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IN THE MATTER OF THE *HUMAN RIGHTS CODE*  
R.S.B.C. 1996, c. 210 (as amended)

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

B E T W E E N:

Peter Corren and Murray Corren

**COMPLAINANTS**

A N D:

Her Majesty the Queen in the Right of the Province of British Columbia as  
represented by the Ministry of Education

**RESPONDENT**

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**REASONS FOR PRELIMINARY DECISION  
APPLICATION TO DETERMINE SCOPE OF COMPLAINT**

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Tribunal Member:

Judy Parrack

Counsel for the Complainants:

Judith Doulis

Counsel for the Respondent:

Nitya Iyer

## INTRODUCTION

[1] Peter and Murray Corren filed their first complaint with the British Columbia Human Rights Commission (the “Commission”) in January 1999 (the “original complaint”) and amended it in September 1999. The amended complaint was referred to the Tribunal and is complaint No. 75 (the “amended complaint”). In essence, the complainants allege in the amended complaint, that Her Majesty the Queen in the Right of the Province of British Columbia as represented by the Ministry of Education (the “Ministry”) discriminates against non-heterosexual students, and their parents, regarding a service that is customarily available to the public because of their sexual orientation contrary to s. 8 of the *Human Rights Code*. In January 2004, the complainants filed a second complaint with the Tribunal, complaint No. 941, alleging that the Ministry discriminated in the provision of a service contrary to s. 8 of the *Code* because of their sexual orientation, sex, marital status and family status contrary to s. 8 of the *Code*. In both complaints, the Ministry denies it discriminated.

[2] These complaints have a long history, which I set out in *Corren and Corren v. B.C. (Ministry of Education (No. 2))*, 2005 BCHRT 497 and it is not necessary to repeat here.

[3] In *Corren and Corren (No.2)*, I dealt with issues arising from the Ministry’s application to determine the scope of the complaint filed on July 11, 2005, the first day of the hearing. Subsequent to the release of that decision, I held a pre-hearing conference to deal with certain issues raised by the Ministry with respect to my decision. I set a schedule for submissions on those issues.

[4] In this decision, I must determine whether the following fall within the scope of the complaint:

1. the program, *All Together Now!*;
2. the draft Integrated Resource Packages (“IRPs”) and the IRPs developed and/or implemented after July 11, 2005; and

3. the definition of “sensitive content” and the *Opting for Alternate Delivery Policy*.

## **ANALYSIS AND DECISION**

### *All Together Now!*

[5] I have reviewed program materials with respect to *All Together Now!*. This program was developed as a “school-based early intervention and crime prevention strategy for youth aged 9 to 12 with a special focus on the needs of youth at risk”. Five schools initially participated in the program but it has expanded to include more schools throughout British Columbia. Although this program addresses issue such as crime prevention, respect/diversity, racism and/or hate and street safety, it does not address curriculum issues nor does it say it is to be used in the classroom. It does not refer to any IRPs. It appears to be a program directed at developing partnerships between the school and the community to address the types of concerns raised within the program’s mandate.

[6] The complainants say that this program is “evidence that a climate existed such that negative parental responses could control the content of the presentation being made to elementary students”. I do not see how this assertion is reflected in the program.

[7] I do not accept that this program relates to the teaching of curriculum in the classroom. Unlike *Safe, Caring and Orderly Schools: A Guide*, it does not address issues of a code of conduct for teachers and others within the school community, which may have some bearing on how issues are taught in the classroom.

[8] As I indicated in *Corren and Corren (No.2)*, the complainants are entitled to speak to the effects of the alleged discrimination. However, that does not mean that they can include any document developed, or used, by the Ministry in the school system within the scope of their complaint.

[9] For these reasons, the program *All Together Now!* is not included within the scope of the complaint.

*Integrated Resource Packages*

[10] In *Corren and Corren (No.2)*, I concluded that all IRPs that have, or had, Appendix C: Cross-Curricular Interests (“Appendix C”) attached to them and, which did not include sexual orientation as a cross-curricular interest, are included in the issues to be determined by this Tribunal.

[11] The issue I am now asked to determine is what specific IRPs fall within this scope. The main issue, as I see it, is the temporal scope of the complaint and what IRPs will fall within the issues to be determined by the Tribunal. The development and revision of IRPs is an ongoing task within the Ministry. This necessarily means that IRPs have changed and will continue to change, during the course of this proceeding. It also means that there will be new IRPs that have no relation to those IRPs falling within the temporal scope of the complaint as they will not have, or had, Appendix C attached. Further, those falling within the temporal scope, might now be under revision. The Ministry has referred to these new and revised IRPS as “post-Appendix C IRPs” and I will also refer to them as such.

[12] In my view, the Ministry is entitled to know which IRPs are before the Tribunal so that this complaint does not become an ongoing and continuous review of every new and evolving IRP.

[13] The hearing of this complaint started on July 11, 2005. The hearing was adjourned to deal with the Ministry’s first application to determine the scope of the complaint. The complainants were not available to continue the hearing until July 2006. However, this delay does not mean that all the newly drafted IRPs during this period (July 2005-July 2006) should fall within the scope of the complaint.

[14] Further, I do not accept that any newly created “draft” IRPs should be included in the scope of the complaint, subject to my comments below. The Tribunal is not in a position to speculate on what may, or may not, be included in the final version of an IRP nor make any comment as to whether that final version would discriminate based on the grounds alleged in this complaint.

[15] The Ministry explained that when an IRP is drafted it is posted for public response (the “Response Draft”). Once the public response period has concluded, the Ministry makes the revisions it determines to be appropriate and then implements the IRP.

[16] The Ministry has provided a list of 60 IRPs that have, or had, Appendix C attached. There appears to be no issue between the parties that these fall within the scope of the complaint. This list is attached as Appendix “A” to this decision.

[17] Further, the Ministry accepts that the following additional “post-Appendix C” IRPs, listed in paragraph 6(a) of *Corren and Corren (No.2)* fall within the scope of the complaint:

Planning 10

Social Studies 11

Civic Studies 11

Health and Career Education 8 and 9 (referred to Heath and Career 7-9 – draft curriculum in paragraph 6(a))

[18] The Ministry says that the IRP, Health and Career Education K-7 – “Information Draft”, was posted in November 2004, but then withdrawn. In my view, since the document was withdrawn, and appears never to have been implemented, it should not form part of the issues to be determined by the Tribunal.

[19] The Ministry provided a list of 14 post-Appendix C IRPs that were developed and, in some cases, implemented as at July 11, 2005. These are:

Technology Education 11 and 12 – Automotive Technology (2001)

Technology Education 11 and 12 – Carpentry and Joinery (2001)

Technology Education 11 and 12 – Drafting and Design (2001)

Technology Education 11 and 12 – Electronics (2002)

Technology Education 11 and 12 – Metal Fabrication and Machining (2002)

Planning 10 (2004)

English Literature 12 (2003)

Drama 11 and 12 – Theatre Performance and Theatre production (2002)

Music 11 and 12 – Choral Music and Instrumental Music (2002)

Information and Communications Technology 11 and 12 (2004)

Core French 5 to 12 (2001)

Mathematics 8 and 9 (2001)

BC First Nations Studies 12 (2000)

[20] From this list, only English Literature 12 (2003), BC First Nations Studies 12 (2000) and Planning 10 (2004) appear to be revised versions of earlier IRPs. The first two are included in the list of the 60 IRPs provided by the Ministry and which fall within the scope of the complaint. Planning 10 (2004) is the revised version of Planning 10 which the Ministry accepts falls within the scope of the complaint and it is listed in paragraph 17. Therefore, these three IRPs, as they relate to the earlier versions, fall within the scope of the complaint. However, there is nothing to suggest that the balance of these IRPs have, or had, Appendix C attached. Therefore, these are not included in the scope of the complaint.

[21] The Ministry says that as of July 11, 2005, 5 post-Appendix C IRPs had been posted as Response Drafts and were implemented either, optionally or fully, in the fall of 2005. These IRPs are:

Health and Career Education 8 and 9 (2005)

Spanish 5 to 12 (2005)

Science K to 7 (2005)

Civic Studies (2005)

Social Studies 11 (2005)

[22] Of these five, two are earlier versions of the IRPs which had Appendix C attached and are included on the list of 60 IRPs provided by the Ministry: Spanish 5 to 12 (2005) and Science K to 7 (2005). With respect to Social Studies 11 (2005) and Health and

Career Education 8 and 9 (2005), these appear to be updated versions of those IRPs listed in paragraph 17. I accept that these four IRPs no longer have Appendix C attached. However, these new IRPs are related to previous IRPs and are IRPs that have, or had, Appendix C attached or that the Ministry agrees fall within the scope of the complaint. Therefore, I find that these four IRPs fall within the scope of the complaint. With respect to Civic Studies (2005), this appears to be a new IRP and therefore does not fall within the scope of the complaint.

[23] The Ministry set out a further list of 19 IRPs that it says will be posted as drafts between July 11, 2005 and July 2006. The Ministry says that these should not be included within the scope of the complaint. Many of those listed are drafts of earlier IRPs that are listed on Appendix A to this decision and are the IRPs that the parties agree fall within the scope of the complaint. The subsequent drafts may be referred to, as the Ministry suggests, to show that the effects of Appendix C linger on. However, in my view, they are not, in and of themselves, included within the scope of the complaint. It is not the role of the Tribunal to speculate on draft documents and determine whether, in their future final form, they will discriminate contrary to the *Code*.

*Sensitive Content*

[24] In *Corren and Corren (No. 2)*, I found that issues related to the failure of the Ministry to define what constitutes “sensitive content” under its *Opting for Alternative Delivery Policy*, which applies to sex education, fell within the scope of the complaint. This Policy applies to 5 IRPs in the curriculum. The complainants say they are:

Personal Planning K-7

Career and Personal Planning 8-12

Planning 10

Health and Career Education K-7

Health and Career Education 8 and 9

[25] As I said in *Corren and Corren (No. 2)*, if as the complainants allege, students are removed from the class when a sensitive topic is discussed and that sensitive topic relates

to issues of sexual orientation and same-sex families, then that student may not learn about gay and/or lesbian issues. The complainants say that this has an adverse effect on both heterosexual and non-heterosexual families. If students are removed pursuant to the Policy during the teaching of the 5 IRPs listed, then the complainants are entitled to lead evidence regarding the Policy in these situations.

[26] In conclusion, I have no difficulty finding that the scope of complaint includes the issue related to the failure of the Ministry to define what constitutes “sensitive content” in the *Opting for Alternative Delivery Policy*.

## CONCLUSION

[27] In summary, I make the following orders with respect to the scope of complaint No. 75:

- a. the scope does not include the program *All Together Now!*;
- b. the scope includes a consideration of all IRPs which are affected by Appendix C and the alleged absence of sexual orientation as a cross-curricular interest and that are listed on Appendix “A” to this decision; and
- c. the scope includes the issue related to the failure of the Ministry to define what constitutes “sensitive content” in the *Opting for Alternative Delivery Policy*.

[28] If there are any questions arising from this decision, the parties should advise the Tribunal and a pre-hearing conference will be set to clarify those issues.

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Judy Parrack, Tribunal Member

## APPENDIX “A”

### 60 AGREED TO IRPS

#### Applied Skills

Applied Skills 11 (1995)  
Business Education 8 to 10 (1997)  
Business Education 11 and 12 (1998)  
Home Economics 8 to 10 (1998)  
Home Economics 11 and 12 (1998)  
Technology Education 8 to 10 (1995)  
Technology Education 11 and 12 – Industrial Design (1997)

#### Health and Career Education

Career and Personal Planning 8 to 12 (1997)  
Personal Planning K to 7 (1999)

#### English Language Arts

Communications 11 and 12 (1998)  
English Language Arts K to 7 (1996)  
English Language Arts 8 to 10 (1996)  
English Language Arts 11 and 12 (1996)  
Technical and Professional Communications 12 (1996)  
English Literature 12 IRP (1996)

#### Fine Arts

Dance 8 to 10 (1995)  
Dance 11 and 12 (1998)  
Drama 8 to 10 (1996)  
Drama 11 and 12 – Film and Television 11 and 12 (1998)  
Fine Arts K to 7: Dance K to 7, Drama K to 7, Music K to 7, Visual Arts K to 7 (1998)  
Fine Arts 11 (1995)  
Music 8 to 10 (1996)  
Music 11 and 12 – Composition and Technology (1996)  
Visual Arts 8 to 10 (1996)  
Drama 11 and 12: Film and Television (1997)  
Visual Arts 11 and 12 – Media Arts (1997)

#### Information and Communications Technology

Information Technology 8 to 10 (1996)  
Information Technology 11 and 12 (1996)

#### International Languages

American Sign Language 5 to 12 (1999)  
German 5 to 12 (1996)  
Japanese 5 to 12 (1997)  
Mandarin Chinese 5 to 12 (1999)  
Punjabi 5 to 12 (1996)  
Core French IRP (1995)  
Spanish 5 to 12 IRP (1997)

#### Mathematics

Mathematics K to 7 (1996)  
Mathematics 10 to 12 (2000)  
Mathematics 8 to 10 IRP (1996)  
Introductory Math 11 and Principles of Math 11/12 (1996)  
Applications of Math 11, 12 (1996)

#### Physical Education

Physical Education K to 7 (1995)  
Physical Education 8 to 10 (1995)  
Physical Education 11 and 12 (1998)

#### Sciences

Applications of Physics 11 and 12 (1998)  
Biology 11 and 12 (1996)  
Chemistry 11 and 12 (1996)  
Earth Science 11 and Geology 12 (1996)  
Physics 11 and 12 (1996)  
Resource Sciences 11 and 12 (Forests) (1997)  
Science 8 to 10 (1996)  
Science and Technology 11 (1995)  
Science K to 7 (1995)

#### Social Studies

Comparative Civilizations 12 (1997)  
Geography 12 (1999)  
History 12 (1997)  
Law 12 (1997)  
Social Studies K to 7 (1998)  
Social Studies 8 to 10 (1997)  
BC First Nations Studies 12 (1995)

### IRPS ADDED AS A RESULT OF THIS DECISION

Planning 10  
Planning 10 (2004)

Social Studies 11  
Social Studies 11 (2005)

Civic Studies 11

Health and Career Education 8 and 9  
Health and Career Education 8 and 9 (2005)

English Literature 12 (2003)

BC First Nations Studies 12 (2000)

Spanish 5 to 12 (2005)

Science K to 7 (2005)