

No.  
Chilliwack Registry

*In the Supreme Court of British Columbia*

Between:

Barry Neufeld

Petitioner

and

British Columbia Teachers' Federation obo Chilliwack Teachers Association  
and British Columbia Human Rights Tribunal

Respondents

**PETITION TO THE COURT**

**ON NOTICE TO:**

British Columbia Teachers' Federation obo Chilliwack Teachers Association  
c/o Lindsay Waddell, Moore Edgar Lyster LLP  
200 - 375 Water Street  
Vancouver, BC V6B 0M9

British Columbia Human Rights Tribunal  
1170 - 605 Robson Street  
Vancouver, BC V6B 5J3

British Columbia Human Rights Commission  
536 - 999 Canada Place  
Vancouver, BC V6C 3E1

Deputy Attorney General  
Ministry of Justice  
PO Box 9290 Stn Prov Govt  
Victoria BC V8W 9J7

This matter is an application for judicial review.

**This proceeding has been started by the petitioner for the relief set out in Part 1 below.**

If you intend to respond to this petition, you or your lawyer must

(a) file a response to petition in Form 67 in the above-named registry of this court

within the time for response to petition described below, and

- (b) serve on the petitioner(s)
  - (i) 2 copies of the filed response to petition, and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

### **Time for response to petition**

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

- (1) The address of the registry is:

Chilliwack Law Courts  
46085 Yale Road  
Chilliwack, BC V2P 2L8

- (2) The ADDRESS FOR SERVICE of the petitioner is:

KITCHEN WELLS LLP  
230 - 1210 Summit Drive, Suite 429  
Kamloops, BC V2C 6M1

Fax number address for service of the petitioner: N/A

E-mail address for service of the petitioner: james@kwllp.ca

- (2) The name and office address of the petitioner's lawyer is:

KITCHEN WELLS LLP  
James SM Kitchen  
Jody Wells  
203 - 304 Main St S, Suite 224  
Airdrie, AB T4B 3C3

## Claim of the Petitioner

### Part 1: ORDERS SOUGHT

1. An order setting aside the decision of the British Columbia Human Rights Tribunal (the “Tribunal”) dated February 18, 2026 indexed as *Chilliwack Teachers’ Association v Neufeld (No. 10)*, 2026 BCHRT 49, file number CS-001372;
2. An order dismissing the complaint of the British Columbia Teacher’s Federation (“BCTF”) in whole or in part;
3. In the alternative, an order remitting the matter back to the Tribunal with the Court’s direction;
4. Costs; and
5. Any other order the Court deems just.

### Part 2: FACTUAL BASIS

#### Overview

1. This is a judicial review of the Tribunal’s decision that the petitioner discriminated against and/or exposed to hatred or contempt some BCTF members on the ground(s) of gender identity, gender expression and/or sexual orientation in the areas of publication and employment contrary to sections 7(1)(a), 7(1)(b) and 13 of the *Human Rights Code*, RSBC 1996, c 210 [*Code*].

#### The Parties

2. Barry Neufeld (the “Petitioner”) was at all material times a trustee of the Board of Education for School District No. 33.
3. The BCTF, of which the Chilliwack Teachers’ Association is a local, represents all public school teachers in the province of British Columbia.

#### The Complaint and Response

4. The BCTF submitted a human rights complaint on behalf of its members who identify as gay, lesbian, bisexual, transgender and/or queer, asserting that certain of the Petitioner’s communications discriminated against them and/or exposed them to hatred or contempt on the grounds of gender identity, gender expression and/or sexual orientation in the areas of publication and employment.

5. The Petitioner denied discriminating against and/or exposing to hatred or contempt persons who identify as gay, lesbian, bisexual, transgender or queer within the meaning of the *Code* or at all.

### **The Decision**

6. The Tribunal found that the Petitioner discriminated against and/or exposed to hatred or contempt persons who identify as gay, lesbian, bisexual, transgender and/or queer on the ground(s) of gender identity, gender expression and/or sexual orientation in the areas of publication and employment.

### **Part 3: LEGAL BASIS**

#### **Central Issue**

1. The Petitioner has beliefs. He believes that boys are boys, and girls are girls. He believes that boys cannot become girls. He believes that public schools should not teach children that they can.
2. The Tribunal says that the Petitioner may not express his beliefs.
3. If the Tribunal is wrong, the Tribunal has erred, and the decision must be quashed.
4. If the Tribunal is right, British Columbians may not express their belief that boys are boys and cannot become girls, and that public schools should not teach children that they can.
5. The Tribunal made the Petitioner's beliefs the central issue in its decision. It correctly characterized the Petitioner's beliefs as the basis for all of his alleged breaches. The Tribunal stated: "The denial of trans identities is the theme underlying all of the Petitioner's impugned publications...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".
6. Sections 7 and 13 of the *Human Rights Code* do not prohibit expression of belief.

#### **Section 7(1)(a) Errors**

7. The Petitioner submits the Tribunal erred in its interpretation of sections 7(1)(a) and 7(2) of the *Code*. This error is reviewable on the standard of correctness pursuant to *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. The meaning of a provision establishing discrimination in a quasi-constitutional statute is a question of law of central importance to the legal system as a whole and a general proposition of wide precedential value requiring a singular, determinate and final answer:

*Vavilov*; *Alberta Health Services v United Nurses of Alberta*, 2021 ABCA 194 [*United Nurses*]; *Assn of Management, Administrative and Professional Crown Employees of Ontario v Ontario (Ministry of the Attorney General)*, 2024 ONSC 1555 [*AMAPCEO*].

8. The Petitioner's expression of his belief that boys cannot become girls and that public schools should not teach children that they can does not indicate discrimination or an intention to discriminate against a person, group or class.
9. The Petitioner's expression of his belief is a communication related to an activity otherwise permitted by the *Code*, pursuant to section 7(2). The *Code* does not prohibit belief or expression of belief. The *Code* does not prohibit logical or moral reasoning. The *Code* does not prohibit criticizing ideology. The *Code* does not prohibit criticizing policy.
10. The law allows persons to believe that protected persons, groups and classes do not exist. The law allows persons to express beliefs that deny the existence of protected persons, groups and classes.
11. The application of the statutory provision to the facts of the case, as distinct from the interpretation of the statutory provision itself, is reviewable on the standard of reasonableness, pursuant to *Vavilov*.
12. In the alternative, if section 7(1)(a) prohibits the Petitioner's expression of his belief, it is unconstitutional. Questions about the constitutional validity of statutory provisions are reviewable on the standard of correctness: *Vavilov*; *Société des casinos du Québec inc v Association des cadres de la Société des casinos du Québec*, 2024 SCC 13.
13. Further and in the alternative, the Tribunal has no jurisdiction over online publications, which are under federal jurisdiction pursuant to section 92(10)(a) of the *Constitution Act* 1867, a matter reviewable on the standard of correctness pursuant to *Vavilov*.

#### **Section 7(1)(b) Errors**

14. The Petitioner submits the Tribunal erred in its interpretation of sections 7(1)(b) and 7(2) of the *Code*. This error is reviewable on the standard of correctness pursuant to *Vavilov*. The meaning of a provision establishing discrimination in a quasi-constitutional statute is a question of law of central importance to the legal system as a whole and a general proposition of wide precedential value requiring a singular, determinate and final answer: *Vavilov*; *United Nurses*; *AMAPCEO*.
15. The Petitioner's expression of his belief that boys cannot become girls and that public schools should not teach children that they can is not likely to expose a person, group or class to hatred or contempt.

16. Pursuant to section 7(2) of the *Code*, the Petitioner's expression of his belief is a communication related to an activity otherwise permitted by the *Code*, which does not prohibit belief or expression of belief; logical or moral reasoning; criticism of ideology or policy; or denial of the existence of protected persons, groups and classes.
17. The application of the statutory provision to the facts of the case, as distinct from the interpretation of the statutory provision itself, is reviewable on the standard of reasonableness, pursuant to *Vavilov*.
18. Further and in the alternative, the Petitioner's publications do not rise to the level of "hate speech": they are not the extreme and egregious manifestations of hatred and contempt the binding jurisprudence describes; they do not expose persons to vilification and detestation; and they do not include calls for violence, harassment, intimidation or exclusion.
19. In the words of the Supreme Court, the Petitioner is "free to preach against", "urge... censorship from the public school curriculum" and "seek to convert others to [his] point of view" concerning his beliefs. The Petitioner's "freedom to express those views is unlimited, except by the narrow requirement that they not be conveyed through hate speech".
20. Only by ignoring context, stretching the "hallmarks of hate" beyond reason, and applying an arbitrary standard for determining which publications reached a critical mass of "hate" was the Tribunal able to shoehorn the Petitioner's remarks into "hate speech".
21. A reasonable person aware of the context and circumstances would not find the Petitioner's expression of his beliefs likely to expose a person, group or class to hatred or contempt.
22. In the alternative, as the present case demonstrates, the so-called hallmarks of hate are ripe for abuse and capable of attracting absurd results. They must therefore be judicially reconsidered, notwithstanding the Supreme Court's uncritical acceptance of them in *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11.
23. Further and in the alternative, the Tribunal has no jurisdiction over online publications, which are under federal jurisdiction pursuant to section 92(10)(a) of the *Constitution Act* 1867. This issue attracts the correctness standard of review, pursuant to *Vavilov*.

### **Section 13 Errors**

24. The Petitioner submits the Tribunal erred in its interpretation of section 13 of the *Code*. The Tribunal's broad conception of employment and what constitutes an employment

relationship is not consistent with the legislation's definition of "employment". This error is reviewable on the standard of correctness pursuant to *Vavilov*. The meaning of a provision prohibiting discrimination in a quasi-constitutional statute is a question of law of central importance to the legal system as a whole and a general proposition of wide precedential value requiring a singular, determinate and final answer: *Vavilov*; *United Nurses*; *AMAPCEO*.

25. The Petitioner did not discriminate in the area of employment. Any role of the Petitioner in the workplace was too insignificant, any control over working conditions too tenuous, and any harm to the Respondent members too speculative, inconsequential or remote to conclude that the Petitioner discriminated in the area of employment.
26. The application of the statutory provision to the facts of the case, as distinct from the interpretation of the statutory provision itself, is reviewable on the standard of reasonableness, pursuant to *Vavilov*.

#### **Other Errors**

27. The Tribunal explicitly placed the Petitioner's beliefs at issue in its reasons, but failed to engage in any analysis of the protected characteristic of belief pursuant to section 2(b) of the *Charter*, despite acknowledging its obligation to analyze any and all *Charter* issues arising. This is an error. Further, the Tribunal decided absent evidence, support, or any analysis whatsoever that the Petitioner's beliefs are a choice.
28. The Tribunal erred in attributing to the Petitioner beliefs he does not hold and expression he did not convey, and by misconstruing expression the Petitioner did convey.
29. The decision is replete with logical fallacies, particularly fallacies of conflation upon which the Tribunal relied to arrive at its decision that the Petitioner discriminated against some BCTF members and/or exposed some BCTF members to hatred or contempt. The Petitioner does not believe that boys can be girls. The Tribunal concluded the Petitioner therefore does not believe that persons who identify as transgender are entitled to human dignity. That is a fallacious conflation and in error. The Petitioner criticized gender ideology. The Tribunal concluded that the Petitioner's target was not ideology. That is illogical reasoning and in error. The Petitioner believes that a heavy emphasis on gender and sexuality in childhood education primes children for predation. The Tribunal concluded that the Petitioner was accusing persons identifying as transgender of being child predators. That is a fallacious conflation and in error.

- 30. Logically fallacious reasoning is fatal to a decision even on the lower standard of reasonableness, as are reverse-engineering and bias: *Vavilov*.
- 31. Throughout its written reasons, the Tribunal asserted that the Petitioner’s failure to adopt its own ideological beliefs concerning gender identity amounted to “discrimination” and “hate speech”. This, combined with the Tribunal’s conduct during the hearing, and the Tribunal’s refusal to admit the Petitioner’s fact witnesses tending to challenge its predetermined ideological position, raises the spectre of a reverse-engineered decision and a reasonable apprehension of bias, either of which is fatal to the Tribunal’s decision.

**Part 4: MATERIAL TO BE RELIED ON**

- 1. The record, consisting of the material available to the Tribunal;
- 2. Transcripts of the Tribunal proceeding;
- 3. The Affidavit of Barry Neufeld, to be affirmed;
- 4. Any other material that counsel may advise and that this Honourable Court accepts.

The petitioner estimates that the hearing of the petition will take two days.



Date: April 10, 2026

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James SM Kitchen and Jody Wells  
Counsel for the Petitioner, Barry Neufeld

To be completed by the court only:

Order made

in the terms requested in paragraphs ..... of Part 1 of this petition

with the following variations and additional terms:

.....  
 .....  
 .....

Date: .....[dd/mmm/yyyy]

.....

Signature of  Judge  Associate Judge