

## Education

### SUMMARY

Education issues are more diverse and complicated than ever before. Increasingly, those involved in education, whether as teachers, school administrators or senior managers, are facing new issues that are unique to the field.

Members of our Education Focus Group advise educational institutions throughout Canada with respect to all of their legal needs. These can span education law, governance, construction and procurement, real estate, litigation, labour relations and employment, mergers and acquisitions, IT and licence agreements, privacy and FOI, tax and risk management. We are one of the largest education groups in the country. As such and as part of a national full-service firm, we are uniquely positioned to provide our clients with expert, timely and innovative advice on a host of education sector related issues.

Our clients include public and private schools at the K-12 and post secondary level, colleges and universities. We have been an effective and responsive advocate for educational institutions before both the courts and administrative tribunals.

The lawyers in our group write and lecture on education law issues and participate in the affairs of the Canadian Association for the Practical Study of Law in Education (“CAPSLE”) and the Education Law Section of the Canadian Bar Association. Accordingly, we have developed an awareness and knowledge of both the technical and practical aspects of education law matters. Our lawyers are also actively involved in the governance of schools, school boards and other educational institutions.

We would welcome the opportunity to get to know you and your needs, with a view to adding value to your ability to meet or exceed your organizational objectives. Educational institutions in Canada are made up of a complex mixture of internal services that enable the delivery of top-tier education to students. BLG wants to be your strategic partner, and to assist in fulfilling your goals in an efficient and cost effective manner.

### PUBLICATIONS

- Roher & Warner, *Ontario Employment Standards Act: Quick Reference*, 2014 Edition, Carswell.
- Eric M. Roher, *An Educator’s Guide to Violence in Schools*, 2nd Edition, 2010 Canada Law Book.
- Roher & Wormwell, *An Educator’s Guide to the Role of the Principal*, 2nd Edition, 2008, Canada Law Book.
- Roher & Weir, *An Educator’s Guide to Safe Schools*, 2004, Canada Law Book.
- Eric M. Roher, *Violence in the Workplace*, 2nd Edition, 2004, Carswell.

Eric Roher also completed a series of six videos on education law issues, which were produced by Canada Law Book and cover a range of issues, including: Violence in Schools, Search and Seizure, Racial and Sexual Harassment, Negligence and Liability, Suspension and Expulsion and Medication and Medical Treatment.

### Newsletters

The BLG Education Law Newsletter, our quarterly publication, is an accessible and instructive source of information on education law issues in Ontario. The newsletter is distributed free of charge to our school board and independent school clients and other interested parties. Articles

from the newsletter have been reprinted in a range of publications across Canada, and have been referred to in numerous books and articles.

- ["Arbitrator Rules That Sick Leave Entitlement Requires Active Work"](#), March 2018
- ["Cannabis Legalization Likely Delayed to End of Summer 2018"](#), March 2018
- ["Arbitrator Finds That Under the Restraint Legislation, a Director's Compensation Plan is Frozen"](#), March 2018
- ["Supporting Children and Students with Prevalent Medical Conditions"](#), March 2018
- Madeeha Hashmi  
Student-at-law, ["Arbitrator Rules That Teachers Are Not Entitled to Additional Paid Days for Religious Observances"](#), March 2018
- ["The Impact of Bill 148 on Ontario Schools"](#), March 2018
- ["Tribunal Finds That School Boards Are Not Required to Give Parents "Absolute Power" to Make Decisions About Education"](#), March 2018
- ["Tribunal Finds That School Boards Are Not Required To Give Parents "Absolute Power" To Make Decisions About Education"](#), March 2018
- ["Arbitrator States that Under The Restraint Legislation, a Director's Compensation Plan is Frozen"](#), March 2018
- ["Arbitrator Rules Boards Not Required to Schedule ECEs to Be Present for Full Length of Instructional Day"](#), November 2017
- ["Ontario Government Introduces Changes to Executive Compensation in School Boards"](#), November 2017
- ["Tribunal Rules That Requests for Guide Dog in Classroom Must Be Assessed Based on Each Student's Educational Needs"](#), November 2017
- ["Nova Scotia Introduces New Cyberbullying Legislation"](#), November 2017
- ["Ontario Government Introduces Cannabis Legislation"](#), November 2017
- ["Tribunal Confirms Parents are Required to Participate in Accommodation Process"](#), November 2017
- ["New Regime For Marijuana Will Impact Canadian Schools"](#), June 2017
- ["Saskatchewan Invokes Charter Clause Over Catholic School Funding"](#), June 2017
- ["Commission Releases Policy Statement on Religious Accommodation in Schools "](#), June 2017
- ["Protecting Schools From Concussion-Related Headaches"](#), June 2017
- ["Support Team Releases A Suicide Prevention Framework For Ontario School Boards"](#), June 2017
- ["Ontario College of Teachers Finds Markham Teacher Guilty of Misconduct After Stealing and Selling School Property"](#), June 2017
- ["Bill 68 May Change Duties and Obligations Concerning Conflicts of Interest"](#), June 2017
- ["Ontario's Catholic Teachers, French Teachers And School Support Staff Reach Tentative Deals To Extend Contracts"](#), January 2017
- ["B.C. Teachers Win Landmark Ruling at the Supreme Court"](#), January 2017
- ["Ontario Protecting Students Act, 2016 Came Into Force"](#), January 2017

- ["Cannabis Report Recommendations Would Delay Legalization to 2018 or 2019"](#), January 2017
- ["Young Man Sentenced for Criminal Harassment for "Sexting""](#), January 2017
- ["Ministry Releases New Bomb Threat Procedures"](#), January 2017
- ["Teaching in a "Post-Truth" World: Do Teachers and Students Need More Training in Media Literacy?"](#), January 2017
- ["Ontario Government Asks Unions to Extend Education Contracts"](#), October 2016
- ["Sexual Violence And Harassment Act In Force In Ontario"](#), October 2016
- ["Court Dismisses Track Student's Negligence Lawsuit Against School Board, Track Coach And Principal"](#), October 2016
- Jacquie Dagher, ["Ontario Introduces New Executive Compensation Framework"](#), October 2016
- ["Ontario Ombudsman's Office Marks One Year Of School Board Oversight"](#), October 2016
- ["School Boards Moving To Review Head Lice Policies"](#), October 2016
- ["Alberta Court Upholds Human Rights Decision Against Independent School"](#), October 2016
- ["Ontario Court Rules Putting Students First Act Unconstitutional"](#), May 2016
- ["Supreme Court Agrees To Hear Constitutional Class Size Case"](#), May 2016
- ["Ontario Court Adopts New Cause Of Action To Combat Online Bullying"](#), May 2016
- ["More All-Gender Washrooms Coming To Toronto Schools"](#), May 2016
- ["Sick Days Are Costly For Ontario School Boards"](#), May 2016
- Anastasia-Maria Hountalas, ["Ontario Introduces New Second Hand Smoking Legislation Targeting Marijuana"](#), May 2016
- ["Human Rights Tribunal Dismisses Discrimination Claim Against School Board Relating To Language Proficiency Job Requirement"](#), May 2016
- ["Ontario's Community Hubs Initiatives Encourage Delivery Of Community-Enhancing Services"](#), May 2016
- Webnesh Haile, ["Community Hubs: Strategies for Lead Agency De-Risking"](#), May 2016
- Webnesh Haile, ["Dispositions of Surplus Properties by School Boards — How New Rules Benefit Community Hubs and Impact Others"](#), May 2016
- Webnesh Haile, ["Introduction to Ontario's Community Hubs Strategic Framework and Action Plan"](#), April 2016
- ["Ontario Passes Police Record Checks Legislation"](#), January 2016
- Sarah Sweet, ["An Educator's Guide to Welcoming Syrian Refugee Children"](#), January 2016
- ["Pornography in the Workplace: Trends and Developments"](#), January 2016
- ["Nova Scotia Court Strikes Down Cyber-Bullying Legislation"](#), January 2016
- ["Liberals Vow to Repeal Section 43 of the Criminal Code"](#), January 2016

- ["Ontario Introduces Legislation To Establish Concussions Advisory Committee"](#), January 2016
- ["It's Never Okay: Ontario Government Releases an Action Plan to Combat Sexual Violence and Harassment"](#), January 2016
- ["Are You Compliant With AODA Standards Effective January 1, 2016?"](#), January 2016
- ["On September 1st The Ombudsman Began Taking Complaints About School Boards"](#), September 2015
- ["Job Action Ramps Up For CUPE And ETFO"](#), September 2015
- ["Criminal Consequences Of Student "Sexting""](#), September 2015
- ["Video Surveillance In Schools: Balancing Safety And Privacy"](#), September 2015
- ["Education Assistant's Human Rights Application Dismissed As No Reasonable Prospect Of Success"](#), September 2015
- ["OLRB Releases First Full Reasons Decision Regarding The Scope Of Local/Central Bargaining For CUPE Bargaining Units In The Education Sector"](#), September 2015
- ["Court Approves Police Search Of Cell Phone Used In Teacher Parking Lot Drug Deals"](#), September 2015
- ["OLRB Rules Local Strikes Unlawful, While Government Proceeds With Back-To-Work Legislation"](#), May 2015
- ["Ontario Passes New Law On Asthma Inhalers In Schools"](#), May 2015
- ["What School Leaders Need To Know About The Revised Health And Physical Education Curriculum"](#), May 2015
- ["School Stabbing Report Makes 41 Recommendations To Improve School Safety"](#), May 2015
- ["Teacher Reinstated After Allegations Of Sexual Abuse"](#), May 2015
- ["The Public Sector And MPP Accountability And Transparency Act, 2014 Becomes Law"](#), May 2015
- ["Québec High School Criticized For Student Strip Search"](#), May 2015
- ["Yik Yak: Anonymous Posting App Being Used For Cyber-Bullying"](#), May 2015
- ["Supreme Court Of Canada Agrees With Quebec Catholic School Regarding Religious Freedom"](#), March 2015
- ["Accommodating Transgender Students In Your School"](#), March 2015
- ["Supreme Court of Canada Creates New Test for Police to Search Cell Phones Without a Warrant"](#), March 2015
- ["Teacher Awarded Damages for Defamatory Statements Made Against Her"](#), March 2015
- ["New Employment Standards Act, 2000 Amendments Expand School Boards' Obligations"](#), March 2015
- ["Supreme Court Of Canada Decision On The Right To Strike Could Have An Impact On The Education Sector"](#), March 2015
- ["Practice And Process Around Religious Exemptions"](#), March 2015

- ["Arbitrator Rules That Benefits Provided Under A Collective Agreement For Post-Age 65 Retirees Are Permissible Under The Education Act"](#), March 2015
- ["No Breaks Without Replacements For Designated Early Childhood Educators"](#), March 2015
- Priscilla Platt|Kelly J. Morris|Meghan Lindo, ["Education Law Newsletter - Fall 2014"](#), September 2014
- Priscilla Platt, ["Ontario's IPC Rules that there is No Right of Access to Certain Records of School Board Trustees Under the MFIPPA"](#), May 2014
- Meghan Lindo, ["Education Law Newsletter"](#), October 2013
- ["Education Law Newsletter"](#), April 2013
- ["Education Law Newsletter"](#), January 2013
- ["Cabinet Order Imposes Mou on School Boards and Unions"](#), January 2013
- ["Education Law Newsletter"](#), October 2012
- ["Putting Students First Act, 2012"](#), August 2012
- ["Education Law Newsletter"](#), March 2012
- ["Education Law Newsletter"](#), September 2011
- ["Education Law Newsletter"](#), March 2011
- ["Education Law News"](#), September 2010
- ["Education Law News"](#), March 2010

## OUR SERVICES

### School Board Governance

BLG is experienced in by-law and policy areas with respect to school board governance, operation and administration. We are general corporate counsel to a substantial number of public sector bodies and community organizations. As general corporate counsel, we provide advice on a wide variety of corporate law issues including governance issues.

BLG has advised school board trustees and administrators on a variety of governance issues. This has included issues on maintaining confidentiality at board meetings; governance practices and procedures; governance reviews; director and officer liability issues and board policies, such as board codes of conduct and conflict of interest policies; by-law reviews; development and drafting of committee terms; fiduciary duties, conflict of interest, members' rights and by-law interpretation; suspension appeal and expulsion hearings; immigration law issues; advice on school board election issues; board composition, ex-officio positions, rotating terms, nomination and election procedures; board fiduciary duties and governance concerns and access to school premises and trespass to property.

### Construction and Engineering

BLG's Construction Group has significant recent experience in education sector construction and engineering projects in Western Canada, providing advice to public and private educational institutions. We advise on issues related to the *Builders Lien Act*, construction contracts, professional services agreements, procurement and tendering issues, default situations and surety bond claims.

Having been involved in all aspects of the construction process from the planning, development, and procurement/tendering stage to the conclusion – including extensive involvement with the

resolution of construction disputes — we provide a complete project lifecycle service. We have a strong background and experience in drafting and reviewing all forms of building and infrastructure contracts, professional and services contracts and sub-contracts, drafting and reviewing all forms of procurement and tender documents, advising on the conformity and compliance of procurement processes and tenders including with Partnerships BC and other government agencies and providing advice on construction and surety claims and the validity of claims submitted during or after construction.

### **Procurement**

Our experience with all aspects of public procurement and contracting issues spans the entire procurement process including formulating the procurement strategy, writing the procurement and contract documents, advising on the evaluation process and assisting with resolving bid disputes and challenges.

We regularly advise on preferred procurement approaches, RFQs, RFPs and other available tender processes, as well as the preparation and negotiation of procurement contracts for all types of procurements. Our advice may include:

- Assisting the educational institution with selecting the right procurement process to meet its needs and the needs of the particular project;
- Drafting and reviewing procurement documents before they are issued; and
- Advising on any significant matters of risk including providing guidance on legal provisions, limitations of liability provisions, bid evaluation and scoring process and methodology and any other significant areas.

We can also assist in developing a form of contract to include in the RFP or alternatively, a specific set of commercial provisions to which a proponent must respond and insert into its standard form of agreement. In addition, we often provide ongoing advice to government entities during the process, including addressing questions of compliance, assisting to answer request for information process on legal and risk matters and concerns relating to the evaluation process, and assisting with negotiations where the procurement documents permit.

### **Real Estate and Development**

Our Commercial Real Estate Group has the experience and expertise needed to serve all facets of an educational institution's real estate and development related requirements. The group has acted for a broad range of clients including School Districts, developers, builders, local, national and international businesses, pension funds, as well as governments, governmental agencies, and lending institutions.

Our Commercial Real Estate Group has negotiated arrangements between governmental bodies and private enterprises; completed development, servicing and subdivision related matters for a wide range of projects; negotiated and prepared leasing arrangements for both public and private sectors; formulated and prepared proposal calls for public bodies; acted for boards of education, colleges of applied arts and technology, universities, municipalities, public bodies, Crown corporations and private schools; and acted for and advised on the purchase and sale of major real estate portfolios.

### **Litigation**

With the number of lawyers and our scope of expertise, BLG has one of the largest and most respected litigation practices in Canada. As such, BLG has extensive resources to successfully advance or defend any type of litigation. We are accustomed to working with public bodies and private sector parties to provide the level of service they require, whether it is complete preparation and attendance in the litigation, or support at any of the various stages of litigation, including handling essentially the barrister's component of the work.

Because we handle many high profile cases, our lawyers are comfortable dealing with media inquiries, and we have in-house media professionals to assist in that regard.

We have versatile litigators, from a number of sub-specialty groups, experienced in the civil and criminal courts, federal and provincial, as well as the Supreme Court of Canada and most regulatory and administrative tribunals.

BLG is regularly retained to represent education institution clients in a broad range of civil litigation matters. We have represented many education institutions for many years in a vast variety of civil litigation matters, including contract disputes, construction disputes, building envelope and environmental separation concerns, maintenance of capital structures, labour issues, defamation, judicial review, and providing defence to educators.

### **Labour and Employment**

The Labour and Employment Group at BLG has extensive experience advising on a full range of multi-jurisdictional labour and employment law matters.

The group has experience in both labour and employment laws, and works with a wide spectrum of businesses and industries, including private sector businesses, crown corporations, schools and government. Our clients look to us to provide them with the hands-on approach of a boutique firm while offering immediate access to the breadth and depth of expertise available in one of Canada's pre-eminent full-service law firms.

BLG's Labour and Employment Group is experienced in all aspects of labour and employment law, including labour relations; employment law; student discipline; safe schools; negligence and liability; school board reorganizations resulting in division of employees assets and liabilities; human rights, including design of human rights and harassment policies and procedures; investigations (and defence) of human rights and harassment complaints; *The Youth Criminal Justice Act*; freedom of information, privacy and confidentiality issues; pay equity; special education concerns; and policies and procedures (including conflict of interest, confidentiality, trustees' conduct, harassment and anti-discrimination, etc.). We also have extensive experience in labour arbitration on behalf of school boards.

### **Information Technology**

The Information Technology (IT) Group at BLG has proven expertise in providing technology law and intellectual property services to all industry sectors. The IT Group employs a multi-disciplinary approach to provide IT clients with innovative, precise and practical solutions.

Our group provides advice on the negotiating, drafting and reviewing of various IT-related agreements and the development of strategies and policies surrounding e-commerce, the Internet and Email and other relevant policies. We have assisted with outsourcing arrangements, maintenance and support arrangements, escrow arrangements, technology spin-offs and insurance risk management applications. We have also provided dispute resolution assistance with respect to information technology-related issues and contracts.

### **Tax**

Our Tax Group is composed of some 60 professionals throughout Canada having a broad range of experience in the corporate tax, personal tax and estate planning, tax litigation and commodity tax fields. Our seasoned tax professionals advise and assist clients in domestic and international transactions.

Members of our Tax Group have served in government and private industry tax departments, are active in numerous professional organizations including the Canadian Tax Foundation and the International Fiscal Association, regularly make submissions to government on tax laws, and write and lecture on taxation matters.

Our Tax Group provides practical, innovative and proactive tax services to a diverse client base including schools. Our experience includes acting for a major non-denominational, co-educational day school with respect to school governance and tax matters.

## REPRESENTATIVE WORK

- Primary general corporate counsel to several School Districts and independent schools;
- Advising School Districts on acquisition and development of multiple new school sites;
- Counsel on design and construction of multiple new public schools in Alberta through public private partnerships model;
- Advising on setup of a new professional college in B.C.;
- Advising a School District on design and construction of two new schools, and claims in respect of same;
- Advisor to a School District on installation of multiple geothermal facilities;
- Lead counsel for School Districts throughout B.C. pursuant to the Building Envelope Program and successfully resolving claims for building envelope defects and related remediation of schools.



## PRACTICE LEADERS

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