

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

BECKY MCFARLANE, in her personal capacity and as litigation guardian for L [REDACTED] M [REDACTED]
and
THE CORPORATION OF THE CANADIAN CIVIL LIBERTIES ASSOCIATION

Applicants

- and -

MINISTER OF EDUCATION (ONTARIO)

Respondent

**AFFIDAVIT OF BECKY MCFARLANE
(SWORN AUGUST 15, 2018)**

I, Becky McFarlane, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

Introduction

1. I am the Senior Director, Programs and Community Services for The 519, a City of Toronto agency and a registered charity that provides programs and services for the LGBTQ+ community in Toronto and beyond. In my role, I am responsible for overseeing The 519's programs and services, including its education and training initiatives.
2. Prior to joining The 519, I worked with UNITE HERE Local 75 on the development of the Hospitality Workers Training Centre and its social enterprise restaurant, Hawthorne Food and Drink. Previously, I was the Director of Working for Change, an organization that develops

employment and leadership opportunities for individuals with mental health and addiction issues and others who have been marginalized by poverty.

3. In addition to my professional responsibilities, I am a mother to L [REDACTED] M [REDACTED], a ten-year-old child who attends a public grade school within the Toronto District School Board.

4. Accordingly, I have knowledge of the matters to which I depose in this affidavit.

5. I swear this affidavit in support of the application for judicial review that I am bringing in my personal capacity and as the litigation guardian for my daughter, together with the co-applicant, the Corporation of the Canadian Civil Liberties Association (the “CCLA”).

The Importance of the 2015 Health and Physical Education Curriculum

6. My daughter is a minor. She was born on December 17, 2007 and will be starting Grade 6 in September 2018.

7. I am a queer parent. My daughter is co-parented within a queer family.

8. To my knowledge, my daughter is the only student at her school who has parents who openly identify as queer. None of her friends from school come from families that identify as queer. As a result, our family has had to face and manage issues relating to the difference between our family and other students’ families.

9. The Health and Physical Education Curriculum that was introduced in 2015 (the “2015 HPE Curriculum”) is of great importance to me and my daughter – particularly so, as she starts Grade 6. It is in Grade 6 that the 2015 HPE Curriculum introduces students to the concept of queerness and different types of families, provides information to them about the harmful effects of stereotypes, including homophobia and assumptions regarding gender roles and expectations,

sexual orientation, families, and gender expression, on an individual's self-concept, social inclusion, and relationships with others, and proposes appropriate ways of responding to and changing assumptions and stereotypes.

10. It is very important to me as a parent that those issues are addressed at school. When I attended public school in rural Ontario in the 1980s, none of those issues were addressed in the curriculum, classroom, or school, which had a profound impact on my mental health and self-esteem as a queer woman. My experience with homophobia, sexual violence, and the sense of isolation that I felt as a young person attending school in a heteronormative environment has strongly informed my concerns about the harmful consequences to my daughter of reverting to a health and physical curriculum that was introduced in 1998 (the "1998 HPE Curriculum") – prior to the significant changes in the social and legal context in Ontario and throughout Canada that have occurred since then.

11. For me and for my daughter, the 2015 HPE Curriculum is so important because it helps to foster a safe and respectful environment at school and elsewhere. In my experience, many queer students and queer families – including ours – feel a sense of isolation, and it is profoundly important for them to have their own experiences recognized and reflected in the curriculum and addressed by teachers in the classroom. Teachers are leaders in the school community and occupy a position in which they are trusted and respected by students. By providing a platform by which teachers can address issues including sexual orientation, same-sex marriage, gender identity, and gender expression, the 2015 HPE Curriculum helps to ensure that differences are respected and that students, such as my daughter, who come from queer families can feel that they are in a safe space in which they and their families are respected.

12. The impact of not having those issues addressed is something that I have frequently experienced in my professional role at The 519. There have been many instances in which I have worked to assist young people from the LGBTQ+ community (as well as their parents) who are in a state of personal crisis, or even in a suicidal state, because they have been bullied, have felt isolated or disrespected, or have been targeted with violence in the school environment and the broader public culture in which they have grown up.

13. The 2015 HPE Curriculum is also very important to me and my daughter because it addresses issues relating to consent, online safety, and the use of social media. Given that my daughter is starting Grade 6, those issues are particularly pressing for me and for her, because she is at the age at which she (like many students) will become increasingly active online and on social media, and when it is vitally important for students to have information that will help them to keep themselves safe. In a society in which young girls in particular are hyper-sexualized and LGBTQ+ people and their families are disproportionately targeted with violence, I am concerned for my daughter's safety and believe that those safety issues need to be addressed in school. I believe that reverting to the 1998 Curriculum – which does not address those issues at all – puts my daughter and other young women at an increased risk of harm.

14. More broadly, the 2015 HPE Curriculum is important to me and my daughter because it promotes a climate at school in which differences are respected and affirmed, and in which students learn how to have respectful, safe, and healthy relationships with other students. I believe that, as an organ of the government, my daughter's public school has an obligation to promote that kind of school climate.

Litigation Guardian for My Daughter

15. I consent to act as the litigation guardian for my daughter in this proceeding. Both she and I are ordinarily resident in Ontario.

16. I confirm that I have given written authority to Stuart Svonkin and Brendan Brammall of Chernos Flaherty Svonkin LLP to jointly represent me in my personal capacity and as the litigation guardian for my daughter, and the CCLA, in this proceeding.

17. I have no interest in this proceeding adverse to that of my daughter. To the contrary, my daughter and I have a shared interest in bringing this proceeding and obtaining the relief being sought.

18. I acknowledge that I have been informed of my liability to pay personally any costs that may be awarded against me or against my daughter in this proceeding.

Request to Use My Daughter's Initials Instead of Her Name

19. I am requesting that my daughter's initials be used in place of her name in the Notice of Application for Judicial Review and in all other documents filed with the Court in this proceeding, and that an order be made barring the publication of her name and other identifying information.

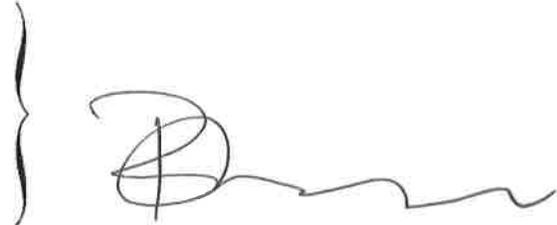
20. I believe that my daughter would suffer irreparable harm if her name or identity were to be publicized in connection with this proceeding. As mentioned above, my daughter is, to my knowledge, the only student at her school who comes from a family that openly identifies as queer, and I am concerned that the publicity associated with this proceeding would put her at a heightened risk of being targeted and bullied at school and elsewhere, both now and in the future.

Using my daughter's initials would help to ensure that her privacy is protected to the extent possible.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
August 15, 2018.



A Commissioner of Oaths
(or as may be)



BECKY MCFARLANE

Brendan O. Brammall
LSUC# 54544M

BECKY MCFARLANE et al. v. MINISTER OF EDUCATION (ONTARIO) et al.

Court File No.

Applicants Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

**AFFIDAVIT OF BECKY
MCFARLANE
(SWORN AUGUST 15, 2018)**

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