



MEMORANDUM

Office of the President

October 30, 2019

TO: All Members
FROM: Dean Ingram, President
RE: Distribution and Displaying the NLTA “Class Size Matters” Pin in the Workplace

Dear Colleagues:

Since 2011 successive provincial governments have increased class sizes in this province by amending the Teacher Allocation Model established in 2008. These changes to the teacher allocation formula occurred in the absence of a cabinet directed review of allocations, which was supposed to occur in 2011. To make matters worse, the increases to class sizes occurred at the same time as government forced the integration of students with special needs into regular classrooms without the individualized supports to which they had been accustomed. The negative results of these two public policy decisions are well understood by teachers.

Class Size Matters

Your Association has repeatedly raised concerns with government officials regarding the adverse impact on children’s education of increasing class sizes while forcing the integration of students with special needs into the regular classroom without adequate supports. While the report of the Premier’s Task Force on Improving Educational Outcomes did outline how the Inclusive Education model was failing students and has led to some new and needed resources, it was silent on the issue of class size. This glaring omission occurred despite a detailed submission and recommendations from the NLTA, the professional association of educators for the province.

It is therefore time to get the general public more involved in the debate on class size and class composition. To this end, the NLTA is distributing “Class Size Matters” pins to all members. The purpose of these pins is to bring more attention to this important issue and encourage discussions between teachers and parents regarding the impact class size and composition are having on children’s education.

All members are asked to display the pins in the workplace and during their daily routines. In doing so, you will assist your association in advocating for a better resourced education system for our students.

It is Your Charter Right

All NLTA members enjoy the constitutional rights protected under the *Canadian Charter of Rights and Freedoms*. This includes the fundamental right to freedom of expression.

Your Association has sought legal advice on teachers displaying the “Class Size Matters” pin in the workplace and distributing them to parents and other adults. Please be advised that there is jurisprudence on this issue from both arbitrators and the courts in British Columbia.

In 2004, Arbitrator Munroe stated:

If the communications which are here at issue would be objectionable in terms of the duty of fidelity if uttered or distributed in public or quasi-public fora, I cannot see how the duty of fidelity becomes a reasonable limit prescribed by law justifying the prohibition of the exact same communications on a teachers’ bulletin board or in the privacy of a parent-teacher interview.

The common law duty of fidelity owed by a teacher, and arising from his or her employment is a duty owed to the School Board employing that teacher. A teacher does not owe a duty of fidelity arising from employment to the provincial government. To the extent the expressive content of the material intended by the teachers to be posted or otherwise communicated was aimed at the provincial government, the duty of loyalty or fidelity has no application.

Munroe upheld the British Columbia Teachers' Federation grievance, which was subsequently referred to the British Columbia Court of Appeal in 2005. In that case, the court upheld the decision of arbitrator Munroe. In its decision, the BC Court of Appeal made the following observations:

However, while it may be reasonable to infer that the routine discussion of class sizes contemplated by the BCTF to advance its political agenda might tend to undermine public trust in the administration of the school system, it is difficult to see how discussion about class size and composition in relation to the needs of a particular child by an informed and articulate teacher could do anything but enhance confidence in the schooling system. Like the arbitrator, I cannot discern any potential harm from the posting of materials on a school bulletin board.

The Court went on to state:

Few places would be more appropriate for a discussion of the needs for resources for public schools than a parent-teacher interview dedicated to one child's education.

The issue of teachers displaying or distributing materials questioning public policy as it pertained to government resourcing of the education system was once again brought before the BC Court of Appeal in 2013. In that decision, which once again upheld a teacher's right to freedom of expression, Justice Levine stated:

*There was no evidence in this case of any actual harm or potential harm to students from being exposed to the materials about educational issues, nor any facts from which an inference of harm could be drawn. **On the contrary, Canadian jurisprudence, including Munroe, stands for the principle that open communication and debate about public, political issues is a hallmark of the free and democratic society the Charter is designed to protect.** Children live in this diverse and multi-cultural society, and exposing them to diverse society views and opinions is an important part of their educational experience.*

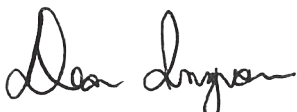
What Can You Do

- Display the pin in the workplace and during your daily routine.
- Distribute pins when possible to interested parents and adults.

Stand on Your Rights

As the wearing of these types of pins is constitutionally protected, which has been upheld by arbitrators and the courts, the Association does not expect that teachers will be directed to remove them from the workplace. However, should any member be directed to either remove the pins or to direct others to remove the pins, they are advised to comply and to contact the Association as soon as possible. The NLTA will take any infringement on teachers' fundamental Charter rights seriously and engage all necessary avenues and resources to address same.

Sincerely,



Dean Ingram