

Application Form for the Development of Test Cases

Check the box(es) that apply to your funding application for the development of a test case:

Legal research and writing

Evidence development

Consultation

Check the box that applies to you:

You are an **individual** whose human rights covered by the CCP may have been breached.

You are a **group** whose human rights covered by the CCP may have been breached.

You are a **non-pro fit organization** that represents an individual or a group whose human rights covered by the CCP may have been breached.

Name of funding applicant Carman Bradley

Applicant's contact information:

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Phone 403-360-8924

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Check the box(es) that apply to your funding application:

- Section 2 of the *Canadian Charter of Rights and Freedoms* (fundamental freedoms, including freedom of religion, expression, assembly and association)
- Section 3 of the *Canadian Charter of Rights and Freedoms* (democratic rights)
- Section 7 of the *Canadian Charter of Rights and Freedoms* (life, liberty and security of the person)
- Section 15 of the *Canadian Charter of Rights and Freedoms* (equality rights)
- Section 27 of the *Canadian Charter of Rights and Freedoms* (multiculturalism) – when raised in support of arguments based on equality rights
- Section 28 of the *Canadian Charter of Rights and Freedoms* (gender equality)

Describe your case: the facts and the legal issues.

Alberta's Bill 10 - An Act to Amend the Alberta Bill of Rights to Protect Our Children (Mar 2015) and Bill 24 - An Act to Support GSAs (Nov 2017) have created an unprecedented alteration of the state-parent-child (state-family) relationship causing an imbalance and collision of rights, freedoms, and responsibilities. During the 29th Alberta Legislature, the Applicant raised the issue with his riding MLA, most MLAs, the Minister of Education, and the UCP Shadow Minister of Education, all to no avail. PC, NDP, and now UCP governments have asserted the rights of students, while at school (Grades K-12) to: (1) join a GSA; and (2) self-identify by Sexual Orientation/Gender Identity (SOGI), both without parent knowledge and approval. Exclusive of remedy and legal interpretive clarity, the so-called "GSA Law" or "LGBT Student Rights Law," i.e. changes to the Alberta School Act (s.16.1, s.45.1 and s.50.1) and to the Bill of Rights, fails the Oakes Test in five areas: (1) the irrationality of purporting to protect the health of some students, inevitably putting many others (wavering/confused/questioning/straight youth) at risk; (2) the careless empowerment of students (ages 5 to 17) to form unregulated, unsupervised, non-transparent, ideological, and peer-organized activist clubs; (3) the new Alberta Education powers are exercised at the sacrifice of lawful parenting rights; (4) the sanction of secret/independent SOGI self-identification, grants rights for which students (e.g. ages 5 – 14) are not mature enough to safely decide free of parent counsel/consent; and (5) the education system is not equipped/qualified/organized to safely take over child-rearing and child welfare service roles for children "secretly" SOGI self-identifying and attending GSA/GSA Network activities. Evidence exists to prove all of these assertions. Parent rights and responsibilities regarding their children's "human sexuality" should not be so disenfranchised. School Act s.50.1 grants parents the right to due notice and the power to opt-out their children from instruction in subject-matter dealing with human sexuality. Alberta Family Law Act, s.21(6), states parents have rights: (1) "to make decisions about the child's education, including the nature, extent and place of education and any participation in extracurricular school activities;" (2) "to make decisions regarding the child's cultural, linguistic, religious and spiritual upbringing and heritage;" and (3) "to decide with whom the child is to live and with whom the child is to associate." Under family and child welfare law, parents are entitled to due legal process before the state intervenes in parent childrearing autonomy. GSA Law circumvents this right and also breaches long-established age-based parent consent laws, i.e. prerequisites to reach ages 16/18 to escape need for parent consent in key life choices. The sound function/solidarity/autonomy of the Canadian family has traditionally rested on these legal thresholds regulating parent-child relations. Moreover, Hansard records very hasty scrutiny/analysis/consideration of the impact on stakeholders of including "gender identity" and "gender expression" to the Alberta Bill of Rights. Applicant seeks to clarify the constitutional rights of parents and their children as follows:

- (1) What is the legal age at home for son or daughter self-determination of "gender identity" and "gender expression"?
- (2) What is the legal age for SOGI self-determination, while at school, independent of the knowledge and approval of parents?
- (3) What is the legal age at which parents have a right to know when their child, at school or at an off-school GSA-related activity, is counseled/encouraged to SOGI self-identify or is being trained/mobilized to be an activist for moving peers beyond tolerance to celebration of the sexual minority?
- (4) Do parents have the right to influence their children's sexual development along a parent-preferred human sexuality path? If not, at what age, by law, must parents become indifferent to their child's sexuality development?
- (5) Do parents have the right to decide with whom their children associate and from which medical professionals to seek advice in attending to their children's up-bringing and welfare?
- (6) What is the legal utility of the Bill of Rights declaration that parents have the right and freedom "to make informed decisions respecting the education of their children" in view of GSA law? Does this right not require schools to gain parent approval prior to their children (especially ages 5 - 14) joining a GSA and/or attending a GSA Network?
- (7) What is the legal value of Alberta School Act s.50.1, if the intent of the provision is subverted through the exemption for joining a GSA or declaring a secret SOGI self-identity while at school?
- (8) Are parents constitutionally entitled to notification and consent for their child to be counseled/indoctrinated in human sexuality (e.g. transgenderism) by off-site/out-of-school networks/agencies, that are neither certified by, legally accountable to, or officially regulated by the state (Alberta Education, Alberta Health Services or other Government sector)?

The new UCP government will try to assuage, in part, parent rights infringement and child safety concerns by proposing random volunteer teachers be responsible for arbitrary notification of parents in a health emergency arising from secret GSA attendance and/or SOGI self-identity. This policy is dysfunctional in seven ways: (1) the ATA membership (46,000) is dead set against the responsibility; (2) teachers often complain about class sizes limiting their ability to know students; (3) students move grades (K-12) and in higher grades between many teachers; (4) students switch schools and may move during a school year; (5) teachers are not trained/qualified/placed to make arbitrary and timely medical/psychological judgments on sexuality matters; (6) conflicting views regarding SOGI set one teacher against another; and (7) teachers don't know what is going on in GSAs.

Describe how your case is a **test case**.

This case addresses interlocking rights issues not previously litigated and matters which will have broad impact settling legal relations between state-parent-child. All parents and their children have a right to equal protection and benefit of the law. Current GSA Law and Inclusive Education policy are affirmative actions on behalf of sexual minority student rights; however, the replacement of human sexuality science with ideology, the empowerment of children (ages 5 to 17) to disregard their parents, and the legislation implementation intent to eradicate "homophobia," discriminates against a fair, equal, and unbiased education environment, and is prejudicial to sexually wavering youth, students of faith or so-called "social conservative values," and their parents. The ATA publication "GSAs and QSAs in Alberta Schools: A Guide for Teachers," advocates GSAs (Types 3 and 4) be used for "eradicating homophobia," and for "political activities" to move classmates beyond tolerance of sexual minority students to celebration. The 2015 Ontario Health and Physical Education Curriculum, claimed to be state-of-the-art Inclusive Education policy, defines homophobia as "A disparaging or hostile attitude or a negative bias, which may be overt or unspoken and which may exist at an individual and/or a systemic level, towards people who are lesbian, gay, bisexual, or transgender (LGBT)." Note the terms "homophobia" and "homophobe" are not legally defined, although trans, queer, bi and homophobe are used to silence free speech, and bully all who hold thoughts, beliefs and opinions in disagreement with sexual minority activism. The terms are not found or defined in the Charter, the Human Rights Act or Criminal Code; nor in the Alberta Human Rights Act, Bill of Rights, Education Act, Family Law Act, or School Act. In 2012, Associated Press barred use of the term "homophobia" from its Style Book noting the suffix "-phobia" ("irrational or uncontrollable fear") should not be used in political or social contexts in AP reports, including its derivative "homophobe." Through promotion of SOGI ideology and political action at all school levels (K-12) and in all school types, the result is state affirmation of a single human sexuality ethos across the education system. The state has declared indifference to whether children develop along a transgender, bisexual, queer, homosexual or heterosexual path, over the interests and rights of parents who do not share such apathy to their children's sexuality.

Annually 690,000 students, varying in age from 5 to 17, attend more than 2380 Alberta schools. Over 20,000 Alberta students are waverers – confused or questioning youth who could develop along a sexual minority or a heterosexual path depending on environmental influences. This number is double that of self-identified gay and lesbian students. Health Agency of Canada, in Canadian Guidelines for Sexual Health Education, states "sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious, and spiritual factors." GSA Law, SOGI self-identity rights, and Inclusive Education policy radically shift "environmental factors" toward students self-identifying along a sexual minority development path. Ample evidence exists to prove this growth trend and an increase in sexuality confusion among youth. In resolving this state-parent-child rights collision following Bill's 10 and 24, the case will expose irrationality, relevant untruths about homophobia, pertinent facts related to human sexuality, and key short-comings in legislation. The result will be greater legal clarity and positive change to the education system and policies. The case will raise public awareness and determine whether our courts value diversity and tolerance in our pluralistic society or insist on one universal societal ethos celebrating sexual minority identities and values. In addition to the clarifications listed under "facts and legal issues," this test case should:

- (1) Clarify minimum legal safeguards and oversight needs. Current laws empower students (K-12) to form unregulated, unsupervised, non-transparent, ideological, and peer-organized activist clubs (Types 3 & 4) without need to declare a club constitution (rules, purpose, staff oversight), or to gain school approval, or to make the constitution available for public access.
- (2) Clarify who in the teacher-facilitator-principal-superintendent-school board chain has authority to tell a GSA what they cannot do or to decide when enough GSA-driven events have been carried out to achieve a welcoming school environment?
- (3) Clarify, when a student declares a transgender self-identity while at school, to be kept secret from his/her parents, who takes on legal responsibility for providing professional certified psychological and medical care for the youth.
- (4) Clarify, now that the state has put in place laws permitting GSA clubs, connected together through GSA Networks, and further connected to LGBT activist/support agencies, is the state obligated to provide sexually wavering/confused/questioning students (K-12) with equally well facilitated/accessible/assured, unbiased, and non-ideological human sexuality counseling?
- (5) Clarify who is liable in the case where a youth (age 5 to 17; grade K-12) is physically or mentally injured as a result of attending a GSA or GSA Network activity, without parental knowledge and approval.
- (6) Clarify by legal definition what "homophobia" is or is not, following the Criminal Code 319 Hate Speech model, which includes grounds for defense, for example: statements do not constitute homophobia: (i) which are true; (ii) which are made in good faith, respectfully expressed to establish by argument an opinion on a religious subject or on a belief in a religious text; and (iii) which are relevant to any subject of public interest, for public benefit, which are believed to be true.

Describe how your case is of **national importance** how your case could **assert and clarify** one of the human rights covered by the CCP.

This case will assert and clarify two human rights covered by CCP. Section 2 of the Charter guarantees freedom of religion and freedom of thought, belief, opinion and expression. Section 15 guarantees the right to equal benefit of the law without discrimination. GSA Law or LGBT Student Rights Law and Inclusive Education policy infringe s.2 and s.15 with excessive negative impacts on the state-parent-child legal relationship. This case will assert and clarify state-parent-child rights, including regulatory and oversight constraints on in-school GSA and off-school GSA Network activities. The case will expose the health and safety risks of GSA Law and Inclusive Education policy and bring to light remedies.

According to "GSAs and QSAs in Alberta Schools: A Guide for Teachers," a premise underlying GSA Law and Inclusive Education policy is that LGBT students are disproportionate victims of bullying oppression. Affirmative action legislative/policy goals are to end this oppression, and where unsuccessful, to isolate self-identified LGBT students in GSA "safe-spaces." The Law and policy attempt to police thought, belief, opinion and expression in school corridors etc., and also control thinking inside GSA safe-spaces and at off-school GSA Networks. This affirmative action overreach was in part predicated upon findings by the Taylor & Peter (EGALE) national climate survey on homo-, bi-, and transphobia in schools. The report inaccurately asserts a one-to-one correlation between "harassment" and "homophobia." Note heterosexual students are also bullied and harassed, but not as a result of a "phobia." The survey was held at 20 schools, although Alberta alone has 2,388 schools, and did not differentiate results by school type: Public, Separate, Charter, or Private School. Nor were rural schools set apart from metropolitan, elementary from secondary, or faith-based from non-religious schools. The survey actually found that 67% of LGBTQ students in schools without anti-homophobia policies reported never being physically harassed; and 40% never verbally harassed. These results run counter to the "oppression" narrative and are even more contradictory when base-lined against harassment levels among heterosexual students.

The term "harassment" was never defined nor the frequency of occurrence recorded, although this is what the study purported to measure. The EGALE study is not sufficient rationale for the suite of Bill 10/24 legislations. The point being the need for safe and inclusive schools in Alberta has been sold on the basis of an over stated and statistically vague/unsubstantiated narrative of victimization. Measurement of "oppression/harassment" in schools using standards like "feel unsafe," "sometimes feel unsafe," or "having been physically harassed" are vague at best. This case will cast the urgency and need for sexual minority student affirmative actions (under s.15(2)) in more truthful light.

GSA Law and Inclusive Education policy aim to purge the scientific and statistical fact of "heteronormativity" from public education. Ontario's 2015 Health and Physical Education curriculum declares a number of sexual health considerations. The word gender identity is found 43 times, sexual orientation 42 times, and gender expression 11 times. The terms transgender, transsexual, intersex, and two-spirited total 18 times, gay and lesbian 14 times, and homophobia 4 times. The word heterosexual is found once, listed in brackets along with gay, lesbian, and bisexual, as a type of sexual orientation. The H&PE curriculum glossary defines: bisexual, gay, gay-straight alliance, gender, gender-based violence, gender expression, gender identity, homophobia, lesbian, intersex, sexual orientation, sexuality, transgender, transsexual, and two-spirited. The glossary does not include/define the term heterosexual. After decades spent by the political left deconstructing heteronormativity, it is no longer seen as desirable or necessary by "progressive" "inclusive" educators to promote heterosexuality in schools. Elevating SOGI ideology at the expense of heteronormativity confuses and misleads youth, putting more children at risk.

Canadian parents are being denied, by the state, the ability to rightfully influence the sexual development their off-spring. By legislating an education environment of ideological curriculum, secret SOGI self-identity, LGBT Inclusive Education policy, and secret in-school/off-school GSA activities, the state is disenfranchising parent rights and adversely dismantling the traditional "state-family" or "state-parent-child" relationship.

Describe the options you have explored for funding and your need of financial support to proceed with the case.

For over three years I have been advertising through a website – www.Bill10CourtChallenge.Org for pro bono legal aid, to no avail. I have been made aware through a number of lawyers that a legal case of this importance and intricacy would require multi-hundreds of thousands of dollars. Gaining funding approval to develop the test case is an indispensable first step.

Survey: Level of satisfaction with the services of the Court Challenges Program

How did you hear about the CCP?

Internet

Did you find all the information you were looking for on the CCP website?

Yes

Was the information on the CCP website easy to find?

Yes

Was the information on the CCP website easy to understand?

I had trouble understanding some information on the website

Did the CCP personnel answer your questions?

Yes

How can we improve the CCP website?

There is an electronic problem whereby the text entered into "Describe how your case is of national importance..." also populates the box "Describe the options you have explored for funding....."
If you clear the later box the "Describe how your case is of national importance..." box clears also.
This problem is the reason a scanned PDF has been submitted with a cut and paste solution at the bottom of page four.

How can we improve our services?

Please fix your application form.

We would like to receive your comments and suggestions to serve you better.

BY EMAIL ONLY

August 1, 2019

Carman Bradley
2017, 50th Avenue SW
Calgary, AB
T2T 2W4

Subject: Application for funding for the development of a test case
Applicant: Carman Bradley
Our file number: HP-E015

Dear Mr. Bradley,

We regret to inform you that, at their meeting held on July 11, 2019, the members of the Court Challenges Program's (the "CCP") Human Rights Expert Panel examined your application for funding for the development of a test case and declined the request for funding.

Regarding the application, the Panel adopted the following motion:

"That the funding application from Carman Bradley for the development of a test case be refused on the grounds that it does not meet the CCP's eligibility criteria."

If you have any questions about the Expert Panel's decision, please do not hesitate to contact Geneviève Colverson, legal counsel for the CCP, by phone at 613-562-5800, ext. 2424, or by email at genevieve.colverson@uottawa.ca. For ease of reference, please indicate your file number (HP-LIT015) in all correspondence with the CCP about this file.

Sincerely,



Eric Cormier
Interim Director