Tam: Ex 17, tab 21. She testified:

If Dr. Theresa Tam has spent a major portion of their career deceiving people, that same rationale would apply to me. Which, if I continue that thought further, that means I was deceiving everyone simply by walking into a school and asking students to call me "Ms. [C]."

... That bothered me because I felt that the most important thing was what I said and did in the classroom toward the students, not because of who I was, and certainly not because I was deceiving my students by existing as myself.

Teacher C ultimately resigned because of the feeling that she didn't belong in the Chilliwack learning community due to Mr. Neufeld's statements and what she saw as the District's inaction regarding them.

[319] As we have said, all the witnesses drew a direct connection between Mr. Neufeld's high-profile rhetoric and a climate in schools that felt unsafe to many LGBTQ teachers and was more permissive of anti-LGBTQ discrimination from students, parents, and colleagues: see above at para. [96].

[320] In all the circumstances, the Panel accepts that the injury to the Class members' feelings, dignity and self-respect was severe. We must now determine the appropriate quantum for a compensatory award.

#### 4. *Quantum of the award*

[321] The CTA seeks a global award of \$750,000, to be distributed equally among members of the Class. For the following reasons, we are satisfied that this award is appropriate.

[322] We have reviewed other Tribunal decisions in group or class complaints, both in this jurisdiction and elsewhere. Generally, these decisions order a per-person amount, rather than a global amount. In *SELI*, each group member received \$10,000. In *Balikama obo others v. Khaira Enterprises Ltd. and others*, 2014 BCHRT 107, involving 55 complainants, the Tribunal awarded \$10,000 per person plus \$1,000 based on length of employment. In *Association of Ontario Midwives v. Ontario (Health and Long-Term Care)*, 2020 HRTO 165, each individual received \$7,500. In *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 39, the Tribunal awarded the statutory maximum and aggravated damages to each child removed from their family during the relevant period, as well as to each affected parent or grandparent.

[323] In this case, we are satisfied that ordering a global amount is the most appropriate way to proceed.

[324] First, we are satisfied that we have the authority to order a global amount to be distributed by the Complainant to members of the Class. The “quantification of any award is solely within the discretion of the Tribunal”: *Gichuru v. The Law Society of British Columbia*, 2014 BCCA 396, at para. 71; *Kelly* at paras. 59-64. The Tribunal has flexibility to craft orders that are responsive to the specific context at hand to achieve the purposes of the *Code: Robichaud v. Canada (Treasury Board)*, [1987] 2 SCR 84, at para. 13-15.

[325] Second, while the Complainant has a general idea of how many Class members there may be - set out below - the exact number is still unknown. Ordering a global amount provides Mr. Neufeld with certainty about his liability. In contrast, ordering a per-person amount with an unknown number of Class members would result in an indefinite award. Mr. Neufeld has had no notice in this process that such an outcome was possible, and in our view, it would not be fair to impose it in our final decision.

[326] Third, a global approach accords with the Tribunal’s efforts to render trauma-informed decisions. In our earlier decision limiting publication of the names of teacher witnesses, we found that LGBTQ teachers were at risk of harm from being associated with the issues in this complaint: *CTA (No. 2)*. Requiring the Complainant to disclose the names of individual Class members to Mr. Neufeld could, for example, out people who are not already out, expose them to potential harm, and/or cause those who could benefit from the award not to come forward.

[327] The Complainant submits that approximately 5-16% of CTA members likely identify as LGBTQ and are therefore members of the Class. These numbers are based on the report of *The Every Teacher Project*, which estimated that 16% of educators in Canada identify as LGBTQ, as well as Statistics Canada census data indicating that 4.4% of people over 15 years old are LGBTQ: Exhibit 3, Tab C20, at page 11. The Complainant further estimates that there were 1,020 CTA members during the complaint period. On this basis, the actual number of Class members is likely between 45 and 163 (1,020 x 0.044 and 1,020 x 0.16). Mr. Neufeld has not contested the estimated number of Class members. We therefore accept the Complainant’s uncontested estimate.

[328] A global award of \$750,000 will result in individual awards of between \$4,601.23 to \$16,666.67 per Class member. In our view, this is a reasonable, if not modest, range, given the factors we have outlined above. We find it reasonable to infer that, although the experience across the Class may have differed, as LGBTQ teachers during the period of the complaint, they experienced a significant injury to their dignity.

[329] We recognize the amount per individual Class member is less than what others have received in similar cases. In *Oger (No. 7)*, for example, the Tribunal found that an award of \$35,000 was appropriate to compensate a single complainant in a s. 7 case involving one single publication circulated by flyer (which was subsequently republished online). In contrast, the present complaint concerns dozens of publications, spanning five years, and impacting multiple Class members. Most of the publications were dispersed using social media and therefore may have been distributed and circulated extensively online. Our global award reflects what the Complainant asked for, and the evidence and submissions before us in this case. It should not necessarily be considered a precedent for individual awards in the future.

[330] We order Mr. Neufeld to pay \$750,000 to the CTA for equal distribution to the Class members. The Complainant has six months from the date of payment to identify the Class members internally and disperse the award. This six-month provision ensures that no Class member loses entitlement to compensation ordered by the Tribunal.

## **E. Interest**

[331] The Complainant seeks an award of interest on any monetary amounts payable. For any amount awarded for expenses, the Complainant seeks an order for pre-judgment and post-judgment interest, until the full amount is paid, based on the rates set out in the *Court Order Interest Act*. We agree this order is appropriate.

[332] We order that Mr. Neufeld pay pre-judgment and post-judgment interest on the amount we have awarded to Teacher C for her expenses, until the full amount is paid, based on the rates set out in the *Court Order Interest Act*.

[333] We further order that Mr. Neufeld pay post-judgment interest on the amount awarded as compensation for injury to dignity, until the full amount is paid, based on the rates set out in the *Court Order Interest Act*.

## **IX ORDERS**

[334] We find the complaint justified in part. We declare that Mr. Neufeld violated ss. 7(1)(a), 7(1)(b) and 13 of the *Code*. We order Mr. Neufeld to:

- a. cease the contravention and refrain from committing the same or a similar contravention: s. 37(2)(a) and (b);
- b. pay \$442.00 to Teacher C as compensation for expenses incurred by discrimination: s. 37(2)(d)(ii);
- c. pay the CTA \$750,000 as compensation for injury to the Class members' dignity, feelings and self-respect: s. 37(2)(d)(iii);
- d. pay pre-judgment and post-judgment interest on the amount we have awarded to Teacher C for her expenses, until the full amount is paid, based on the rates set out in the *Court Order Interest Act*; and
- e. pay post-judgment interest on the amount awarded as compensation for injury to dignity, until the full amount is paid, based on the rates set out in the *Court Order Interest Act*.

[335] We order the CTA to distribute the award for injury to dignity equally among all members of the Class, within six months of receiving payment.

Robin Dean, Tribunal Member

Laila Said, Tribunal Member

Devyn Cousineau, Vice Chair

## **APPENDIX A: MR. NEUFELD’S PUBLICATIONS**

### **1. October 23, 2017 Facebook post (Ex 17, tab 1)**

[1] The Complainant alleges this post violates ss. 7(1)(a) and (b). We have found it violates s. 7(1)(a) and not 7(1)(b).

[2] The image above this post contrasts parenting in 1997 and 2017. In 1997, the child says “Dad, I want to get my ear pierced” and the father responds “absolutely not!”. In 2017, the child says “Mom I think I am supposed to be a girl” and the mother responds “ok sweetie, we’ll start hormone treatment immediately!”. Below this, Mr. Neufeld writes:

Okay so I can no longer sit on my hands. I have to stand up and be counted. A few years ago, the Liberal minister of education instigated a new curriculum supposedly to combat bullying. But it quickly morphed into a weapon of propaganda to infuse every subject matter from K-12 with the latest fad: Gender Theory. [T]he Sexual Orientation and Gender Identity (SOGI) program instructs children that gender is not biologically determined, but is a social construct. At the risk of being labelled a bigoted homophobe, I have to say that I support traditional family values and I agree with the College of paediatricians that allowing little children choose to change gender is nothing short of child abuse. But now the BC Ministry of Education has embraced the LGBTQ lobby and is forcing this biologically absurd theory on children in our schools. Children are being taught that heterosexual marriage is no longer the norm. Teachers must not refer to ‘boys and girls’ they are merely students. They cannot refer to mothers and fathers either (increasing numbers of children are growing up in homes with same sex parents). If this represents the values of Canadian society, count me out! I belong in a country like Russia, or Paraguay which recently had the guts to stand up to these radical cultural nihilists.

[3] Mr. Neufeld then linked to an article called “Parents Defeat Gender Ideology in Paraguay”, about a resolution passed by the Paraguay Minister of Education prohibiting “the diffusion and the adoption of didactic materials based on gender theory or gender ideology in the country’s public schools”: Exhibit 7.

### **2. November 21, 2017 Culture Guard speech (Ex 17, tab 3)**

[4] The Complainant alleges that this speech post violates ss. 7(1)(a) and (b). We have found it violates s. 7(1)(a) and not 7(1)(b).

[5] This was a speech made by Mr. Neufeld at a gathering organized by a group called “Culture Guard”. The speech is about 20 minutes long.

[6] Mr. Neufeld frames his speech as an “opportunity to explain my views on the implementation of SOGI 123 lesson plans to the new BC public education curriculum”. He emphasises at the outset that he shares the goals of the Board and BC School Trustees Association “that public schools should be safe and inclusive places for all our children”. However, he calls “supporters of SOGI ... the true bullies”. His speech is grounded in his purported concern for children, and the threat he says they face from SOGI – which he calls a “radical new education curriculum” that is “an institutionalization of co-dependency, encouraging and enabling dysfunctional behavior and thinking patterns”. He says SOGI encourages “the sexual addiction of gender confusion” and is “gaslighting, the attack on the foundation of a child’s being, which is child abuse”. He advocates for the role of parents in addressing issues relating to sexual orientation or gender identity and states his belief that “children should be gently encouraged to be comfortable with their bodies, to accept their own biology ... which can never be completely changed and to love themselves”. He says kids should be taught that “gender is ... rooted in biology”.

[7] Mr. Neufeld goes on to express concern for children in the district who identify as “questioning” their gender identity. He describes these children as “extremely vulnerable and prone to self harm and other mental illnesses such as depression and anxiety disorders” and suicide. He accuses “activists” of operating “under the banner of inclusiveness ... to use innocent children to launch a cultural revolution, dismissing heterosexuality as a norm and denigrating religious and cultural values which have maintained social stability for centuries”.

[8] Mr. Neufeld then talks about John Hopkins Hospital, which he says “pioneered sex change operations in the mid-70s” – a process he described as “merely cosmetic surgery, lopping off perfectly good body parts”. He says that the hospital later stopped gender

reassignment surgeries once it realized that it “did not solve the underlying psychological problems”. Mr. Neufeld laments that the SOGI materials do not warn “children about the increasing numbers of transgender persons who regret their sexual reassignment surgery” and suggests that this will lead some children to commit suicide. As an aside, he notes that SOGI is patterned after an Ontario program which he says was overseen by a man who was later charged “several counts of child pornography”.

[9] Mr. Neufeld concludes by restating his commitment to a public school system that is inclusive to all students, in which parents are enabled to “guide their children into making healthy decisions”. He calls for “far more discussion and greater compromise” in a process in which everyone is allowed to participate. Otherwise, his view is that “the SOGI initiative will undermine the public’s trust in public education”. He encourages listeners to vote for him as trustee in the 2018 election, saying “I will run on the platform of a more positive, gender-based teaching for teachers and students of School District 33.”

### **3. December 18, 2017 Facebook post (Ex 17, tab 4)**

[10] The Complainant alleges this post violates ss. 7(1)(a) and (b). We have found it violates both s. 7(1)(a) and 7(1)(b). It reads, in its entirety:

I am currently reading two books that I downloaded and read in Kindle.

“Why Gender Matters, 2<sup>nd</sup> Edition” by Dr. Leonard Sax. Very helpful and sure different than the prevailing view of militant feminists who taught my class in Adolescent sex role development at SFU back in 1980. My professor passionately denied that there were any differences between men and women. She believed that sex role differences could all be explained by how children were brought up and socialized. Recent research has proved her opinion wrong. So much for intellectual fads!

The other book is “Understanding Gender Dysphoria” by Mark Yarhouse, an [*sic*] very scholarly Christian. He delves into the very complex issues surrounding this “new” phenomenon, and gives practical advice to pastors who are counselling members of their flocks who are struggling with identity issues.

It dawned on me that for a Christian, there are two approaches to take. The pastoral approach is one of compassion and empathy while firmly refusing to buy into their client's delusional thinking. As one pastor said to a transgender person: "it is my responsibility to love you: but it is God's job the [sic] change you". However, while helping me grasp a better understanding of gender Dysphoria, the issues is so complex that it is hard to apply these insights in a debate at the political level, especially on Facebook.

The other approach is what I would call "prophetic". In the Bible, the Old Testament prophets upbraided the Kings and rulers for their wickedness and lack of Justice. In the New Testament, the prophetic gifts were used to admonish the WHOLE church and all of society. (not private fortune telling like some misguided Christians indulge in)

When I thought about it, there were clearly gifts of prophecy in the Early Church. St. Athanasius, St. Cyril of Jerusalem, and even St. John Chrysostom: all venerated by Orthodox, Catholic and Protestants. They spoke boldly to the ruling powers, condemning unrighteousness and injustice and they got into a lot of trouble for their outspokenness. They were persecuted, banished (several times) and jailed for their sermons. St. John Chrysostom, perhaps the most beloved Saint of the Orthodox Church (his liturgy is recited every Sunday) was banished by the Empress from his Bishop's throne in Constantinople and he died on the long journey to the little village where he had been ordered to go and live in obscurity.

Not a very pleasant prospect, but it seems that I have been suddenly thrown into the role of a prophet: speaking out to the lawmakers in Victoria and trying to motivate lukewarm Christians who are sitting idly by as all of Society "Slouches towards Gomorrah" in the words of the late Judge Robert Bork. It is difficult to engage in the Culture wars. One pays a heavy price for criticizing the prevailing worldview: one gets called a bigot and a hater and even WORSE! As a school trustee, my role is different than a counsellor or a pastor. I am not dealing face to face with children and their parents who are struggling to find a solution to gender Dysphoria. My heart goes out to those families who are struggling under the threat: "Do you want a dead son or a living daughter?" My job description is that of a policy maker. And the current emphasis is on inclusion. I do not want to give into the self serving agenda of the LGBTQ+ groups who want to be given priority as the most downtrodden of victims. One person mentioned that the many new categories that are included in the long list of letters now added after LGBTQ are a new "Caste

system.” They are no longer satisfied with mere tolerance or inclusion, they want to be celebrated and given priority. I can’t and won’t go there.

A few years ago, the gays and lesbians did not want to be associated with transgender persons. They viewed the process of gender reassignment as the ultimate in repulsive reparative therapy, which was being outlawed in several jurisdictions (I.e. Ontario) However there IS some reparative therapy that works, despite what critics say... but I digress. Every Transgender person I have talked to complains how the medical establishment used to frustrate them and not help them. So the physicians gave up and decided: If you can’t beat them, join them!” And the controversial and unscientific gender fluidity theory was developed to normalize gender Dysphoria. Instead of encouraging children to accept their bodies, they are encouraged to be “unique”. Gays and lesbians liked this new theory, so they banded together with the trans folk and became an even more powerful lobby group. They mistakenly think that promoting this gender bending theory to impressionable children will create a brave new world where everyone’s differences will be accepted and even admired.

But the scary thing is that it has already demonized people of faith who believe that God created humans male and female: In the Image of God. Here is my prophecy to the Church. If you don’t get off your duffs and push back against this insidious new teaching, the day is coming (maybe it is already here) when the government will apprehend your children and put them in homes where they will be encouraged to explore homosexuality and gender fluidity. There already is a Special group foster home for LGBT+ kids in Red Deer, AB.

You think that is impossible? Well the Canadian government did exactly that to Aboriginal families until a few decades ago. Determined to destroy the traditional teachings of their culture and re educate children into the prevailing worldview of the government. The Government have already ensured that families with traditional Family values will not be approved as foster homes and are refused the right to adopt children. But the government has always done a horrid job of being a parent. [as written]

#### **4. January 1, 2018 email re: Justine Hodge (Ex 17, tab 5)**

[11] The Complainant alleges this email, which was widely circulated, violates s. 7(1)(a) of the *Code*. We have found that it does.

[12] This is an email sent by Mr. Neufeld to his supporters, about Justine Hodge, President of the Chilliwack District Parents Advisory Counsel. He begins by telling his supporters, “I believe it is time to PUSH BACK!” against Ms. Hodge, who he says planned to run as a school trustee in the upcoming October municipal election. He refers to her as “very activist” and says:

[...] she is not representative of all parents -- Not even ALL parents of children with gender dysphoria. Not all of these parents subscribe to the unscientific gender-fluid theory that “what is between one’s legs is not always the same as what is between one’s ears.”

I am aware there are about 20 children in Chilliwack who fit this category. Some parents are taking the “wait and see approach” hoping that their child will grow out of this confused phase, and indeed about 80% do eventually become content with their gender assigned at birth. Other parents are taking a more proactive approach, encouraging their child to find gender appropriate activities, even though they may not be stereotypical: i.e. taking an effeminate boy to figure skating lessons, or signing up a rough and tumble girl for Karate. Only a few parents have caved in to the new trend in treatment for gender dysphoria and will support their child on the path of dressing in a different gender, taking on a new name, and heading towards hormone blockers, hormone therapy and ultimately gender reassignment surgery. These parents may have been overwhelmed by the threats of the transgender radicals: “Do you want a dead son or a living daughter (or vice versa).”

I do not “hate” transgender children: They can’t help the way they feel. They should certainly NOT be bullied or teased. But I advocate for the least intrusive way of helping them: hopefully to accept the gender they were assigned at birth. Ms. Hodge is taking sides with only a handful of radical parents, and alienating the vast majority of parents who trust biology and common sense.

[13] Mr. Neufeld then evokes the parental right to make decisions for their children’s welfare. He then cites the BC School Act and asserts, “It does not limit in any way the freedom of parents and Board members to adhere to a religious doctrine, but it does prohibits the enforcement of such doctrine into policy decisions by the Board, thereby denying the validity of other points of view.” He then urges his supports to “take Ms. Hodge to task and challenge her opinions. Remember that public body like a School District must present all opinions and be

inclusive of everyone. Ms. Hodge obviously wants to bar anyone with religious or common-sense scruples from engaging in debate." Finally, he says:

Our Current Provincial government is very fragile. I do not think I am exaggerating when I believe that this gender controversy may bring down our current government and launch a provincial election with SOGI as part of the platform. I am not so presumptuous to think that I alone will rewrite the SOGI curriculum. Wiser and more informed persons than me are already working on it.

[14] Mr. Neufeld ends the email with the mailing address and email to Justine Hodge and the Chilliwack Progress newspaper.

[15] Justine Hodge forwarded the email to other individuals with the text, "For your information, below is an email that was sent out by Barry Neufeld. As a result of this, I have received 18 emails today from his supporters. They range from respectful to scary. A file has been opened with the RCMP."

### **5. March 19, 2018 Facebook post (Ex 17, tab 8)**

[16] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it does not violate ss. 7(1)(a) or (b).

[17] This lengthy post is aimed at "the Medical Profession", which Mr. Neufeld accuses of having "forgotten their Hippocratic Oath", targeting "vulnerable young people before they reach their prime". He warns that doctors are "no longer concerned about doing no harm to their patients":

You aren't happy with the body you were born with? Doctors won't waste time trying to figure out what happened that makes you feel this way. No matter, they will give you untested chemotherapy cocktails that will make you sterile and cause all sorts of side effects, like mood swings, (which you are trying to avoid) brittle bones, cancer, diabetes, acne, and incontinence. And follow that up with a lifetime of taking expensive artificial hormones. These drives might POSTPONE serious depression that may lead to suicide but if Doctors go all the way and carve you up by lopping off healthy body parts, you still have no guarantee of a happy life:

if depression doesn't get you, other complications caused by messing with nature are sure to end your life before middle age".

[18] Mr. Neufeld deadnames well known trans woman Caitlyn Jenner, who he describes as having used plastic surgery to "create a pretty convincing caricature of a woman". He quotes an article asserting that "policy makers and the media are doing no favors either to the public or the transgendered by treating their confusions as a right in need of defending rather than as a mental disorder that deserves understanding, treatment, and prevention", and laments that parents are unable to find anyone to "help them spare their children from the lifelong problems of transitioning". He concludes:

Trans ideologues ignore contrary evidence and competing interests; they disparage alternative practices; and they aim to muffle skeptical voices and shut down any disagreement. The movement has to keep patching and shoring up its beliefs, policing the faithful, coercing the heretics, punishing apostates and terrorizing spineless professionals, because as soon as its furious efforts flag for a moment or someone successfully stands up to it, the whole charade is exposed. That's what happens when your dogmas are so contrary to obvious, basic, everyday common sense. A transgender future is not the 'right side of history,' yet activists are using mafia and Bolshevik techniques to convince the most powerful sectors of our society to acquiesce to their demands.

[19] August 29, 2018 Facebook post (Ex 17, tab 10)

[20] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it does violate s. 7(1)(a) but not 7(1)(b).

[21] In this post, Mr. Neufeld expresses his view that the "majority" of children grow out of gender dysphoria. It is accompanied by a photo that says: "BEWARE CHILDREN AT RISK! Stop SOGI 123." The post reads:

I have nothing against children who struggle with SSA (and for many, they struggle) or children with GENUINE gender Dysphoria (GD) But adolescent sexuality is very plastic and fluid. The majority of children will grow out of it and mature to become capable of marrying and experiencing the joy of raising their own families. But I am opposed to indoctrinating all of society (especially the little ones) with an unscientific gender fluid ideology to

accommodate the less than half of one percent of people who experience fleeting GD. This will confuse and disorient many other special needs children into choosing a path that leads to sterility, acne, bone density issues, and even cancer. My primary motivation is to protect the MAJORITY of children.

## **6. October 19, 2018 Facebook post (Exhibit 17, tab 11)**

[22] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[23] In this Facebook post, Mr. Neufeld advocates for the election of an individual named Kaethe Jones, who ran for trustee in the 2018 municipal election. The post reads:

if you haven't gone on to the ELECT Kaethe JONES for School Trustee site within the last 2 days please do. She has critically looked at the SOGI1-2-3 primary grade lesson plans and they promote same sex marriages, question traditional marriage, teach children to question traditional gender expectations, disrespect and dishonor to parents and the values they teach. In grade 10 -12, SOGI1-2-3 introduces the topic of sodomy!!! Only 1 lesson out of 15 is about anti-bullying: called "Blow the Whistle on Name-calling." 10 / 15 lessons cite the Pride Education Network <http://pridenet.ca/> as a resource for the lessons. Who's agenda do you think this SOGI1-2-3 is? Vote with your children's future health in mind. Today Kaethe talked to a parent who said a friend's children in gr. 4 and 6 were already identifying as pansexual and bisexual. It doesn't take long for this evil ideology to affect our children's minds. And of course there are other concerning issues in the school district as well. But our children's mental health is the most important. Please share this widely.  
[as written]

## **7. October 22, 2018 Facebook post (Ex 17, tab 12)**

[24] The Complainant alleges this post violates s. 7(1)(a) of the *Code*. We have found that it does.

[25] This Facebook post was made after Mr. Neufeld's re-election. He claims, "The Chilliwack election is a Bellwether of where our Canadian Society is going. Is heterosexual marriage no longer the norm? If not, what will replace it? Hopefully not the unscientific ideology of non-

binary gender.” He also claims that the Chilliwack municipal election was closely followed by “people all over the world” including the Premier of Ontario and the Prime Minister of Canada. He then goes on to quote an email purportedly sent to him from his son-in-law who was living in Europe at the time:

“May your faithful and honest opinion be understood and respected as it should be in a democratic country with freedom of speech and the right to decide how a family raises their own kids. Families are the smallest but strongest unit of our society and if they stop functioning, the whole society is in danger. You may cite me in the meeting, that your European Family is watching closely and with very concern, what is going on in Canada and that we are afraid that this SOGI-nonsense will sweep over to good old Europe in the next few years. Your Grandchildren (teenagers) are very proud of their Grandfather, who is fighting for a good thing and so do your daughter and son in law.”

[26] He concludes:

Finally, I have this to say to those persons who currently identify as Lesbian, Gay, Transgender, Queer, Two Spirited or whatever. You have NOTHING to fear from me or my colleagues. I have devoted most of my life to supporting at-risk and vulnerable young people. We abhor bullying, putdowns, and condescension of any kind. We encourage you to be the best person you can possibly become. We understand that the ideology of non-binary gender is comforting to you when you suffer from so much cognitive dissonance about the gender you were assigned at birth. We understand that you find the concept of gender fluidity comforting when you feel like you are losing your mind. Contrary to what you have been told to believe; We actually love all students no matter their sense of self-identity and we care about you. But Love must be tempered with Truth. Be patient! You will mostly likely grow out of your feelings of confusion and angst. They are fleeting and temporary. Please slow down, Don't let others label you when you are so young. Read and understand any waiver forms they want you to sign: weigh the options carefully and don't let anyone rush you into making irreversible decisions that you may regret for the rest of your life.

## **8. October 30, 2018 Facebook post (Ex 17, tab 13)**

[27] The Complainant alleges this post violates s. 7(1)(a) of the *Code*. We have found that it does.

[28] This is a Facebook post about Mr. Neufeld’s reflections after attending a lecture by Ben Shapiro on antisemitism. He draws the following comparisons to what Mr. Shapiro proposed are the three choices one can make in the face of antisemitism to the choices he made in the face of SOGI 1 2 3:

1. Pretend you don’t notice it and quietly ignore what is going on. (When I first learned about SOGI 1-2-3, I knew that was not an option for me, after 23 years of dedication to improving public education)

2. Just disassociate yourself by resigning, quit, back out and disappear to a cabin in the hills, where you won’t be upset by what is going on in society. (I seriously considered that about a year ago.)

3. Stand up in the face of evil: fight the darkness of falsehood with the light of truth. (I guess that is where I am at)

Ben Shapiro compared it to the decision Abraham had to make when God asked him to sacrifice his most precious possession, his son Isaac.

He went on to say that a society that refuses to acknowledge truth is doomed to failure...

**9. November 17, 2018 fundraiser and November 20, 2018 Facebook post (Ex. 17, tabs 15 and 16)**

[29] The Complainant alleges these publications violate ss. 7(1)(a) and (b). We have found they violate s. 7(1)(a) and not 7(1)(b).

[30] These two publications are nearly identical. In the fundraising post, Mr. Neufeld solicits donations to the Fraser Valley Autism Society. He begins by explaining that he has spoken out against SOGI 123 “because of my concern to keep vulnerable children safe from an untried social experiment”. He goes on: “But what is so tragic and ironic is that a large proportion of kids who present as gender Dysphoric are actually on the Autism spectrum”. He says that “radical trans activists” influenced the firing of a doctor who was a proponent of “watchful waiting” and “did not encourage social transitioning”. He says that, in England, the most common factor underlying referrals to “Gender Dysphoric Clinics” is autism. He writes:

It is disturbed and mentally ill children – especially autistic, obsessive/compulsive, sexual abuse survivors and post-traumatic Stress syndrome kids – that I am most worried about. If they learn about this new non-binary gender ideology, I fear there will be a dramatic increase of children clamoring for social transition, puberty lockers and a lifetime of taking hormones. They will become sterile, have brittle bones and when they are 18, even want to chop off perfectly good body parts! And public schools are “supporting” this?

[31] Mr. Neufeld tells a story about an autistic teenage girl who attempted suicide, revealing that “public school staff were encouraging her to cross dress: to socially transition as a transgender person and KEEP IT SECRET FROM HER PARENTS”. He concludes:

Many Trans persons have endured horrendous physical and sexual abuse as little children, and Transgenderism is a way of coping and surviving. The support they need is caring, loving, and compassionate therapy. Not irreversible medical treatment.

#### **10. December 9, 2018 Facebook post (Ex 17, tab 17)**

[32] The Complainant alleges this post violates ss. 7(1)(a) and (b). We have found it violates s. 7(1)(b) and not 7(1)(a).

[33] This post links to an article on [lifesitenews.com](http://lifesitenews.com) called “Kids are turning to blackmarket sex-change hormones for secret transitions”. The image above the article is the cover of National Geographic with a picture of a child and headline “GENDER REVOLUTION”. Mr. Neufeld writes:

The elites will destroy all gay kids. They are culling them from the gene pool. Make no mistake about it. The trans agenda is eugenics. They are not on the side of LGBT+. Don’t ever think they are. Snakes are everywhere. More division and the destruction of humanity.

#### **11. January 15, 2019 Board meeting (Ex 17, tab 18)**

[34] The Complainant alleges that Mr. Neufeld’s comments in this meeting violate s. 7(1)(a) of the *Code*. We have found that they do.

[35] This publication is the video and transcript of a Board meeting. Mr. Neufeld states his position that he will oppose SOGI 1 2 3 resources because:

It centers out the LGBTQ community as the only ones for emphasis on. The way the SOGI 123 resource stands right now, it discriminates against people with religious objections, it discriminates against some people with ethnic cultural differences, and it discriminates against people with certain abilities.

And I have said it before and I will say it again that I fear that this is a new fad that will confuse and lead astray our most vulnerable students who are already struggling with identity issues. And secondly the way it is being promoted uh insisting that school district

employees keep things confidential it's undermining parental authority. Parents know what's best for their children not paid employees. And as I said I could support the uh the opening line in the first paragraph but not if you include that second paragraph because it contradicts the first paragraph.

## **12. May 9, 2020 Facebook post (Ex 17, tab 21)**

[36] The Complainant alleges this post violates ss. 7(1)(a) and (b). We have found it does not violate ss. 7(1)(a) or (b).

[37] In this post, Mr. Neufeld links to a video on YouTube with an image of a man placing his hand on his head in exacerbated fashion, titled "What It's Like to Believe Everything the Media Tells You". Mr. Neufeld writes:

It just dawned on me! Who is perpetrating all this fear over the dreaded Corona Virus? Why it is the World Health Organization, the same outfit that claims easy access to abortion is a human right, and that gender is NOT binary: pre pubescent children should be allowed to choose their gender, sterilize themselves and pretend they have successfully changed their gender to comply with what [they] FEEL they are. And Dr. Theresa Tam, Canadian Head of Public Health is suspected by Wikipedia of being Transgender! If this person who has spent a major portion of their life deceiving people as to who she/he truly is and is now a major player in the corrupt World Health Organization, why should we believe anything he/she says?

### 13. July 24, 2020 newsletter (Ex 17, tab 22)

[38] The Complainant alleges this newsletter violates ss. 7(1)(a) and (b). We have found it violates both s. 7(1)(a) and 7(1)(b).

[39] This is a newsletter that Mr. Neufeld wrote and published under the banner of the “Coalition of Concerned Canadian”. He addresses his various legal cases – including this human rights complaint – and shares the text of a letter that he sent to his Member of Parliament.

[40] In the letter, Mr. Neufeld attempts to influence the MP to endorse Derek Sloan as Conservative party leader on the basis that his policies are “the only solution to stop the downward cultural spiral in Canada”. The bulk of his letter sets forth his views on gender identity and SOGI 1 2 3:

I am anything BUT a hateful person. My concern is and has always been to protect minor children of school age from being persuaded that they can solve their emotional problems by taking pills to irreversibly alter their bodies. In my humble opinion, this gender fluid ideology now being forced on school children is the **most organized and sinister attack on nuclear family values in History**. While gender dysphoria affects an extremely small percentage of children (<1%), the goal of the radical educators is to indoctrinate all children with the dogma that heterosexuality is no longer the norm. This is the foundation of being ‘inclusive!’ It is deliberately designed to alienate children from their parents: especially religious parents who look forward to grandchildren and rightfully try to instill traditional family values in their offspring. But even worse, it is confusing troubled and traumatized children causing them to think they might be ‘trans’. There are blatant efforts to recruit these troubled kids into this new fad. Although it is not a Federal problem, does it not concern you that Dr. Wallace Wong, the activists psychologist at BC Children’s hospital persuaded a 13 year old to start taking testosterone against her Christian father’s wishes? Wong’s caseload has grown exponentially to over 1000 the past ten years and over **half of his clients are involved with child protection** services. (Without the protective interference of biological parents).

What makes this issue so sinister is that the Liberals and even conservative candidate Peter McKay plan to entrench this bizarre and unscientific theory by making 'conversion therapy' illegal: punishing therapists, clergy and even parents who try to promote the virtues of purity, chastity, marriage and fidelity. I know several former trans people who deeply regret their decision to mutilate their bodies and are seeking to de-transition. But there will be no counselling or support for them. As a practicing evangelical Christian, I am sure you are aware that **nobody has ever been converted by therapy**. "Conversion Therapy" is a new term coined by the radical left. But this is a deliberate move to stop all people of faith from engaging others in any proselyting, evangelism, catechism (baptismal preparation) or Christian Education. And it will **make parents afraid to tell their children** anything that differs from what their child is being taught in schools. [emphasis in original]

[41] Mr. Neufeld describes his qualifications as "the only School Trustee in Canada who has spent a career dealing with people with sexual problems and also trained in Theology". He asserts that "Sex offenders are clamoring to be accepted by society because their favorite argument is: **"I was born this way!"** [emphasis in original]. He says "I also knew that the false idea that it was possible for a boy to be born into a girl's body (or vice versa) was the old First Century Gnostic heresy of dualism. But I believe that **Trying to alter one's body to conform an imagined self image is no more than idolatry of the self: worship of the created rather than the creator**" [emphasis in original]. He claims to have traced "the genesis of this gender fluid ideology of SOGI 123 back to U.N.E.S.C.O and the World Health Organization", which he says is **"controlled by communist China"** [emphasis in original]. In returning to his endorsement of Derek Sloan, he cites Mr. Sloan's support for efforts to call for a "National Inquiry into the Mass Medical Gender Transitioning / "Sex Reassignment" of Vulnerable Children and Youths".

#### **14. September 24, 2020 Facebook post (Ex 17, tab 23)**

[42] The Complainant alleges this post violates s. 7(1)(a) of the *Code*. We have found that it does not.

[43] This Facebook post links to a New York Times article entitled, "Vatican Rejects Notion That Gender Identity Can Be Fluid". Mr. Neufeld's caption reads:

While I rely primarily on scientific, biological facts to refute the absurd gender fluid theory, there are strong religious arguments against it also. I believe it is a great injustice to gender confused individuals who pretend to believe the comforting lie that they were born with a male mind in a female body or vice versa. They beg us to believe that their delusion is actually a human right. In the words of Dr. Jeffrey Satinover, this is “A Freedom too Far!”

They don’t need different clothing, pills, hormones and surgery. They need love, compassion and encouragement to live the life they were created to live.

### **15. October 20, 2020 Board meeting (Ex 17, tab 24)**

[44] The Complainant alleges Mr. Neufeld’s comments in this Board meeting violates s. 7(1)(a) of the *Code*. We have found that they do.

[45] Mr. Neufeld says in relevant part:

Despite what I have been accused of, no court or tribunal has decided that I am a threat to any minority group. I've only objected to certain parts of an educational curriculum called SOGI 1 2 3, and more specifically, the ideas in a document called the Gender Spectrum, What Educators Need to Know. Everyone from the Minister of Education, union bosses, and even my fellow trustees have stopped at nothing to try and silence me or discredit me.

It seems that local communities have lost control of public education and is now being controlled by activist unions. Trustees who are not union patsies are muzzled and stifled. After spending a career working with neglected, abused, and traumatized kids, most of them foster kids, and because I'm a former foster child myself, I will never give up fighting to protect vulnerable, traumatized, and easily manipulated children from being used as guinea pigs in state-sponsored experimentation.

I will not be silenced, not by threats of censure or fines or jail or even death. This is the hill I'm willing to die on.

### **16. November 10, 2020 Facebook post (Ex 17, tab 26)**

[46] The Complainant alleges this post violates s. 7(1)(a) of the *Code*. We have found that it does not.

[47] This Facebook post links to a CBC News article entitled, “B.C. judge blocks transgender teen’s gender-affirming surgery after disapproving mother sues. Mr. Neufeld’s caption reads:

As encouraging as this report may be, there is a downside: this “child” is 17 years old and almost old enough to make the decision herself. She has probably already modified (ie: damaged) her body so much that she can never have children and thus her breasts are useless. She will probably threaten suicide. I just hope and pray she does not succeed.

### **17. October 16, 2020 interview with Rebel News (Ex 17, tab 28)**

[48] The Complainant alleges that Mr. Neufeld’s remarks in this interview violate s. 7(1)(a) of the *Code*. We have found that they do.

[49] These are statements made by Mr. Neufeld during an interview with Rebel News concerning his position on SOGI 1 2 3. He says he first “spoke out against it on October 23, 2017” and “realized that people who struggle with gender dysphoria are suffering.” He also “realized that this gender fluid ideology is a comfort to people who struggle with gender dysphoria.” He goes on to say:

But I do not believe it's true. I believe the gender that you're assigned at birth is the one that is with you all your life. Every cell of your body is either male or female.

And so I decided I had to speak out. I thought this was a controversial, false idea to be promoting in public schools. And they promote it not only to older kids, but to little ones who don't even understand the whole concept of sexuality.

[50] Mr. Neufeld says in elementary schools, the lessons include describing gender as being on a spectrum. He believes that this causes “unnecessary confusion” to kids. He says SOGI 1 2 3, “It's determined to overturn the concept that heterosexuality is the norm. And it's very destructive to traditional family values.” He then references his experience working with underprivileged children as a youth probation officer to offer the following observation:

Prior to 2008, when I retired from probation, we had never heard of kids wanting to change their gender. Now it's becoming a fad, and I believe

kids are damaging their bodies in order to appease the social justice warriors. And there's going to be a lot of regret. And there already is people who regret it, and I've talked to some.

[51] Mr. Neufeld then relies on his conversations with a physician to claim that “if kids are not encouraged to “cross dress and to identify the opposite gender, 80 to 90 percent of them grow out of it.” He says he takes no issues with how adults wish to present their gender, and says:

But I do not think children as young as 8 or 12 or even 14 have enough wisdom and guidance to make that decision. We don't allow them to drive.

We don't allow them to buy alcohol. We don't even allow them to get piercings or tattoos a that age. And yet, for some reason, our society is saying it's okay for little kids to make this very drastic change in their lives, and I think that's wrong.

### **18. March 3, 2021 Facebook post (Ex 17, tab 30)**

[52] The Complainant alleges this post violates s. 7(1)(a) of the *Code*. We have found that it does.

[53] This Facebook post links to an article entitled, “The number of self-identified trans people has gone up 800%-and how you can protect your kids”. The photo attached to the article shows two people draped in pride flags—one rainbow and one transgender. Mr. Neufeld’s caption reads, “If you have kids in public school, pull them out.”

### **19. April 10, 2021 speech (Ex 17, tab 31)**

[54] The Complainant alleges this speech violates s. 7(1)(a) of the *Code*. We have found that it does.

[55] Mr. Neufeld calls for the resignation of the Minister of Education. He says,

But I also care about the emotional needs of troubled children and I want to protect them from being confused and damaged by this unfounded and dangerous experiment. Minister Whiteside, in your efforts to be

trendy and woke, you are putting troubled children at risk of harm. Your Ministry of Education has done a miserable job of providing mental health supports to troubled students, especially during the last year of COVID restrictions and fear.

You seem to have only one solution for troubled kids. Gender transition. I agree with Kiera Bell who said, I also call on professionals and collations to create better mental health services and models to help those dealing with gender dysphoria.

I do not want any other young person who is distressed, confused and lonely as I was to be driven to conclude that transition is the only possible answer. Minister Whiteside, your policy of affirmation only is destroying many lives and in particular, your policy has destroyed the family of ABCD. Secondly, I call on Stephanie Higginson, president of the BC School Trustees Association.

[56] Mr. Neufeld says that the Minister is incorrect in calling “unions partners in education” when “they have become your masters...Because of your refusal to re-examine parts of SOGI 1 2 3 that are so destructive to families, I call for your resignation.” Mr. Neufeld says though he has served public education for 25 years, the previous three years have “shaken” his “faith in public education”. He says, “If the ministry will not re-examine SOGI 1 2 3, I will warn parents to take their children out of public education systems. Before activist teachers destroy young bodies with drugs and destroy families by turning children against parents.” He then calls for the resignation of another trustee.

## **20. June 29, 2021 Facebook post (Ex 17, tab 32)**

[57] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates both s. 7(1)(a) and s. 7(1)(b).

[58] This post links to a YouTube video called ‘Could the EU Kick Hungary Out over LGBTQ+ Laws?’. Mr. Neufeld’s thesis is that teaching kids about gender identity grooms them for sexual abuse.

[59] Mr. Neufeld expresses particular fascination to learn that Hungary’s laws “began as an attempt to control pedophilia”. He connected that to his own view that there is a “connection

between grooming children for abuse and confusing them about their gender identity”. He says he shared that view with a specialist in treating sex offenders: “What better way to desensitize children to invasive sexual behavior than by introducing them to drag queen story hour or a lesson on how to enjoy safe anal sex!”. He says that sex offenders “all smugly agree that the new sexuality education in public school makes it MUCH easier for them to persuade a victim to trust them, and even enjoy the abuse!” [as written]. He expresses certainty that “there are far more teachers to abuse kids than Catholic Priests”. He says little is being done about “child trafficking, and that “It is no coincidence in my opinion that there may be a connection between child exploitation and the ‘transgender craze’ which is spreading among young teenage girls who had no prior evidence of gender dysphoria”. He concludes that Hungary is on the “right track”.

### **21. April 14, 2022 interview (Ex 17, tab 33)**

[60] The Complainant alleges that Mr. Neufeld’s comments in this interview violate ss. 7(1)a) and 7(1)(b) of the *Code*. We find they violate s. 7(1)(a) and not 7(1)(b).

[61] In this video, Mr. Neufeld is interviewed by tv personality Laura Lynn Tyler Thompson. Mr. Neufeld credited Ms. Thompson with alerting him to SOGI in his district. He says that “red flags started going off all over the place when I heard that schools were getting kids to question their sexuality. That’s exactly what sex offenders do”. He said that grooming kids was an “unintended side effect” that “does a lot of the work that child predators used to have to do themselves”. He questioned who was paying to put “smut in the children’s libraries” and then asserted: “it’s teachers from the LGBT, their enthusiasm for their movement is just like, they’re very evangelistic. And they want to put their tracks on the school library shelves”.

[62] Mr. Neufeld clarified that his main focus was on trans people:

I have said very little about the gay lifestyle. I’m concerned about children in gay marriages, because I believe kids have a right to know both their mom and dad.

My biggest concern is about transgender. And I don't, I don't understand why gay people are sticking up for this. Because when children have gender dysphoria, if they aren't given puberty blockers and hormones, they eventually grow out of it. And they quite often end up being gay. So why don't you just leave them alone?

[63] Mr. Neufeld blames "parents who want to be seen as progressive or woke or whatever" for coming up with the "idea of transitioning", explaining "And I liken this to child abuse". He says that some of the harms he had predicted are now coming true: "children are being removed or from their parents when they want to ... transition and become transgender". He expresses optimism from initiatives "like in Florida". In his view, "I don't think kids in – from K to 12 need to learn about gender ideology and sexual identity. But prohibiting it from kindergarten to grade three is a good start".

[64] Mr. Neufeld observes that puberty "was rough for all of us" and opines that "throwing this new option of hormones and puberty blockers into the mix is not going to make it easier". He likened himself to a character in a movie who doggedly opposed a large corporation and announced his intention to run again for school board.

[65] Mr. Neufeld opines that "one of the reasons this whole insidious movement has moved forward is because we want to feel sorry for people":

We feel sorry for people who have gender dysphoria and they're not comfortable in their bodies. But, you know, anybody who's ever been swindled or tricked or financially ruined, the reason they got themselves into that jam was because they felt sorry for somebody.

And so I care about kids.

I care about all kids. I care about the autistic kids who are so easily influenced by this ideology. I care about kids who come from homes where they're beaten and abused and neglected and they have no hope.

[66] Mr. Neufeld explains that "my faith is what keeps me energized for this". He says that "gender ideology" is "turning teenagers against their parents" who believe "in the traditional family". He says that gender ideology is "grooming kids to become sexual deviants". He says, "we've got a lot of work to do to turn this thing around"; "we need to save our public

education". He laments that kids are learning about "fellatio and cunnilingus and all sorts of horrible stuff" yet academic scores are declining. He concludes by reflecting on a video that they watched: "The quote in that video that struck me was this person said there's no such thing as gender identity. There is no such person as a transgender. There's just men and women, male and female".

## **22. May 10, 2022 interview (Ex 17, tab 34)**

[67] The Complainant alleges this interview violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[68] This is an interview that Mr. Neufeld gave to Rebel News while he was running for re-election to the school board.

[69] Mr. Neufeld begins by giving some insight into his family history. He says that his grandfather was from Russia and was a teacher, as were several of the generations before. He says that his grandparents rejected the idea of the Russian government "that children were the property of the state, and the state had the obligation to educate them" and came to Canada seeking the freedom to "raise their children with the beliefs that they thought were important".

[70] Mr. Neufeld then cited his experience working as a probation officer supervising sex offenders and talking to their victims. He says that he and others in that field agree "that confusing gender confused children and mixing them up is setting them up for further abuse and victimization".

[71] Mr. Neufeld says that he has to "win" in his efforts to stand up for his beliefs, because otherwise "principals of Christian schools, teachers in Christian schools, even people who are not necessarily religious but believe in family values, are going to be considered unfit to be around children". He warned that "they will not be allowed to work with children ... or parent their children".

[72] Mr. Neufeld describes the issue:

Basically, what they're telling children is that gender is on a spectrum. You can be a boy or you can be a girl or you can be somewhere in between. And what gender you were assigned at birth might be different from who you really are.

This is very confusing to children and I have sympathy. There's probably one half or one percent of children who I believe are sincerely gender dysphoric. That's a tiny percentage.

But suddenly we have an avalanche of new referrals to gender clinics and these are kids who think they can solve all their problems by identifying as something different ...

If a child comes home and starts using their preferred gender pronouns, a parent should know that that child is already being confused and manipulated into questioning their identity.

[73] Mr. Neufeld refers to a "recent phenomenon called rapid onset gender dysphoria", which he describes as teenagers "all of a sudden coming up" with the idea that they are trans. He says teenagers think this will make them popular "trans is the new cool thing". He says that schools are interfering with parents' ability to "deal with this kind of problem" and "I hate to be part of a public system that's allowing that to happen". Mr. Neufeld then talks about the human rights complaint against him and his defamation suit against Mr. Hansman, which was headed to the Supreme Court of Canada. He reiterated that "if I don't win, any Christian teacher is a target". He concludes:

I have never seen such hatred unleashed due to this [diversity], inclusion and equity. One student in one of our schools told me I was such a horrible person, my mother should have aborted me with a coat hanger. Where are they learning all this hatred from? And another things, original sin has now been redefined to be anyone who is white and heterosexual, and we must repent of that.

It just doesn't make sense. Another reason that makes it sound like a religion is that if you're into the ideology and then realize something's wrong and you want to get out, you get treated like a heretic, and they go after you. In the old days, we used to burn heretics at the stake. Now we roast them on social media.

### **23. May 11, 2022 Facebook post (Ex 17, tab 35)**

[74] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[75] This post appears above an image with the words “The soul has no gender”. In it, Mr. Neufeld rejects religious arguments urging “subjugation” to “Health Authorities” and “Education ministries”. He called upon Christians to speak “the truth in love”: “Our souls are ‘non binary!’ There is no way a man can be born in a woman’s body or vice versa”. He warns that “Abortion, euthanasia and gender transition surgery are horrible practices that result with the physicians ignore God. Genesis 2:7”. He concludes:

In the Resurrection, our bodies will be intact: all the sexual organs in place. Amputated limbs will be replaced, missing eyeballs replaced, disfigured faces restored to beauty, mastectomies undone, hysterectomies reverse, and castrations undone. No transgender persons in the Kingdom of God...

#### **24. May 17, 2022 Facebook post (Ex 17, tab 36)**

[76] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[77] This decision links to a YouTube video called “Interview with Shannon Douglas, father and advocate for truth”. Mr. Neufeld’s post reads:

There is one thing that Canada’s deplorable history of Indian Residential schools should have taught us: the State is a HORRIBLE substitute for a child’s parents. But educators are making the same mistake today. They are pushing the gender ideology in schools without parental awareness or consent. They are pushing the gender ideology in schools without parental awareness or consent. Public scholars are supposed to be based on non sectarian, secular principles. But as I have explained elsewhere, Gender Ideology has all the characteristics of a strange, new twisted religion.

#### **25. June 12, 2022 Facebook post (Ex 17, tab 37)**

[78] The Complainant alleges this post violates s. 7(1)(b) of the *Code*. We have found that it does.

[79] This post links to a Youtube video called “FOX DOES TRANS RIGHTS”, which Mr. Neufeld says “attempts to put a positive spin on encouraging kids to transition”. He says it is easy to see the “logical fallacies”: the parents were manipulated “blackmail that ‘it is better to have a live son instead of a dead daughter’” and “threats and even attempts at suicide”; there is nothing authentic “about a person who has a girls’ body but has altered their appearance to look like a boy”; the mother’s conservative faith is “shallow” and inconsistent with the Bible; and “Everyone is making money off this child”. He said that the child in the video was in the “honeymoon stage of being trans”. He speculates that the child is taking a “chemical castration drug” and warns:

The fun will wear off in about ten years, probably after lots of hormones and some barbarous surgeries, and they find themselves in a transgender ghetto, unable to find a faithful life partner and raise a family. THAT is the time when suicide becomes a very real possibility.

### **26. August 2, 2022 Facebook post (Ex 17, tab 39)**

[80] The Complainant alleges this post violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[81] This post appears over the image of a letter from the Campbell River School District about SOGI 123. Mr. Neufeld says that he has “not experienced any Diversity, inclusion and Equity in SD33”. He says that “Because I beg to differ with the current gender fads, I have been humiliated for the past four years by being barred from schools”. He says he will persevere “because I care about ALL kids, and want them to concentrate on academic achievement instead of obsessing about their genitals. I am determined to protect them from a dangerous ideology that is causing too many to ruin their bodies with puberty blockers and hormones”.

### **27. August 18, 2022 Facebook post (Ex 17, tab 40)**

[82] The Complainant alleges this post violates s. 7(1)(a) of the *Code*. We have found that it does not.

[83] In this Facebook post, Mr. Neufeld uses the American College of Paediatricians as the authority on which he relies to underpin his opinion that gay couples should not be approved for adoption because “[...] I firmly believed children need to have a relationship with BOTH their mother and father)”. He said the American College of Paediatricians were both accused of being a hate group that promoted “disinformation and junk science” when in fact, their views are “based on empirical biology and common sense”. He includes a link to a Wall Street Journal article entitled, “A Pediatric Association Stifles Debate on Gender Dysphoria” that he claims is about the American Academy of Pediatrics refusing to put forward a draft resolution for a policy change to “the Academie’s policy of ‘Affirmation only’”. He claims:

It is now known that 80-90 % of children experiencing gender dysphoria grow out of it and there are increasing stories of de transitioners and the dangerous side effects of puberty blockers and hormones. The leadership (a small group) refused to put the resolution to a vote. The leadership dug in their heels due to embarrassment. They claim they are being attacked by extremists, and instead, they put out a resolution “Supporting Pediatrician Advocates Experiencing Adversity”

[84] Mr. Neufeld concludes the post with fundraising links, stating “I need to raise \$60,000 for my Supreme Court Battle in Ottawa this fall.”

## **28. September 24, 2022 interview (Ex 17, tab 41)**

[85] The Complainant alleges this interview violates ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[86] This is an interview that Mr. Neufeld gave to “RH Media” during his campaign for re-election as a school trustee. The title of the interview is “Defending Children’s Rights in Schools”. Mr. Neufeld begins by talking about his background working as a correctional officer looking after “some of the most notorious sex offenders in the province” and with “at risk kids”. He says that he has stuck his neck out as a school board trustee because “I am so concerned

about protecting kids from dangerous grooming ideology that is so harmful, not just to the kids but even more so to the families.”

[87] Mr. Neufeld says that schools should be doing things to help kids with “genuine gender dysphoria” – which he posits is about “one half of one percent” – but says that “changing the whole culture of all the schools is having unintended side effects”. These side effects include “rapid onset gender dysphoria” and growing number of kids “bugging their parents for hormone blockers”. He says this is largely happening to teenage girls and “if these girls were thriving I might be tempted to go along with it but they’re not, they’re miserable, they’re sullen, they’re angry at the world”. He says that the language of “being born a boy in a girl’s body” “sounded like the language of sex offenders who use this to confuse and groom children”.

[88] Mr. Neufeld says that, when he spoke out, “all hell broke loose and I just got torn into shreds in the public media”. He refers to the human rights complaints filed against him and being “barred from setting foot inside any public school for the last four years” as attempts “to try and shame and silence me”. But “unfortunately the more they try to silence me, the noisier I get”.

[89] Mr. Neufeld laments policies which he says allows schools to keep information from parents. He says this is a response to the experience of “transgender activists”: “when they decided to come out as transgender, they got resistance and cautions and warnings from their parents”. He says that it starts with social transitioning. Teachers start using a different name chosen by the child, without telling the parents, and then secretly allow the child to change into different clothes at school: “the school provides a confidential closet, a transition closet so Mary can change into ... boys’ clothes and henceforth be treated as Jerry and be treated as a boy”. The next step is “puberty blockers” – “all being done behind parents’ backs”.

[90] Mr. Neufeld is asked about a court case involving a father who was opposing gender affirming care for his child. He says that the consequences for that father was that the father was “charged with contempt of court and thrown into jail”. He says that public initiatives in schools and health systems is “turning all the children into disciples of this new ideology that

gender is on a spectrum and you can change from a boy into a girl anytime you want. And even if a kid has no inclination to do that, they firmly believe that this is a new science". He says that this is "grooming them to reject all the wisdom and culture of the past and create some new untried and untested culture ... where, you know, everybody's just going to sit around being a robot for big business and not produce any families or children".

[91] Mr. Neufeld says that there are some other trustees who are aligned with him in opposition to SOGI in schools, but they are "in the minority". He talks about his defamation suit against Mr. Hansman and says "I'm not doing it for myself". He warns, "If I lose on this, very teacher, every parent who has conservative family values will be considered to be unsafe to be around children, and we're going to start seeing a movement like the Sixties Scoop, where they go around grabbing kids out of homes where the parents are anti-LGBTQ". He says that "the idea that gender is on a spectrum and you can change it at will is a lie" that "hates to be challenged". He says, "Our sex is in every DNA string in our bodies, in every cell. And just by taking some chemicals and doing a little bit of cosmetic surgery does not turn a man into a woman, neither does it turn a woman into a man".

[92] Mr. Neufeld says he was initially reticent about running for re-election as school trustee, given how "emotionally exhausting" the last election was. He asked himself, "why am I beating my head against the wall for public education? Because it is going to hell in a handbasket". But ultimately, he thought "Do I want to be remembered as a quitter? I thought, no, I'm not going to quit".

[93] The interviewer asks Mr. Neufeld whether has any advice for parents. In response, he acknowledges that not all parents are able to homeschool their children or pay for private school. He encourages conservative parents to "get involved in the local school parent advisory committee". He says that is what "activists" have done, and refers to Morgane Oger, who he describes as "a man who claims he's a woman" and got on the Vancouver parents advisory committee. He says that "parents with family values need to take their public schools back". He also suggests running for school trustee, giving the example of a parent who opposed gender affirming care for their child and ended up running for school trustee. Mr. Neufeld later adds

that kids aren't necessarily "safe" in private schools either, given that SOGI 1 2 3 is taught there too. He warns that children in schools today will be "taking care" of their parents in the next few years and "if they're being taught to hate cisgender, white, heterosexual people ... do you think they're going to make an effort to ... keep your heart beating? No way".

## **29. October 19, 2022 interview (Ex 17, tab 45)**

[94] The Complainant alleges Mr. Neufeld's statements in this interview violate ss. 7(1)(a) and (b) of the *Code*. We have found it violates s. 7(1)(a) and not 7(1)(b).

[95] This is a video of a program called "Empower Hour", in which Mr. Neufeld was interviewed along with his former counsel Paul Jaffe, who represented him at the Supreme Court of Canada. Mr. Neufeld explains that he "went on the offensive" by filing a defamation suit against Mr. Hansman because he was "pushed ... over the edge" by Mr. Hansman saying he "should not be around children". He said that Mr. Hansman's efforts to have his case dismissed "is a chilling day for free speech", noting "I know there are teachers in the system. Some of them are Christians. Some of them are even gay and lesbian who don't like this SOGI 123 program". Mr. Neufeld described his experience at the Supreme Court of Canada, noting that Mr. Hansman had been unable to "shut me up". Mr. Neufeld said:

This is dangerous to our kids. Sure, there are ... a few children that really have difficulty with their body image. And they really are uncomfortable in their bodies. But they're a very, very insignificant percentage, maybe half of one percent. But this SOGI 123 is confusing many, many more kids. And I don't believe they're really transgender. They're really confused.

[96] Mr. Neufeld blames "activists" for sneaking SOGI 123 into the school system "without any involvement of elected officials, specifically citing a "principal from the Delta School District and the ARC Foundation". He said that SOGI 123 was marketed as an "anti-bullying program" but the real purpose "Was to expand the gender ideology to the whole student body. And that, to me, is wrong. It's not scientific. It doesn't meet common sense. And they've tried to paint me as a religious bigot."

[97] Mr. Neufeld says that “BC is probably the most left wing on this issue than any other place in the world with the exception of Ontario”. But, he says, “all around the world, the pendulum is swinging back”. He cites purported examples from Sweden, England, Spain, Texas, Tennessee, and Boston restricting or eliminating access to gender affirming care for youth.

[98] Mr. Neufeld later says “we’re in World War III in this country” and claims that the “silent majority” of Canadians support his cause. He blames “the government and the media and the unions and the ARC foundation” for “sexualizing our children” and “abusing our children through this system”. In answer to a question about why “Christians do not get behind this”, Mr. Neufeld said that “they’re not willing to take up their cross”. And:

The other thing is they think they’re being loving to people who are suffering. Well, you know, if an anorexic person is suffering, you don’t pat them on the back and say, here, here, I’ll give you some diet pills, and you don’t have to eat as much. Sometimes the loving thing is saying something very challenging to a person who’s struggling with a problem. If an alcoholic is suffering because they can’t find any booze, you don’t hand them a case of beer. You tell them to, you know, buckle up and do without. Give them a cup of coffee instead.