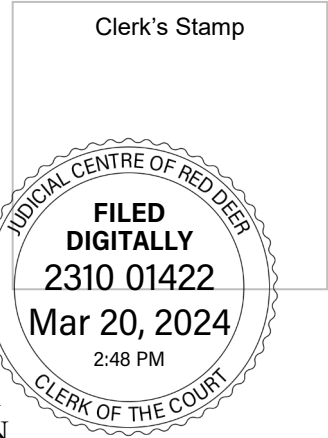


COURT FILE NUMBER 2310 01422
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE RED DEER
APPLICANT MONIQUE LAGRANGE
RESPONDENT THE BOARD OF TRUSTEES OF RED DEER
CATHOLIC SEPARATE SCHOOL DIVISION



DOCUMENT **APPLICANT'S BRIEF**

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INTRODUCTION

1. The Applicant, Monique LaGrange, is a former trustee of The Board of Trustees of Red Deer Catholic Separate School Division.
2. The Respondent is The Board of Trustees of Red Deer Catholic Separate School Division (“Board”).
3. The Applicant herein impugns the Board’s September 26, 2023 decision to find her in contravention of the Board’s policies and the imposition of sanctions. Specifically, the Applicant challenges the decision procedurally on the basis of fairness and substantively on the basis of a number of legal errors including misinterpretation of Board policies and unjustified and disproportionate sanctions.

BACKGROUND

4. On or about August 27, 2023, the Applicant posted a “disappearing” story on her personal Facebook account. The post took the form of a meme, displaying two photographs: a historical photograph of children holding swastika flags; and a contemporary photograph of children holding progress pride flags. The meme was captioned, “Brainwashing is brainwashing”.¹
5. The Applicant considered the post to succinctly address an issue troubling to the Applicant, both politically and spiritually: that it amounts to brainwashing to have young children waving flags that represent a complex ideology they cannot yet understand and with which they may or may not agree once they are able to understand.
6. Reaction to the Applicant’s post was mixed, with the Applicant receiving many messages in support of her communication, and the Board receiving several messages from detractors.

¹ Amended Certified Record of Proceedings (“CROP”) at 29.

7. On September 5, 2023, “a motion was passed by the board of trustees to send a letter to the Minister of Education...seeking the removal of Trustee LaGrange”.²
8. On September 6, 2023, a “conciliatory” meeting was held during which the Applicant “was offered the opportunity to explain her actions and to potentially put forth an apology”.³ The Applicant neither apologized nor demonstrated “remorse”, holding the conviction she had done nothing wrong or inappropriate in making the post.
9. In a letter dated September 7, 2023, Chair Murray Hollman enlisted the assistance of the Minister of Education to remove the Applicant: “[O]n September 5, 2023, our Board passed, by majority vote a motion (Motion) seeking your assistance to have the Trustee dismissed”.⁴
10. On September 7, 2023, Board Vice Chair Dorraine Lonsdale sent a letter to Board Chair Murray Hollman, alleging that the Applicant’s communication breached sections 1, 6, 7 and 22 of Policy 4: Trustee Code of Conduct.⁵ On the same date, Board Trustee Cynthia Leyson provided a letter in support of Ms. Lonsdale’s complaint, pursuant to the policy requirement.⁶
11. On September 7, 2023, the Applicant was interviewed by a reporter from the Western Standard, in which the Applicant conveyed her position that the meme is “centered around indoctrination and how children are vulnerable to evil agendas (agendas coming from organizations like Planned Parenthood, the UN or SOGI 123) filtering through culture” and stated, “I did not resign because I believe I didn’t do anything wrong. I was elected to stand up and protect our children and that is what I am doing”.⁷
12. On or about September 13, 2023, the Applicant gave an interview to a reporter from True North, in which she reiterated her position: “The intention was to and always is to bring awareness to protecting the kids. This is why I stepped up, it’s about protecting the kids

² CROP at 25.

³ CROP at 19.

⁴ CROP at 67.

⁵ CROP at 30.

⁶ CROP at 32.

⁷ CROP at 35.

from agendas that are not healthy. This is something that shouldn't be in the schools. This should be between kids and their parents".⁸

13. Ms. Lonsdale subsequently provided undated written submissions containing an expanded list of "infractions" entitled, "TRUSTEE CODE OF CONDUCT SUBMISSION TO THE BOARD OF TRUSTEES BOARD POLICY 4".⁹
14. The Applicant responded, through counsel, with written submissions in advance of a September 25, 2023 special meeting convened by the Board (the "Hearing").¹⁰
15. The Board passed judgment on September 26, 2023 (the "Resolution")¹¹ concluding that the Applicant had breached a number of clauses of the Board's policies and imposing a number of sanctions, followed by the delivery of reasons on October 13, 2023 (the "Reasons")¹² (collectively the "Decision").

LAW AND ARGUMENT

The *Vavilov* Standard is the Standard for a Reasonable Decision

16. In order for a decision to be reasonable, the decision maker must base its decision on the facts in the evidence and law applicable to the decision. Where the decision maker misunderstands the facts or the law, fails to consider them, considers them selectively, disregards the inconvenient ones, or otherwise does not base its decision on the evidence before it and the applicable law, the decision will be unreasonable.
17. *Canada (Minister of Citizenship and Immigration) v Vavilov*¹³ is instructive in ascertaining the proper role of the facts and the law in assessing whether a decision is reasonable. In brief, a reasonable decision must actually connect the law on which the decision maker relies to the facts of the case. In the present matter, this means connecting the Board's policies as communicated in its Code of Conduct to the actual conduct at

⁸ CROP at 63.

⁹ CROP at 19.

¹⁰ CROP at 83.

¹¹ CROP at 148.

¹² CROP at 4.

¹³ [2019 SCC 65](#) [*Vavilov*] at paras 99-135.

issue and imposing logically connected and commensurate sanctions as provided in the Code of Conduct.

18. Among the plethora of substantive and procedural dictates prescribed by the Supreme Court of Canada in *Vavilov*, the principle that “individuals are entitled to greater procedural protection when the decision [has] consequences that threaten an individual’s...dignity” makes an appearance at paragraph 135:

Many administrative decision makers are entrusted with an extraordinary degree of power over the lives of ordinary people, including the most vulnerable among us. The corollary to that power is a heightened responsibility on the part of administrative decision makers to ensure that their reasons demonstrate that they have considered the consequences of a decision and that those consequences are justified in light of the facts and law.

The Decision is not procedurally fair on the *Vavilov* standard

The Board failed to follow its own Code of Conduct procedures in the correct order

19. The Board’s failure to properly interpret the procedures in its own Code of Conduct is not curable. The Board has wide latitude to create its procedures. Once created, it must follow them; its failure to do so renders any decision flowing from its error procedurally unfair.
20. In passing judgment prior to holding the Hearing prescribed by the Board’s own procedures, and in fact prior even to receiving the complaint prescribed in its own procedures, the Board committed an incurable procedural error and its decision must be quashed on this basis alone, in accordance with the administrative law principle of *audi alteram partem*—the Applicant’s right to be heard.
21. Contrary to the Board’s assertion that *audi alteram partem* was discharged, it in fact was not because the same panel backtracked from its vote to disqualify the Applicant, obliterating the Applicant’s second right under administrative law inextricably linked to the first: *nemo iudex in sua causa*—which has evolved in administrative law to mean the right to an unbiased decision maker.

The Board exhibited bias in the form of prejudgment

22. Apart from the Board’s incurable error on general procedural grounds, the Board’s decision is also tainted by bias in the form of prejudgment.
23. Prejudgment occurs where the decision maker has, on the facts, formed an opinion on the matter prior to its own participation in adjudicating the matter. Quite apart from the general opinion of an elected official stating a position while, for example, running for office, the decision maker in the present matter actually took a vote on the very matter prior to sitting on a panel to adjudicate the same matter. Accordingly, its decision is not saved from a finding of prejudgment on the *Old Saint Boniface and Save Richmond Farmland*¹⁴ “exceptions”.
24. Despite the Board’s bald pronouncement that it had an open mind, the factual reality is the Board was prepared to, and voted to, exact the most severe sanction in the absence of either a complaint or a hearing. Upon finding itself in a procedural quagmire brought to its attention by the Applicant’s counsel, the Board walked back the most severe sanction, opting instead for the next best thing—a laundry list of intentionally humiliating and excessively punitive sanctions largely untethered to either the conduct or the clause ostensibly breached, with the bare minimum of ersatz legal cover.
25. This raises the spectre of what the *Vavilov* court refers to as a reverse-engineered decision. No subsequent machinations of the Board could have cured the procedural unfairness and/or bias plaguing the present matter other than a) a freshly constituted adjudicative panel or b) a stay of proceedings. At this point, the only remedy is to quash the incurably tainted decision, and no reasonable person apprised of all the circumstances would believe otherwise.

¹⁴ *Old St. Boniface Residents Assn. Inc. v Winnipeg (City)*, [1990 CanLII 31 \(SCC\)](#), [\[1990\] 3 SCR 1170](#); *Save Richmond Farmland Society v Richmond (Township)*, [1990 CanLII 1132 \(SCC\)](#), [\[1990\] 3 SCR 1213](#).

The Decision is not substantively reasonable on the *Vavilov* standard

The Board's refusal to pronounce on the "Roman Catholic values" issue is unreasonable on the Vavilov standard

26. The Board stated in its Reasons that it focused on the Code of Conduct and therefore found it unnecessary to account for the interaction of Roman Catholic values with its Decision. This is a curious statement given that the Code of Conduct and by extension, Policy 3, on which the Board manifestly relied, are replete with the language of Roman Catholic values and the duty of a trustee to project Roman Catholic values. Absent any consideration of the Roman Catholic values woven throughout and arguably forming the basis for the Code of Conduct, the Board did not, in fact, focus on the Code of Conduct; it focused on *part* of the Code of Conduct. This is not reasonable. *Vavilov* stipulates that decision makers must have regard to all the relevant pieces of that on which a decision maker purports to rely: “the *constellation* of law and facts that are *relevant* to the decision”,¹⁵ not convenient aspects of policies to the exclusion of inconvenient aspects of policies.
27. It was not open to the Board to ignore the very basis of its Code of Conduct¹⁶ and Policy 3¹⁷ in order to reverse-engineer its way to an expedient decision it desired to make. It was equally incumbent on the Board to *meaningfully grapple* with the evidence before it concerning the intersection of Roman Catholic values with the Applicant’s conduct, and its failure to do so renders its Decision unreasonable.¹⁸ The Board’s disregard for an integral aspect of its Code of Conduct and other policies—Roman Catholic values—necessarily impacts, and interacts with, every other finding of contravention.
28. The Board states, “These Reasons address the following issues: 1. Did the Meme contravene Roman Catholic values” immediately before stating that it would decline to address Roman Catholic values: “[T]he Board...did not find it necessary to determine

¹⁵ *Vavilov* at para 105.

¹⁶ CROP at 38-40, 42.

¹⁷ CROP at 51.

¹⁸ *Vavilov* at paras 127-8.

whether the Meme was in contravention of Roman Catholic values...the Board does not make a finding in this respect.”¹⁹

29. Not only are these back-to-back statements incoherent and contradictory, which in and of itself raises doubt as to whether the Board could have made a justifiable, transparent and intelligible decision, which is to say, a *reasonable* decision,²⁰ they further demonstrate that the Board declined to “meaningfully account for the central issues and concerns” raised by the Applicant,²¹ failed to offer the “responsive reasons” required to “demonstrate that [the Board has] actually listened” to the Applicant,²² and failed to “meaningfully grapple with key issues or central arguments raised” by the Applicant, which was required to demonstrate that the Board “was actually alert and sensitive to the matter before it”.²³ This is not *reasonable*.

The findings the Applicant breached clauses 1 and 6.18 of Policy 3 lack any supporting reasons and are therefore unreasonable on the Vavilov standard

30. *Vavilov* puts reasons first, because reasons are the means by which the decision maker communicates the rationale for its decision.²⁴ Accordingly, where a charge is upheld and no reasons in support of it are given, the decision will not be reasonable.
31. The Board offered no reasons concerning how it found the Applicant had breached clause 1 of Policy 3, despite listing this clause as having been breached in the conclusion to its Reasons.²⁵
32. Neither did the Board offer any reasons justifying its finding that the Applicant had breached clause 6.18 of Policy 3.

¹⁹ CROP at 9.

²⁰ *Vavilov* at paras 99, 101, 104-5.

²¹ *Vavilov* at para 127.

²² *Vavilov* at para 127.

²³ *Vavilov* at para 128.

²⁴ *Vavilov* at para 84.

²⁵ CROP at 18.

33. Clause 6.18 of Policy 3 states: “The trustee will contribute to a positive and respectful learning and working culture both within the Board and the Division”.²⁶
34. The plain wording of clause 6.18 indicates a positive duty as opposed to a prohibition, which is to say, clause 6.18 prescribes trustee contribution—thou shall—as distinct from thou shall *not*. The Board has taken issue with conduct it purports to *prohibit*, as distinct from demonstrating that the Applicant has never positively contributed. Accordingly, the Board’s finding the Applicant breached this particular clause is not justified and therefore not reasonable.
35. It was not open to the Board to supplement a finding of what it represents as prohibited conduct with some absence of positive duty fulfilment where positive duty fulfilment is not at issue and no evidence of a failure to contribute positively has been adduced.

The finding the Applicant breached clause 6.2 of Policy 3 is unsupported and therefore unreasonable on the Vavilov standard

36. Clause 6.2 of Policy 3 states: “The trustee will refer queries, or issues and problems, not covered by Board policy, to the Board for corporate discussion and decision”.²⁷
37. The Applicant had no query, issue or problem related to the Board, and therefore no query, issue or problem to refer to the Board for corporate discussion and decision. Irrespective of whether some other clause was breached, clause 6.2 was not breached.
38. The Board’s “analysis” of clause 6.2 as it relates to the Applicant is overly broad. The notion that *any* idea inviting *any* challenge in *any* forum must be run by the Board, absent such idea having anything to do with the Board, is absurd. A reasonable interpretation of clause 6.2 renders any query, issue or problem *relating to the Board* subject to submission to the Board, *as distinct from any idea whatsoever*.

²⁶ CROP at 53.

²⁷ CROP at 52.

The finding the Applicant breached clause 6.4 of Policy 3 is unsupported and therefore unreasonable on the Vavilov standard

39. Clause 6.4 of Policy 3 states: “Trustees will be cognizant that they are representing the interests of the Board while posting or commenting on social media, and aware of public perception that their posts, comments and social media engagement, are in accordance with their duties within the school division”.²⁸
40. Those interests are, of course, Roman Catholic interests, as the preamble of Policy 3 discloses,²⁹ requiring that trustees reflect Catholic values and principles at all times, in their daily lives, pursuant to their denominational school rights enshrined in the Constitution. Clearly, then, a trustee promoting Roman Catholic values, such as those appearing in the Catechism of the Catholic Church,³⁰ breaches no Board policy by virtue of such promotion, which is framed throughout the Board’s policies as an expectation and a duty.
41. However, even if no such duty existed, the Board failed to demonstrate in its decision that the Applicant was not cognizant that she represents the interests of the Board while posting on social media or that the Applicant was unaware of public perception that her posts are in accordance with her duties within the school division.³¹ At most, the Board was able to demonstrate that the Applicant viewed her own post as appropriate to and in accordance with her duties within the school division—a point on which the Board obviously disagreed.
42. For better or worse, however, clause 6.4 does not prescribe any particular ***conduct***. Neither the actual conduct of a trustee, nor a disagreement arising between the Board and a trustee regarding conduct is covered in this particular clause, which prescribes only a) ***cognizance the trustee represents*** the Board while posting or commenting on social

²⁸ CROP at 52.

²⁹ CROP at 51.

³⁰ CROP at 88-9.

³¹ Indeed, many members of the public reached out to the Applicant to express that, either implicitly or explicitly, they perceived her post to be in accordance with her duties as a school board trustee. See CROP at 78-81, 113-45.

media, and b) *awareness the public perceives* that the trustee represents the Board while posting or commenting on social media.

43. That the Applicant did not believe her post would create an issue for the Board is the beginning and end of the application of clause 6.4, and the Applicant had no reason to believe her post would be disparaged by the Board, accounting for the teachings of the Roman Catholic church relating to the ideology the Applicant was challenging and her duty to promote Roman Catholic values.

The finding the Applicant breached clause 1 of Policy 4 is unsupported and therefore unreasonable on the Vavilov standard

44. Clause 1 of Policy 4 states: “Trustees shall carry out their responsibilities as detailed in Policy 3 – Role of the Trustee with reasonable diligence”.³²
45. Having failed to demonstrate breaches of clauses 1, 6.18, 6.2 and 6.4 of Policy 3, on which a breach of clause 1 of Policy 4 relies, the Board failed to demonstrate a breach of clause 1 of Policy 4.

The finding the Applicant breached clause 10 of Policy 4 lacks any supporting reasons and is therefore unreasonable on the Vavilov standard

46. The Board stated in its Decision, as an afterthought tacked on to its impoverished reasons for finding the Applicant had breached clause 6.4 of Policy 3: “The Board is also mindful of clause 10 of Board Policy #4 states [*sic*] that ‘while elected from specific wards, trustees shall represent the best interest of the entire Division.’ This did not occur here”.³³
47. A plain reading of clause 10 of Policy 4 reveals that this particular clause is aimed at preventing trustees from privileging their own wards to the exclusion of the other wards in the Division.³⁴
48. “This did not occur here” fails to reflect coherent, reasons-first decision making on the *Vavilov* standard; the Board pointed to nothing that would justify the finding the

³² CROP at 42-3.

³³ CROP at 15.

³⁴ CROP at 43.

Applicant had privileged her ward to the exclusion of the best interests of the Division as a whole.

49. Of perhaps equal significance, the Board failed to account for the Applicant’s fulfilment of her positive duty to promote Roman Catholic values by avoiding the subject of this particular positive duty altogether. To have meaningfully grappled with the Applicant’s fulfilment of her Roman Catholic value-laden duties in going toe-to-toe with an ideology opposed to Roman Catholic values would have been to admit that the Applicant may have in fact discharged her Code of Conduct duties—which is the most probable reason the Board refused to account for this portion of the complaint against the Applicant. However, it was not open to the Board to cherry-pick only those bits of its policies tending to support its apparently pre-determined decision, as *Vavilov* makes clear. The Board was required to at least *consider* its policy as a whole, which includes and is in fact premised upon Roman Catholic values.³⁵

The finding the Applicant breached clause 22 of Policy 4 is unsupported and therefore unreasonable on the Vavilov standard

50. Policy 4, clause 22 states that the Trustee shall “[r]epresent the Board responsibly in all Board-related matters with proper decorum and respect for others”.³⁶
51. While some other clause may prohibit the Applicant’s *personal* use of social media relating to the post, the Applicant was not engaged in a Board-related matter in making the post in question. Accordingly, the Board has no justification for finding that the post constitutes a representation of the Board in a Board-related matter, as the clause specifies.

Both clause 6 of Policy 4 and the conduct in question are too ambiguous and subjective to render reasonable a finding the Applicant breached clause 6

52. The finding that the Applicant breached clause 6 of Policy 4³⁷ is tenuous, because both the clause and the conduct are too open to various competing interpretations.

³⁵ CROP at 38-40; 42-3; 51.

³⁶ CROP at 44.

³⁷ CROP at 43.

53. The post is obviously not unlawful on any reasonable interpretation of the clause and the content of the post.
54. That leaves “dignified”, “ethical” and “professional”, which are nowhere defined. This suggests an aspirational, as opposed to prescriptive, direction. Absent a subjective definition of those terms appearing in the relevant policies, an objective definition must be assigned. Insofar as the response emanating from the public is a relevant consideration, which it is, the Board received messages of support equal to any messages of dissent and the Applicant received a significantly greater amount of supporting messages, which were provided to the Board prior to it making its decision.
55. A participant at a 1,000-strong, peaceful, multicultural parents’ march in Red Deer had this to say: “Our message as parents is clear, we do not want gender studies and critical race theory taught to our under aged children, we want to be fully informed about the choices and health of our children and have our parental authority respected. This stance is not one of hate”.³⁸
56. Many others wrote to the Board and/or to Mrs. LaGrange to voice support for Mrs. LaGrange’s post. Several of the messages follow:
- ***There is no place for sexual or political ideology within Alberta Schools period. As a Jewish descendant I also shared the same picture that Monique LaGrange did as I saw the common ground on how brainwashing children happens in both circumstances. Children's lives are being negatively impacted even if the children seem joyous in the moment which is what was being depicted in both pictures. Fact is the children do not understand what is happening. My understanding of the post is as follows[:] It is about how children can be indoctrinated by a small part of society to align with their beliefs. The picture shows children waving flags placed in their hands by those who have an agenda. Regardless of the flag being flown the classroom and at school is not the place where adults should be spreading any ideology. I believe this is the loud left trying to stain a wonderful member of our***

³⁸ CROP at 113-4.

society who has taken it upon herself to educate people on the extent the left has taken to groom and confuse children with our educational systems. In no way was this an attempt to incite hate and it saddens me that so many are quick to jump on board with the woke left in an attempt to destroy productive members of our society. I hope that you consider your faith and choose carefully which side of history you would like to be on, I personally stand with Mrs LaGrange and her valiant efforts to protect children.³⁹

- ***I just wanted to say you have our full support with regards to your message about brainwashing that is occurring in our society.*** Of course the left media will twist your message but in this battle it is important for our leaders to fight for Catholic education, it is to be expected. Stand firm in your convictions as many stand with you. Ignore the noise that is directed at you and see it for what it is. Just noise. You have shown Courage head on, in the face of the Enemy. It's refreshing to have conservative Board members. We are Grateful for your Leadership. "If God is for me who can be against me" --Romans 8:31[.]⁴⁰
- ***Ms Lagrange spoke the truth. Brainwashing is brainwashing, whether it's Nazi indoctrination, or otherwise. Maybe it's offensive but she's making a point. That's exactly the point.*** Brainwashing children makes you no better than Nazis, communists, etc. We should do better. Just educate, not indoctrinate...Thank you so much for stepping up to the plate into a public life. We need more people like you.⁴¹
- ***Thank you for drawing attention to the indoctrination of children that is happening in our public schools.*** I know several teachers, who are not comfortable with the pressure they feel to identify children as the opposite of their biological sex, but they are fearful of speaking out against it because of the backlash they know would follow. As some premiers take a stand against this indoctrination of children in schools, especially without parental knowledge or consent, hopefully this crazy gender affirming care that is so harmful to vulnerable children and excludes parents from their right to teach their children about sexuality will be dealt with appropriately. I

³⁹ CROP at 78 [Emphasis added.]

⁴⁰ CROP at 142 [Emphasis added.]

⁴¹ CROP at 137 [Emphasis added.]

*have sent emails to the Superintendent and chair of the board of trustees, and the Minister of Education, supporting you. I am sorry that you are **another victim of this radical woke ideology that censors all dissenting opinion** and makes examples of good people speaking truth, like you.*⁴²

- ***We support Monique Lagrange who has identified, rightly, that children in the school system are being indoctrinated and confused about their gender, without parental consent or involvement.** This is a problem. I know several morally distressed teachers who do not agree with using pronouns opposite a child's gender, but feel they have no choice or they will receive the backlash Ms. Lagrange is currently facing. **Ms. Lagrange is entitled to her own opinions, and should not be disciplined.***⁴³
- *It does my heart well to see you stand for truth and Justice. **There are so many of us out here away from the political bubble that fully agree with your well thought out position on the indoctrination of our most valuable future, our children grandchildren our heritage.** If I may now look at scripture: Jesus said "It would be better for him if a millstone be hung around his neck and he was cast into the sea than that he should cause one of these little ones to sin". Lk 17:2...The battle is a spiritual one. Stand firm and do not compromise. God bless you in your efforts.*⁴⁴
- *Thank you for speaking the truth! We honour you! And this time when things are upside down - each of us must be a true speaker. I don't see how they can remove you. That should be decision of the parents. We are parents. You should not be removed for telling the truth...Many want to do more in support.*⁴⁵
- *I just want you to know that I am appalled and horrified with what has happened to you. I so much appreciate you being a truth teller and standing up for children. Yes the consequences are ugly, but I'm sure you were aware of the consequences to your*

⁴² CROP at 135 [Emphasis added.]

⁴³ CROP at 79 [Emphasis added.]

⁴⁴ CROP at 129 [Emphasis added.]

⁴⁵ CROP at 132.

*soul are worse if you don't stand on the truth. So thank you, I support you, and I will do what I can to keep supporting you and all of our other truth tellers. And I pray that God uses this situation to give you a new voice and a new place to work on behalf of our children. God bless, keep the faith.*⁴⁶

- *You don't know me but I live in Calgary and just read the article on the western standard. **You have done absolutely nothing wrong in speaking the truth. There is definitely an agenda going on and if people speak against it then they chastise you for having an opinion.** Just giving you support through this which is not easy or easy to understand. Both my boys are in the catholic school system and happy someone is standing up and saying the right things. Trust in the good Lord that things will work out. Isaiah 41:13 "For I, the LORD your God, hold your right hand; it is I who say to you, 'Fear not, I am the one who helps you.'"*⁴⁷
- *Have been following your ordeal. Really appreciate you standing up for our children. **There is a clear, indoctrination agenda going on in society in general, but especially in our schools, where young, malleable minds can easily be influenced and corrupted.** Unfortunately the "pride" community has seen this opportunity, and has taken to exploiting it for their own gain. **There should be no agenda or indoctrination of any kind going on in our schools regarding sexuality or any other subject. Unbiased, teaching, and learning is all that should be going on in our school settings.** If what's going on isn't actually illegal, it's certainly immoral and despicable! Thank you wholeheartedly for standing up for our children and the truth! I'm sure you're under all kinds of pressure from the woke side and agenda to retract your statement or give in and say you were mistaken. Please hold strong and steadfast, there are tens of thousands if not hundreds of thousands of Albertans (and Canadians) who support exactly what you have stated, and will back you up if they just see truth continue to stand in the face of lies! It's people like you that make me proud to be an Albertan! Hold the Line.*⁴⁸

⁴⁶ CROP at 134.

⁴⁷ CROP at 133 [Emphasis added.]

⁴⁸ CROP at 125-6 [Emphasis added.]

- *My husband, our extended family, and so many “silent majority” are so grateful for you. I do pray the “silent majority” will begin to speak with one very loud voice. We are being bulldozed into silence over this vile issue. May God have mercy on us, our province, and our country. Thank you once again for being a beacon of encouragement. May God give you the strength to stand and may many thousands of Albertans stand with you.*⁴⁹
- *It seems you and your fellow trustees are intolerant of true Catholic teaching, and quite prepared to sacrifice trustee [LaGrange] on the altar of diversity. **Her message was quite clear and very appropriate.** Does the Catholic school system value activist practices policies more than freedom of religion? Do the activists recognize our religion, or is this a one way street?*⁵⁰
- *Dear chairperson, I am writing in support of your brave trustee, Monique LaGrange. I am asking that your board also stand in solidarity. **She is protecting kids from ideology that is too complex for children to navigate.** Leave these complex, social issues for families to guide their kids. Also stand for your Catholic church direction of Christ’s teaching. If no different than public school then why create a separate school?*⁵¹
- *I am sending this email in support of Monique Lagrange. She is a woman who is entitled to her opinion even if it goes against the “woke” narrative that is being pushed now. **She did not condone nazi-ism by posting an image to her social media but was merely demonstrating the tactics used by governing bodies throughout history and how they target youth.** If we as a society truly can't look at an image and view it critically but rather bow because someone somewhere may be offended we will continue to fall as a society. **If nothing else the image posted should spark some discussion amongst people. This is what we expect of our students is it not? To view history, images, art, music, etc. through a critical thinking lens and come to their own conclusions. We want students to be freethinkers and contribute to our***

⁴⁹ CROP at 127.

⁵⁰ CROP at 118 [Emphasis added.]

⁵¹ CROP at 80 [Emphasis added.]

*democratic society but how is that possible when the people who are trying to speak out and who are people to look up to are silenced for their opinions. This is now being done in our day and age by pushing a narrative that unless you identify as something other than who God made you to be you are no longer welcome to have an opinion. By silencing her and calling for her resignation she is yet another conservative who is being told that unless she demonstrates “groupthink” she is no longer welcome in her position. This is ludicrous. Not only should she be supported for speaking out against this narrative but she should be celebrated for having the courage to do so, in the Catholic school system no less. **For those that are questioning her actions/views/beliefs and are contemplating her discipline or removal from her position I earnestly ask you to think about what is better for shaping a democratic society, being pushed to ask questions/have free thought or eliminating voices that have a different opinion than yours?** I thank you, Monique, for what you are contributing to your position as a Catholic school trustee and I pray that you continue to use your voice to speak out and challenge the thought processes of those around you. Thank you and God bless[.]⁵²*

57. The dignity, ethics and professionalism of the post are mere *opinion*, and the foregoing demonstrates not only that such *opinion* is conspicuously divided, but also that it is more in favour of the Applicant than the complainants and the Board—beginning with what the post actually *means* and ending with the implications flowing from that actual meaning. The messaging in support of the Applicant demonstrates a **lack of any objective basis** for interpreting the meme as a contravention of any Board policy. It is unreasonable for the Board to rely exclusively on its own subjective interpretation despite being provided with extensive evidence its interpretation is contrary to that of the community it serves.
58. The Board’s reliance on its own subjective interpretation to the exclusion of the contradictory evidence the Applicant furnished contravenes the Supreme Court of Canada’s explicit criteria in *Vavilov* for finding a decision reasonable:

The principles of **justification and transparency** require that an administrative decision maker’s reasons **meaningfully account** for the central issues and

⁵² CROP at 136 [Emphasis added.]

concerns raised by the parties. The principle that the individual or individuals affected by a decision should have the opportunity to present their case fully and fairly underlies the duty of procedural fairness and is rooted in the right to be heard: *Baker*, at para. 28. **The concept of responsive reasons is inherently bound up with this principle, because reasons are the primary mechanism by which decision makers demonstrate that they have actually listened to the parties...**[A] decision maker's **failure to meaningfully grapple with key issues or central arguments raised by the parties** may call into question whether the decision maker was actually alert and sensitive to the matter before it.⁵³

59. It is worth noting that the few detractors who weighed in with complaints about the Applicant's post wrote comparatively overwrought, emotional responses which interpreted the meme in highly speculative ways, spoke to hurt feelings, took offence to the post, and decried any opinion deviating from the ideology represented by the second flag in the Applicant's post.
60. Further, half of the complainants were Division teachers, and while their perspective is helpful, more weight should be placed on the expressed views of the comparatively more diverse public and on Division parents whose children attend the schools and who otherwise have no control over what their children are taught except through exercising their democratic right to elect the school board trustee of their choice. The perspective of a dozen or more members of the public and parents is a more diverse perspective that better represents the wider community as a whole than a handful of teachers with a monolithic perspective that does not tend to represent the broader community.
61. Moreover, parents and members of the public are the ones who elect school board trustees and are the ones the Board has a duty to serve. If a trustee may be removed or prohibited from fully performing her duties, the voices of those who elected the trustee should be heard **at least as much** as any other voice. It is **unreasonable** for the Board to rely exclusively on the insular views of those inside the system, i.e. teachers, and those far outside the electorate, i.e. a special interest group from Toronto,⁵⁴ to the exclusion of the immediate community. As one Catholic parent put it, "[A]s a stakeholder who voted, I

⁵³ *Vavilov* at paras 127-128 [Emphasis added.]

⁵⁴ See the letter from Friends of Simon Wiesenthal Center for Holocaust Studies at page 82 of the CROP.

believe it should be us, the stakeholders, who call for the resignation, not the school board or the board of trustees, or those out there who do not have a stake in our system”.⁵⁵

62. To the degree there is any consensus in the community as to what the meme *means* and the implications of that meaning, the majority of the community regards it as meaning what the Applicant says it means and not what the Board says it means. Deciding it contravenes a policy on the basis of the Board’s subjective interpretation is not **reasonable**. The overwhelming majority of stakeholders who saw fit to comment interpreted the meme in a far less fantastical and inflammatory—though not entirely uncontroversial—way, and took the Applicant’s position on the remaining controversy. Ignoring the (largely Catholic) interests of the families the Division serves eliminates the *raison d’etre* of the separate school division entirely.
63. The Board states in its reasons that “the Decision was made carefully and with full consideration of the evidence and argument presented to it”,⁵⁶ while at the same time providing evidence in its reasons this statement is manifestly false: the Board’s reasons refer only to “four emails from individuals who expressed support for the Trustee’s actions in relation to the Meme”⁵⁷ and completely ignore the additional 33 pages of supportive letters⁵⁸ provided by the Applicant.
64. As if to punctuate its failure to consider the additional 33 pages of support for the Applicant’s post, the Board states for a second time in its reasons: “The Board also received four emails from parents who supported the Meme Post. These were included in the materials before the Board and were accordingly reviewed and considered during the Board deliberations”,⁵⁹ before going on to state its “conclusion”: “[C]ontrary to the Trustee’s submissions, it is possible and indeed likely for the Meme to be understood in a negative and hurtful way towards the 2SLGBTQIA+ community, and School Division students from that community in particular”.⁶⁰ The trouble with this conclusion is, of

⁵⁵ CROP at 144 (second paragraph).

⁵⁶ CROP at 17.

⁵⁷ CROP at 5.

⁵⁸ CROP at 113-45.

⁵⁹ CROP at 12.

⁶⁰ CROP at 12-3.

course, that taking into account the glut of supportive emails which understood the Applicant's post the way the Applicant intended it to be understood, it is decidedly **more** "likely" for the post to be understood **opposite** to how the Board claims it is "likely" to be understood. The Board's position can only make logical sense if the 33 pages of supportive messages do not exist—which is probably why the Board pretended the 33 pages of supportive messages do not exist. But this is not *reasonable*.

65. Still ignoring the 33 pages of support militating against its conclusion, the Board states in its reasons: "The Meme Post is not, on a reasonably objective standard, dignified nor professional, and based on the above reactions to the Meme Post, was not viewed as inclusive or reflective of supportive school environments that welcome students of all orientations".⁶¹ By way of reminder, the Board reached this conclusion based on complaints composed largely by Division teachers and exactly two LGBTQ former students, to the exclusion of the multiple people in the community who better represent, both from a diversity perspective and in larger numbers, what a reasonably objective standard might look like.
66. The Board reaches its tone-deaf crescendo with its statement that "[s]chool board trustees are open to public inspection - employees, students and their parents and other school stakeholders scrutinize trustee conduct".⁶² This is precisely why the Applicant provided a broader basis for determining what objectivity actually is in this particular community, and ignoring that basis was not *reasonable*.
67. Similarly, the Board's insistence that "[p]osting a highly controversial Meme which does not elaborate or explain the Trustee's rationale and requires schoolchildren and their parents to draw significant inferences if they are to understand the Meme as the Trustee claims to have intended, does not reflect this standard"⁶³ is belied by the fact that in 33 pages of evidence the Board chose to ignore, the community demonstrated that it

⁶¹ CROP at 13.

⁶² CROP at 13.

⁶³ CROP at 14.

understood the Applicant's meaning perfectly, and moreover, found no offence, no lack of professionalism, and no want of dignity in it.

68. Beyond the clear lines of division in public opinion is the clear dividing line between the Applicant's post and the behaviours featured in other precedents. For example, unlike the trustee in *Del Grande v Toronto Catholic District School Board*,⁶⁴ who in his **public capacity** as trustee,⁶⁵ at a public meeting⁶⁶ attended by members of the LGBTQ community,⁶⁷ attacked the **activities** of the LGBTQ **community**⁶⁸ by comparing LGBTQ activities with rape, bestiality, vampirism, pedophilia, and the like,⁶⁹ and as he later admitted, with the intention of promoting the idea that the **activities** of the LGBTQ **community** are repulsive and deviant,⁷⁰ the Applicant in the present case, in her personal capacity, presented on her personal social media, a political opinion taking the form of an ideological comparison which is in fact intertwined with her religious beliefs and not out of alignment with the Catechism of the Catholic Church.⁷¹ Nothing in the Code of Conduct, including clause 6, indicates in any way that a trustee is prohibited from expressing a political or ideological opinion, or that presenting such political or ideological opinion is inherently undignified, unethical or unprofessional.
69. The Board failed utterly to respond to the distinguishing features the Applicant raised, stating baldly that the "principles outlined in *Del Grande* as noted in these Reasons are applicable to the issues before the Board"⁷² absent explanation as to how they apply to such **vastly disparate facts**. Additionally, the Board neglected to tether its application of *Del Grande* to the aspects the complainant attempted to raise, and which the Applicant defeated soundly in her analysis. Throwing out case law and asserting the principles are

⁶⁴ [2023 ONSC 349](#) [*Del Grande*].

⁶⁵ *Del Grande* at para 17.

⁶⁶ *Del Grande* at para 15.

⁶⁷ *Del Grande* at para 16.

⁶⁸ *Del Grande* at para 17.

⁶⁹ *Del Grande* at para 17.

⁷⁰ *Del Grande* at para 84.

⁷¹ CROP at 88-9.

⁷² CROP at 14.

applicable without demonstrating how they apply to the present facts is inadequate and does not a reasonable basis for a decision make.

70. The Board here *unreasonably* conflates disagreement with the Applicant’s personal opinion and religious belief—and how such disagreement made a few people *feel*—with whether the Applicant’s conduct was dignified, ethical, professional or lawful. These are, of course, two different things.
71. Another clause of the Code of Conduct may be suitable in articulating a breach, but a clause this vague and subjective in the face of subjective conduct is a reach. The Applicant’s conduct was certainly not unlawful; whether it was undignified or unprofessional is altogether subjective. Whether it was unethical is at best in the eye of the beholder. The Board subjectively believes the Applicant breached this clause and perhaps some people would subjectively agree. However, on any sort of objective standard, whether the Applicant breached this clause is by no means definite. An example of a clause, whether existing in the policy or not, that the Applicant would likely have breached might read something like, “A trustee shall not post, in his/her personal capacity, anything with any political or ideological overtone”. But no such clause is to be found among the Board’s policies, and accordingly, the Applicant has been charged with no such breach.

Sanctions 1(a), 1(c), 1(d) and 1(e) are unreasonable because they fail to be prescribed by the Act, the Code of Conduct or the common law and/or they are demonstrably unfit

72. None of the sanctions imposed by the Board have a basis in common law, and most have no basis in the *Education Act*⁷³ and no basis in the Code of Conduct. Additionally, most are untethered to the conduct in question, even if the conduct may somehow be sanctionable.
73. *Calgary Roman Catholic Separate School District No. 1 v O’Malley*, [2006 ABQB 364](#) and *Calgary Roman Catholic Separate School District No. 1 v O’Malley*, [2007 ABQB 574](#)—cases on which the Board relied—speak only to **common law disqualification** for

⁷³ [SA 2012, c E-0.3](#).

conflict of interest. Neither disqualification nor the conflict of interest as the impetus for such is at play in the present matter.

74. That leaves the *Education Act* and the Code of Conduct as bases for the sanctions, but these too are wanting. Other than specifically citing conflicts of interest⁷⁴ as reason for, specifically, disqualification, the *Education Act* points only to the provisions of the Code of Conduct.⁷⁵ The Code of Conduct enumerates only censure and removal from Board appointments.⁷⁶
75. As the Court in *Del Grande* explained, the trustee in that case had not satisfied the “high burden of establishing that the sanctions determined by the Board were manifestly excessive” because “[t]he majority of the sanctions are provided for in s. 218.3(3) of the *Education Act*” and “[t]he remainder are authorized by Article 10 of the Code of Conduct”.⁷⁷ **This is not the case here.**
76. Apart from the general lack of basis for the majority of the sanctions in any of the possible legal sources of sanction, there is the troublesome dearth of connection between the conduct of the Applicant and the sanction(s) imposed.

Sanction 1(a) is untethered to the conduct in question and conflicts with the Board’s clarifications of appropriate behaviour in its reasons

77. In order to be justifiable, the sanction needs to fit the breach. The ostensible breach in this case was posting to social media something the Board judged to be inappropriate. At the same time, the Board stated in its reasons that it would invite the Applicant’s views in the proper forums, which would include the very forums described in sanction 1(a), from which the Board purports to ban the Applicant in sanction 1(a).⁷⁸
78. For further certainty, no breach of any Board policy occurred in the forums enumerated in sanction 1(a), and the Board in fact specified that the Applicant’s controversial views on

⁷⁴ Section 87(1).

⁷⁵ Section 87(1)(c).

⁷⁶ CROP at 48.

⁷⁷ *Del Grande* at para 90.

⁷⁸ CROP at 149.

“sensitive” and “uncomfortable” topics would be welcome in such forums,⁷⁹ going so far as to quote the Court’s opinion of the appropriateness of raising such delicate issues in such forums.⁸⁰

79. A sanction addressed to the actual behaviour which actually occurred would be something that effectively denounces the behaviour and prevents a recurrence of the behaviour, that behaviour being a communication to the public which the Board views as disparaging of its own positions and policies. Quite apart from sanction 1(b), which is clearly addressed to sending the message that the Applicant is not welcome to engage in public-facing representation of the Board, committee meetings are in fact the very spaces wherein the Board claims to invite such engagement from the Applicant.
80. The Applicant cannot appropriately air her views as the Board has prescribed if she is censured from the very Board-prescribed forums wherein the Board purports to invite her views.

Sanction 1(c) is overbroad

81. Quite apart from sanction 1(f),⁸¹ which is tethered to the conduct and quite specifically prohibits the precise activity the Board has found to be inappropriate, sanction 1(c)⁸² is not connected to the conduct and manifestly excessive for overbreadth. The implication of sanction 1(c) is not merely that the conduct the Board found problematic would not recur; sanction 1(c) would have it that the Applicant could not, in her personal capacity and on her personal social media, post a generic message of support on International Holocaust Remembrance Day, a photo of herself at the United States Holocaust Memorial, or even Roman Catholic teachings, passages from the Holy Bible, sermons of Roman Catholic bishops or excerpts from the Catechism.⁸³ Such sanction is utterly untethered to the conduct the Board purports to desire to quench, is absurd for overbreadth, is out of line with the stated Code responsibility of every trustee to every day reflect, enact and project

⁷⁹ CROP at 150.

⁸⁰ CROP at 9.

⁸¹ CROP at 150.

⁸² CROP at 149.

⁸³ See for example CROP at 88-9.

the faith,⁸⁴ and unnecessarily and excessively trenches on the Applicant's expressive rights.

82. Further, sanction 1(c) is prescribed neither by the *Education Act* nor the Code of Conduct.

Sanction 1(d) is manifestly excessive, untethered to the conduct in question, and lacking in remedial and repudiatory value

83. The first reason sanction 1(d)⁸⁵ is unfit is that it targets, and arguably attempts to extinguish, the sincere religious and conscientious *beliefs* the Applicant holds—which the Board elsewhere claims is not its intention—as opposed to addressing the *conduct* in which the Applicant engaged. The second is that no amount of sensitivity training would be effective in extinguishing the Applicant's sincerely-held beliefs in any event.
84. The Applicant sincerely believes precisely what the Applicant testified she sincerely believes and what counsel represented the Applicant sincerely believes: ideological indoctrination is ideological indoctrination, and this particular ideological indoctrination is in opposition to the Applicant's religious beliefs and, moreover, to Roman Catholic doctrine. If the Board has a statutorily permissible reason for preventing the Applicant from expressing that sincere belief, that is a world apart from attempting to extinguish the belief. Religious beliefs are constructively immutable,⁸⁶ and thus not alterable, except at unacceptable cost. No amount of reeducation can therefore serve the purpose the Board purports to intend in imposing sanction: prevention of similar *conduct*.

85. Further, sanction 1(d) is prescribed neither by the *Education Act* nor the Code of Conduct.

Sanction 1(e) is contradictory and confusing and/or violative of religion and conscience, lacks remedial and repudiatory value, and fails to align with the Board's stated intention in imposing sanction and with the direction in its Reasons

86. Among other issues sanction 1(e)⁸⁷ raises, the mandate to issue “a sincere public letter of apology” which “shall recognize the inappropriateness of the Trustee's actions and that

⁸⁴ See for example CROP at 38-40, 42-3, 51.

⁸⁵ CROP at 149.

⁸⁶ *Corbiere v Canada (Minister of Indian and Northern Affairs)*, [1999 CanLII 687 \(SCC\)](#), [\[1999\] 2 SCR 203](#) at para 13; *Quebec (Attorney General) v A*, [2013 SCC 5](#) at para 335.

⁸⁷ CROP at 149-50.

the Trustee is deeply sorry”⁸⁸ is a mandate to violate the Applicant’s sincere religious beliefs and conscience by lying. While the Board has determined that the Applicant’s “actions” were undignified, unethical or unprofessional, and while if the Court finds the Board’s determination on this point is reasonable, the Applicant will be obliged to discontinue such “actions”, the Applicant cannot truthfully state that she believes her “actions” were inappropriate, nor that she is “deeply sorry” for actions she does not view as inappropriate or properly the subject of an honest apology.

87. The Board’s Decision at once purports to adopt the sanction, and to alter the sanction. The Reasons state: “The Board has required the Trustee to issue a sincere public letter of apology to School Division students, staff and the Board in relation to the Meme Post...The Trustee is being asked to recognize that her communication in relation to the Meme Post was not in accordance with Board Policy and to recognize that members of the School Division found it offensive and experienced hurt feelings. This, in the Board’s view, does not offend the Trustee’s sincerely held beliefs”.⁸⁹
88. The description of the sanction in the Resolution seems to be in the nature of a conscience-violating public apology⁹⁰ and the description of the sanction in the Reasons seems to be a mere public statement conveying that the Board has an opinion and the contents of that opinion.⁹¹ This contradictory and confusing directive is not reasonable.
89. Elsewhere in its Reasons, the Board acknowledged that it does not require the Applicant to hold particular beliefs or particular opinions and respects her religious beliefs and conscience.⁹² This does not square with the Board’s sanction purporting to force the Applicant to do something beyond upholding her statutory duty to refrain from certain **conduct**.
90. Finally, as with sanctions 1(c) and 1(d), sanction 1(e) is prescribed neither by the *Education Act* nor the Code of Conduct. This, together with the departure of the sanction

⁸⁸ CROP at 149-50.

⁸⁹ CROP at 18.

⁹⁰ CROP at 149-50.

⁹¹ CROP at 18.

⁹² CROP at 9, 10, 13, 16.

from the objectives of the Board, the uncertainty of what the sanction requires, the probability it requires the Applicant to lie, and the general lack of remedial and repudiatory value if the sanction is tailored to not require the Applicant to lie, renders it unfit and unreasonable.

REMEDY SOUGHT

91. The Applicant applies to this Honourable Court for the following relief:
- a) An order quashing the Decision;
 - b) An order directing the unconditional and immediate reinstatement of the Applicant as a trustee of the Board;
 - c) Payment to the Applicant of all missed payments due trustees during the period of time she was not a trustee as a result of the Decision;
 - d) Costs of this Application; and
 - e) Such further and other relief as this Honourable Court deems just and equitable.

LIST OF AUTHORITIES

1. *Calgary Roman Catholic Separate School District No. 1 v O'Malley*, [2006 ABQB 364](#)
2. *Calgary Roman Catholic Separate School District No. 1 v O'Malley*, [2007 ABQB 574](#)
3. *Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019 SCC 65](#)
4. *Corbiere v Canada (Minister of Indian and Northern Affairs)*, [1999 CanLII 687 \(SCC\)](#), [\[1999\] 2 SCR 203](#)
5. *Del Grande v Toronto Catholic District School Board*, [2023 ONSC 349](#)
6. *Education Act*, [SA 2012, c E-0.3](#)
7. *Old St. Boniface Residents Assn. Inc. v Winnipeg (City)*, [1990 CanLII 31 \(SCC\)](#), [\[1990\] 3 SCR 1170](#)
8. *Quebec (Attorney General) v A*, [2013 SCC 5](#)
9. *Save Richmond Farmland Society v Richmond (Township)*, [1990 CanLII 1132 \(SCC\)](#), [\[1990\] 3 SCR 1213](#)

COURT FILE NUMBER 2310 **01396**
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE RED DEER
APPLICANT MONIQUE LAGRANGE
RESPONDENT THE BOARD OF TRUSTEES OF RED DEER
CATHOLIC SEPARATE SCHOOL DIVISION

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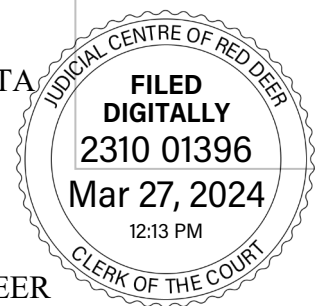


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INTRODUCTION

1. The Applicant, Monique LaGrange, is a former trustee of The Board of Trustees of Red Deer Catholic Separate School Division.
2. The Respondent is The Board of Trustees of Red Deer Catholic Separate School Division (“Board”).
3. The Applicant herein challenges the Board’s November 14, 2023 decision and November 24, 2023 reasons (collectively “Decision 2”) to disqualify her on the basis of contravention of the Board’s policies and associated sanctions. Specifically, the Applicant challenges Decision 2 procedurally on the basis of fairness and substantively on the basis of a number of legal errors including misinterpretation of Board policies; application of invalid, inappropriate and/or disproportionate sanctions flowing from a previous decision and reasons (collectively “Decision 1”); and invalid, inappropriate and/or disproportionate sanctions levied in Decision 2.

BACKGROUND

4. On or about August 27, 2023, the Applicant posted a “disappearing” story on her personal Facebook account. The post took the form of a meme, displaying two photographs: a historical photograph of children holding swastika flags; and a contemporary photograph of children holding progress pride flags. The meme was captioned, “Brainwashing is brainwashing”.¹
5. The Applicant considered the post to succinctly address an issue that troubled her, both politically and spiritually: promoting ideology to and through children who are too young to understand it, grapple with its implications, and endorse it amounts to brainwashing.
6. Reaction to the Applicant’s post was mixed, but the vast majority of people who weighed in on the controversy agreed unequivocally with the Applicant’s view both of the post and of

¹ Amended Certified Record of Proceedings (“CROP1”) at 29.

the overarching issue to which the post was addressed.² The Board received six letters, largely from offended teachers, denouncing the Applicant's post.³

7. On September 5, 2023, "a motion was passed by the board of trustees to send a letter to the Minister of Education...seeking the removal of Trustee LaGrange".⁴
8. On September 6, 2023, a "conciliatory" meeting was held during which the Applicant "was offered the opportunity to explain her actions and to potentially put forth an apology".⁵ The Applicant neither apologized nor demonstrated "remorse", holding the conviction she had done nothing wrong or inappropriate in making the post.
9. In a letter dated September 7, 2023, Chair Murray Hollman attempted to enlist the assistance of the Minister of Education to remove the Applicant: "[O]n September 5, 2023, our Board passed, by majority vote a motion (Motion) seeking your assistance to have the Trustee dismissed".⁶
10. On September 7, 2023, Board Vice Chair Dorraine Lonsdale sent a letter to Board Chair Murray Hollman, alleging that the Applicant's communication breached sections 1, 6, 7 and 22 of Policy 4: Trustee Code of Conduct.⁷ On the same date, Board Trustee Cynthia Leyson provided a letter in support of Vice Chair Dorraine Lonsdale's complaint, pursuant to the policy requirement.⁸
11. On September 7, 2023, the Applicant was interviewed by a reporter from the *Western Standard*, in which the Applicant conveyed her position that the meme is "centered around indoctrination and how children are vulnerable to evil agendas (agendas coming from organizations like Planned Parenthood, the UN or SOGI 123) filtering through culture" and

² See CROP1 at 78-81, 113-45 for 37 pages of letters supporting the Applicant and the post.

³ CROP1 at 68-77.

⁴ CROP1 at 25.

⁵ CROP1 at 19.

⁶ CROP1 at 67.

⁷ CROP1 at 30.

⁸ CROP1 at 32.

stated, “I did not resign because I believe I didn’t do anything wrong. I was elected to stand up and protect our children and that is what I am doing”.⁹

12. On or about September 13, 2023, the Applicant gave an interview to a reporter from *True North*, in which she reiterated her position: “The intention was to and always is to bring awareness to protecting the kids. This is why I stepped up, it’s about protecting the kids from agendas that are not healthy. This is something that shouldn’t be in the schools. This should be between kids and their parents”.¹⁰
13. Vice Chair Dorraine Lonsdale subsequently provided undated written submissions containing an expanded list of “infractions” entitled, “TRUSTEE CODE OF CONDUCT SUBMISSION TO THE BOARD OF TRUSTEES BOARD POLICY 4”.¹¹
14. The Applicant responded, through counsel, with written submissions¹² in advance of a September 25, 2023 special meeting convened by the Board (the “Hearing”).
15. On September 26, 2023, the Board passed a motion¹³ censuring the Applicant, with reasons¹⁴ in support of the motion issued on October 13, 2023 (collectively “Decision 1”).
16. Prior to Decision 1, the Applicant participated in an interview on a show entitled *Laura-Lynn and Friends*. The episode aired after Decision 1.¹⁵
17. Following Decision 1, *Talk Truth* published a video interview with the Applicant.¹⁶ Various media outlets also published, by way of video and print, comments from the Applicant’s counsel. Neither the Applicant nor her counsel “represented” the Board in an “official capacity” in their media comments. Neither the Applicant nor her counsel took aim at any “community”.

⁹ CROP1 at 35.

¹⁰ CROP1 at 63.

¹¹ CROP1 at 19.

¹² CROP1 at 83.

¹³ CROP1 at 148.

¹⁴ Certified Record of Proceedings (“CROP2”) at 42.

¹⁵ CROP2 at 61.

¹⁶ CROP2 at 62.

18. Following Decision 1, the Applicant posted a news article about a non-binary children’s book author who had stated, “Parental rights really anger me”,¹⁷ and a meme depicting a wolf wearing makeup with the caption, “I just want to read some books to your chickens”.¹⁸
19. On October 16, 2023, Trustee Sharla Heistad submitted to the Board a further complaint (the “Second Complaint”), alleging that the Applicant contravened various sections of the Trustee Code of Conduct and Trustee Role Description and breached the conditions contained in Decision 1.¹⁹ On November 3, 2023, Trustee Sharla Heistad produced written submissions in support of the Second Complaint.²⁰
20. Trustee Sharla Heistad asserted the Applicant breached sanctions 1(b) and 1(c) of Decision 1,²¹ yet failed to connect any of the impugned actions of the Applicant or her counsel to those sanctions.
21. Sanction 1(b) of the Decision states: “The Trustee **shall not represent the Board / School Division in any official capacity, including** Board/School Division functions, events, award ceremonies, conferences, assemblies, school masses, graduation events, school council meetings and **speaking with news/media outlets**”.²²
22. No definition of “represent” or “official capacity” was provided by the Board.
23. Sanction 1(c) of the Decision states: “The Trustee shall cease making any public statements in areas touching upon or relating to (i) the 2SLGBTQ+ community...including...speaking with various news outlets”.²³
24. No definition of “community” or explanation of the scope of this condition was provided by the Board.

¹⁷ CROP2 at 59.

¹⁸ CROP2 at 58.

¹⁹ CROP2 at 63.

²⁰ CROP2 at 22-9.

²¹ CROP2 at 39.

²² CROP2 at 39. [Emphasis added.]

²³ CROP2 at 39.

25. On November 14 and 24, 2023, the Board issued Decision 2,²⁴ disqualifying the Applicant on the basis of breaches of certain sanctions in Decision 1 and fresh breaches of Board policies.

LAW AND ARGUMENT

The *Vavilov* standard is the standard for a reasonable decision

26. In order for a decision to be reasonable, the decision maker must base its decision on the facts in the evidence and the applicable law. Where the decision maker misunderstands the facts or the law, fails to consider them, considers them selectively, disregards the inconvenient ones, or otherwise fails to base its decision on the evidence before it and the applicable law, the decision will not be reasonable.
27. *Canada (Minister of Citizenship and Immigration) v Vavilov*²⁵ is instructive in ascertaining the proper role of the facts and the law in assessing whether a decision is reasonable. In brief, a reasonable decision must actually connect the law on which the decision maker relies to the facts of the case.

Procedural Fairness

To the extent the disqualification decision flowed from violating sanctions imposed in Decision 1, it is procedurally unfair

28. Decision 2 flowed in part from the procedurally unfair process employed in arriving at Decision 1, with no clear delineation between new supposed Code violations and former violations of the Code and Decision 1 sanctions. In fact, most of the time, the Board simply referred the Applicant to its previous reasons.
29. No Decision 1 sanctions were validly imposed, because Decision 1 was tainted by procedural unfairness. Accordingly, absent extricable Decision 2 violation(s) which would independently justify disqualification, the disqualification cannot be justified.

²⁴ CROP2 at 3-20.

²⁵ [2019 SCC 65](#) [*Vavilov*] at paras 99-135.

Sanction Breaches

The Decision 1 sanctions were not validly imposed, because the Code of Conduct was not breached

30. As the Applicant explained at some length in her submissions regarding Decision 1, the Board failed to demonstrate in its reasons how her conduct violated any of the Code of Conduct clauses the Board cited.²⁶

The sanctions imposed in Decision 1 were demonstrably unfit

31. Even had the Code of Conduct been breached, the sanctions were: for the most part, not within the Board’s jurisdiction to issue; manifestly excessive; untethered to the conduct they were purported to repudiate and remediate; and vague.²⁷

The sanctions in question, even if validly imposed, were not violated

32. Finally, even assuming a Code breach could be legitimately grounded in Decision 1, and the Decision 1 sanctions therefore validly imposed, the Applicant did not breach the specified sanctions, being 1(b) and 1(c). The Applicant neither ***represented*** the Board in any ***official capacity***, nor communicated anything reasonably relating to the 2SLGBTQ+ ***community***.
33. To arrive at the finding the Applicant had breached sanctions 1(b) and 1(c), the Board conflated representing ***herself*** with representing the Board; ***personal*** capacity with official capacity; and ***ideology*** with community.
34. Such false equivocations do not pass *Vavilov* muster, because logical fallacies are fatal to the reasonableness of a decision pursuant to *Vavilov*.²⁸

²⁶ Court File No. 2310 01422 (“JR1”), Applicant’s Brief (“AB”) at paras 30-71.

²⁷ JR1, AB at paras 72-90.

²⁸ *Vavilov* at para 104.

Code and Other Policy Breaches

Section 6.3 of Policy 3

35. The Applicant communicated in a way that reflects the Roman Catholic principles woven throughout, and upon which are premised, the Trustee Code of Conduct, Policy 3, and the other Board policies, such as:

- *Each trustee, representing all Catholic school supporters of the community and responsible to this electorate through the democratic process, recognizes...[t]hat trustees are accountable to the Magisterium of the Church, and that, according to the Code of Canon Law, a Catholic school is an instrument of the Church and is one in which Catholic education is established, directed, recognized or converted to, by the local bishop, who is competent to issue prescriptions dealing with the general regulation of Catholic schools.*
- *Each trustee, representing all Catholic school supporters of the community and responsible to this electorate through the democratic process, recognizes...[t]hat fellow citizens have entrusted them, through the electoral process, with the educational development of the children and youth of the community.*
- *Each trustee, representing all Catholic school supporters of the community and responsible to this electorate through the democratic process, recognizes...[t]hat trustees are the children's advocates and their first and greatest concern is the best interest of each and every one of these children without distinction as to who they are or what their background may be.*
- *Whereas the **aim of Catholic Education** is the development of each student towards personal fulfillment and responsible citizenship **motivated by the Spirit of the Gospel and modeled on the example of Jesus Christ**, the Catholic School Trustee shall, within the duties prescribed in Acts and Regulations and **reflecting a ministry within the Church**...2. **Provide an example to the Catholic Community** by active participation in the communal life of a parish and by a **personal lifestyle that reflects the teachings of the Church**.*
- *Our schools are gospel-centred communities of hope, **fostering a Catholic Christian value system** within a pluralistic society.*
- *CONTINUING THE MISSION OF JESUS, PROPHET, PRIEST AND SERVANT KING... We make His life, mission and **teaching** our **focal points of belief and conduct** within our Catholic schools. Therefore, the education of the whole child - - intellectual, aesthetic, emotional, social, physical, and **spiritual** -- is our service commitment.*
- *As stewards of Catholic Education **nothing in this policy, or any other policy or administrative procedure, is to be interpreted so as to limit or be a waiver of the***

Red Deer Catholic Regional School Board's rights and powers pursuant the Constitution Act, 1867 and the Canadian Charter of Rights and Freedoms to maintain the denominational character of Catholic Schools.

- *If any of the provisions in this policy conflict with the Red Deer Catholic Separate School Division's rights and powers pursuant to the Constitution Act, 1867 and the Canadian Charter of Rights and Freedoms to maintain the denominational character of Catholic schools, the Red Deer Catholic Separate School Division's **rights and powers** pursuant the Constitution Act, 1867 and the Canadian Charter of Rights and Freedoms **to maintain the denominational character of Catholic schools will govern.***
- *1. Catholic schools, as stewards of Catholic education, have the responsibility to help all children to develop their unique, individual capabilities to learn and **to live**, and thereby to experience humanity and the world **as created by God and redeemed by Jesus Christ.***
- *6. The schools will assist all students to choose and develop a hierarchy of values **consistent with the teachings of the Catholic faith.***
- *8. The schools will help all students, families and staff to realize their responsibility to transform the world by **practicing the Catholic faith and values in a pluralistic society.***
- *10. The schools will foster and maintain a safe, secure, caring, respectful and inclusive learning environment for all students, families and staff that is free from physical, emotional and social abuses **and models our Catholic faith and values.***
- *11. Staff of The Red Deer Catholic Separate School Division will **support families in the faith development of students by serving as witnesses to their Catholic beliefs.** Catholic social teachings will provide a foundation for the future contributions of our students to society and this connection will be formed by authentic Catholic schools shaped by those employed in the Division. Staff also share in the responsibility of helping students see the relevance of our faith in today's world and solving current problems **within a Catholic world-view.***
- ***We live and proudly proclaim our Catholic Christian faith.***
- ***We provide quality education in a Catholic environment.***
- *Nothing in this administrative procedure is to be interpreted so as to limit or be a waiver of the Red Deer Catholic Regional Division **rights and powers** pursuant the Constitution Act, 1867 and the Canadian Charter of Rights and Freedoms to **maintain the denominational character of Catholic schools.***

- *If any of the provisions in this administrative procedure conflict with the Red Deer Catholic Regional Division rights and powers pursuant to the Constitution Act, 1867, and the Canadian Charter of Rights and Freedoms to maintain the denominational character of Catholic schools, the Red Deer Catholic Regional Division rights and powers pursuant to the Constitution Act, 1867 and the Canadian Charter of Rights and Freedoms to maintain the **denominational character of Catholic schools will govern.***
- *Student and staff self-discipline and appropriate conduct, **consistent with our Catholic Christian morals and beliefs, is an essential part of a positive school climate.***
- *Catholic trustees have a unique, dual challenge. They must ensure that students are provided an education which meets or exceeds the goals of Alberta Education and at the same time, **ensure that Catholic values and principles are reflected at all times** in its policies and practices.*
- *As leaders in the Catholic faith community, **Catholic trustees require an understanding, a willingness to grow and a commitment to bearing daily witness to the faith.** To meet this challenge, Catholic trustees are entrusted with certain denominational school rights, powers and privileges enshrined in the Canadian Constitution. They exercise these rights with the religious guidance of parish and diocesan authorities.*
- *6.1 The trustee will model involvement in the faith community.²⁹*

36. Further, the Applicant did not communicate with the public in a way that fails to reflect any other principles of the Trustee Code of Conduct, because the Trustee Code of Conduct does not prohibit communications challenging ideologies.

Section 6.4 of Policy 3

37. The Board states in Decision 2 what it *wishes* section 6.4 read, as opposed to what section 6.4 *actually* reads. In the Board’s version, the breach was “fail[ing] to reflect any recognition of her obligation to represent the interests of the Board, her duties as a trustee, or awareness of public perception”.³⁰ That rendering is entirely different than what the section actually states.

²⁹ CROP2 at 30-2, 67-9, 71, 80-2. [Emphasis added.]

³⁰ CROP2 at 15.

38. Clause 6.4 of Policy 3 states: “Trustees will be cognizant that they are representing the interests of the Board while posting or commenting on social media, and aware of public perception that their posts, comments and social media engagement, are in accordance with their duties within the school division”.³¹
39. Those interests are, of course, Roman Catholic interests, as Policy 3 discloses,³² requiring that trustees reflect Catholic values and principles at all times, even in their daily lives. Clearly, then, a trustee promoting Roman Catholic values, such as those appearing in the Catechism of the Catholic Church, breaches no Board policy by virtue of such promotion, which is framed throughout the Board’s policies as an expectation, a requirement and a duty.³³
40. However, even if no such duty existed, the Board failed to demonstrate in its decision that the Applicant was not cognizant that she represents the interests of the Board while posting on social media or that the Applicant was unaware of public perception that her posts are in accordance with her duties within the school division. At most, the Board was able to demonstrate that the Applicant viewed her own posts as appropriate to and in accordance with her duties within the school division—a point on which the Board obviously disagreed.
41. For better or worse, however, section 6.4 does not prescribe any particular *conduct*. Neither the actual conduct of a trustee, nor a disagreement arising between the Board and a trustee regarding conduct is covered in this particular clause, which prescribes only a) *cognizance the trustee represents* the Board while posting or commenting on social media, and b) *awareness the public perceives* that the trustee represents the Board while posting or commenting on social media.
42. That the Applicant did not believe her post(s) should create an issue for the Board is the beginning and end of the application of section 6.4, and the Applicant had no reason to believe her post(s) should be disparaged by the Board, accounting for the teachings of the

³¹ CROP2 at 81.

³² CROP2 at 80-2.

³³ CROP2 at 30-2, 67-9, 71, 80-2.

Roman Catholic church relating to the ideology the Applicant sought to challenge by way of the post(s) and her duty to promote Roman Catholic values. Again, various policies including but not limited to Policy 3 and Policy 4 are replete with the language of each and every trustee's duty to uphold Roman Catholic values.

Section 6.7 of Policy 3

43. Section 6.7 states: "The trustee will support the decisions of the Board and refrain from making any statements that may give the impression that such a statement reflects the corporate opinion of the Board when it does not".³⁴
44. The Applicant has issued no statement that could be taken as reflecting the corporate opinion of the Board, which is obvious from the circumstances. The Applicant's personal disagreement with the Board's decision to censure her cannot, to the mind of any reasonable person, be taken as reflecting the opinion of the Board with which she plainly disagrees. Further, her public disagreement with the actions the Board has taken against her is not a violation of Board policy, because if it were, then seeking judicial review would violate Board policy. Judicial review of any decision is shorthand for publicly disagreeing, since judicial reviews are both public and judicial reviews occur only where decisions are being challenged, not where parties are in agreement.
45. Finally, this policy is obviously and logically speaking to issues decided by the Board in which the trustee has been involved by way of debate and voting, and the decision has not gone the preferred way of the voting trustee. For example, a dissenting trustee of the Board would probably not be at liberty to publicly disagree with the decision to censure the Applicant, given that he would have been involved in debating the decision, which was then arrived at by majority vote. The Applicant, however, as the subject of that decision, a trustee with no involvement in arriving at that decision, and a person at liberty to challenge that decision in open court, occupies a far different position.

³⁴ CROP2 at 81.

Section 6.18 of Policy 3

46. *Vavilov* puts reasons first, because “reasons are the means by which the decision maker communicates the rationale for its decision”.³⁵ Accordingly, where a charge is upheld and no reasons in support of it are given, the decision will not be reasonable.
47. The Board offered no reasons justifying its finding that the Applicant had breached clause 6.18 of Policy 3.
48. Section 6.18 of Policy 3 states: “The trustee will contribute to a positive and respectful learning and working culture both within the Board and the Division”.³⁶
49. The plain wording of section 6.18 indicates a positive duty as opposed to a prohibition, which is to say, section 6.18 prescribes trustee contribution—thou shall—as distinct from thou shall *not*. The Board has taken issue with conduct it purports to *prohibit*, as distinct from demonstrating that the Applicant has never positively contributed. Accordingly, the Board’s finding the Applicant breached this particular section is not justified and therefore not reasonable.
50. It was not open to the Board to supplement a finding of what it represents as prohibited conduct with some absence of positive duty fulfilment where positive duty fulfilment is not at issue and no evidence of a failure to contribute positively has been adduced.
51. The flimsy assertion that “a community within the Division has been made to feel unwelcome and unsafe”³⁷ is unproven and in fact unsupported. On the evidence, the most that could objectively be said is some members of some communities felt offended by an opinion about an ideology. Despite this, once again, the section itself speaks to a positive duty, not a prohibition on offending anyone. The same people who are offended by the Applicant’s posts would be equally offended by the bases of Roman Catholic education, the doctrines of which describe their lifestyles as gravely depraved and intrinsically disordered.³⁸ Clearly, then, Roman Catholic education itself comes under fire if the

³⁵ *Vavilov* at para 84.

³⁶ CROP2 at 82.

³⁷ CROP2 at 15.

³⁸ See para 73 of this submission.

Applicant’s opinions about ideology that contravenes the doctrines of the Roman Catholic church come under fire. *These are inseparable.*

Section 6.20 of Policy 3

52. The Board offers as “reasons” for the Applicant’s supposed contravention of section 6.20 the blanket statement that “[f]or the reasons noted, the Respondent has not adhered to the Code”.³⁹ However, for the reasons noted by the Applicant, throughout every submission she has made in these matters, she did not breach the Code. Moreover, this charge is insupportable for vagueness.

Section 1 of Policy 4

53. Section 1 of Policy 4 states: “Trustees shall carry out their responsibilities as detailed in Policy 3 – Role of the Trustee with reasonable diligence”.⁴⁰
54. Having failed to demonstrate breaches of sections 6.3, 6.4, 6.7, 6.18 and 6.20 of Policy 3, on which a breach of section 1 of Policy 4 relies, the Board failed to demonstrate a breach of section 1 of Policy 4.
55. The Board pretends the Applicant has breached specific duties with respect to the LGBTQ community—“The Respondent instead knowingly has declined to carry out the above-described responsibilities with respect to the 2SLGBTQ+ community”⁴¹—but has pointed to no breach pursuant to its cited sections of Policy 3. Reading from the very Catechism in public would breach all of these policies if the policies are taken to mean what the Board attempts to represent.

Section 5 of Policy 4

56. The Board’s truncated version of section 5 attempts to alter the meaning of the section, but what it actually states is, “Trustees shall endeavour to work with fellow Board members in

³⁹ CROP2 at 15.

⁴⁰ CROP2 at 30-1.

⁴¹ CROP2 at 16.

a spirit of harmony and cooperation **in spite of differences of opinion that may arise during debate**”.⁴²

57. Clearly the section is speaking to a particular context—one wherein there has been a difference of opinion arising during a debate. A trustee is, in such circumstances, expected to work together with fellow Board members in spite of such differences so arising. The Board takes this section entirely out of context and attempts to apply it to a set of circumstances to which it is not addressed. The Board’s machinations reflect neither a reasonable reading of the section, nor a reasonably grounded breach of the section.
58. The Board is welcome to write policies that address the precise issues that have arisen in this context and in this case; but it is not at liberty to pretend sections speaking to something else read as the Board wishes they read.

Section 6 of Policy 4

59. The finding that the Applicant breached section 6 of Policy 4 is tenuous, because both the section and the conduct are too open to various competing interpretations.⁴³
60. The posts and interviews are obviously not ***unlawful*** on any reasonable interpretation of the section.
61. That leaves “dignified”, “ethical” and “professional”, which are nowhere defined. This suggests an aspirational, as opposed to prescriptive, direction. Absent a subjective definition of those terms in the relevant policies, an objective definition must be assigned. Insofar as the response emanating from the public is a consideration, support has been received from both camps.
62. The dignity, ethics and professionalism of the posts and interviews are mere ***opinion***, and ***opinion*** is clearly divided, though support for the Applicant has proven more plentiful. But even if it were otherwise, the way a person or various people feel about a thing does not ground an objective finding that thing is undignified, unethical or unprofessional. In the

⁴² CROP2 at 31. [Emphasis added.]

⁴³ CROP2 at 31.

present case, the Applicant was comparatively restrained and spare in her remarks, militating against a finding that she engaged in behaviour beneath the dignity of the Board.

63. By contrast, the trustee in the Board's comparator case *Del Grande v Toronto Catholic District School Board*,⁴⁴ in his **public capacity** as trustee,⁴⁵ at a public meeting⁴⁶ attended by members of the LGBTQ community,⁴⁷ attacked the **activities** of the LGBTQ **community**⁴⁸ by comparing LGBTQ activities with rape, bestiality, vampirism, pedophilia, and the like,⁴⁹ and as he later admitted, with the intention of promoting the idea that the **activities** of the LGBTQ **community** are repulsive and deviant.⁵⁰ The Applicant in the present case, in her personal capacity, presented on her personal social media and in interviews, a political opinion intertwined with her religious beliefs and not out of alignment with the Catechism of the Catholic Church.⁵¹ Nothing in the Code of Conduct, including section 6, indicates in any way that a trustee is prohibited from expressing a political or ideological opinion, or that presenting such political or ideological opinion is inherently undignified, unethical or unprofessional.
64. The Board here conflates disagreement with the Applicant's personal opinion and religious belief—and how such disagreement made a number of people *feel*—with whether the Applicant's conduct was dignified, ethical, professional or lawful. These are, of course, two different things.
65. Another section of the Code of Conduct might be suited to articulating a breach, but a section this subjective in the face of subjective conduct is a reach. The Applicant's conduct was certainly not unlawful; whether it was undignified or unprofessional is altogether subjective. Whether it was unethical is at best in the eye of the beholder. The Board subjectively believes the Applicant breached this section; perhaps some others would subjectively agree. However, on any sort of objective standard, whether the Applicant

⁴⁴ [2023 ONSC 349](#) [*Del Grande*].

⁴⁵ *Del Grande* at para 17.

⁴⁶ *Del Grande* at para 15.

⁴⁷ *Del Grande* at para 16.

⁴⁸ *Del Grande* at para 17.

⁴⁹ *Del Grande* at para 17.

⁵⁰ *Del Grande* at para 84.

⁵¹ See para 73 of this submission.

breached this section is by no means definite. An example of a section, whether existing in the policy or not, that the Applicant would likely have breached, might read something like, “A trustee shall not post or otherwise publicly communicate, in his/her personal capacity, anything with any political or ideological overtone”. The Applicant’s posts and participation in interviews opposing an ideology, in the context of a section like that, would likely be a breach. But no such section appears to exist in any of the Board policies.

Section 7 of Policy 4

66. The Board states, “the Respondent has not reflected Board policy and resolutions in her public communications”.⁵² This is a close cousin of section 6.7 of Policy 3. If the Applicant were obliged to feign support for a resolution against her, she would be prohibited from seeking judicial review in open court, which obviously publicly signals disagreement with the resolution of the Board against her. Since the Applicant takes the position that the sanctions against her are legally invalid, she is obviously going to challenge them. And if the sanctions against her are found to be legally invalid, she will have breached absolutely nothing, be it her intention or lack thereof to submit to them or her actual submission or lack thereof. But either way, the Applicant’s public disagreement is not in and of itself a breach; were it otherwise, this very process of reviewing the Board’s decision in public would be forbidden. And that would be absurd, to say nothing of draconian.

Section 15 of Policy 4

67. Working together with fellow trustees to communicate with the electorate is a positive duty and one the Board has in no way proven the Applicant has breached. In all likelihood, the trustee has discharged the duty to work together with fellow trustees to communicate with the electorate over the term of her trusteeship. The larger point, however, is that the Board has not ***demonstrated*** the Applicant has not ***discharged*** this duty. The wording of the section is that this is a thing she must do, not that this is a thing she must do to the exclusion of all other things.⁵³

⁵² CROP2 at 16.

⁵³ CROP2 at 32.

Section 22 of Policy 4

68. Section 22 of Policy 4 states that the Trustee shall “[r]epresent the Board responsibly in all Board-related matters with proper decorum and respect for others”.⁵⁴
69. While some other section may prohibit the Applicant’s personal use of social media or participation in interviews, the Applicant was not engaged in a Board-related matter concerning the posts and interviews in question. Accordingly, the Board has no justification for finding that either constitutes a representation of the Board in a Board-related matter, as the section specifies.
70. No Board business was discussed in the public interview(s) in which the Applicant participated, and the Applicant was obviously speaking to her own circumstances and her own opinions concerning an ideology to which she is opposed, and notably, to which Roman Catholic doctrine is opposed.⁵⁵ In this way, the Applicant was at once reflecting the Roman Catholic values she is required to personally reflect,⁵⁶ and in no way representing the Board in any official capacity. Contrary to the Board’s assertion that the Applicant was required to somehow disclaim any representation of the Board, this requirement exists in no section of any Board policy. Moreover, ***the Applicant clearly was not representing the views of the Board when speaking about something the Board did to her with which she did not agree.*** The Board has throughout its reasons sought to charge the Applicant both with representing the Board and with not representing the Board. The Board cannot have it both ways, and its grasping machinations and everything-but-the-kitchen-sink approach reveals muddled analysis fraught with contradiction and lacking in the cogency *Vavilov* requires of all decisions in order to adjudge them ***reasonable***.⁵⁷
71. While some other clause may prohibit the Applicant’s personal use of social media or personal participation in interviews, the Applicant was not engaged in a Board-related matter in making the posts or participating in the interviews in question. Accordingly, the

⁵⁴ CROP2 at 32.

⁵⁵ See para 73 of this submission.

⁵⁶ CROP2 at 30-2, 67-9, 71, 80-2.

⁵⁷ *Vavilov* at paras 99-104.

Board has no justification for finding that the posts or interviews constitute a representation of the Board in a Board-related matter, as the section specifies.

The Board's continued refusal to pronounce on the "Roman Catholic values" issue is unreasonable

72. In both official complaints brought against the Applicant, the Complainants have specifically cited **Roman Catholic values** as a reason the Applicant ought to be censured. In response to both official complaints, the Applicant has answered the challenge, with reference to the Catechism of the Catholic Church.⁵⁸ In both decisions, the Board has refused to pronounce on the Roman Catholic values issue ***raised by its own complainants***. This is not reasonable for at least two reasons: the Board's policies are premised on Roman Catholic values,⁵⁹ and the Board requires the Applicant to at all times project Roman Catholic values.⁶⁰ The very conduct the Board has impugned both adheres to the Roman Catholic values underpinning the Board's policies and reflects an effort on the part of the Applicant to live as a Roman Catholic every day, in accordance with the Board's expectation of trustees.
73. The Board's characterization of the Applicant's "Roman Catholic values" as "her personal interpretation of Catholic doctrine" is absurd. The Board has never bothered to explain how the Catechism passages included in the first complaint can possibly be interpreted any other way. The Catechism ***literally*** refers to any sexuality other than man-woman sexuality as intrinsically disordered, gravely depraved, and unacceptable:

Homosexuality refers to relations between men or between women who experience an exclusive or predominant sexual attraction toward persons of the same sex. It has taken a great variety of forms through the centuries and in different cultures. **Its psychological genesis remains largely unexplained.** Basing itself on **Sacred Scripture, which presents homosexual acts as acts of grave depravity**, tradition has always declared that **"homosexual acts are intrinsically disordered."** **They are contrary to the natural law.** They close the sexual act to the gift of life. **They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved.** [CCC #2357, 1997 Second Edition.] [Emphasis added.]

⁵⁸ See para 73 of this submission.

⁵⁹ CROP2 at 30-2, 67-9, 71, 80-2.

⁶⁰ CROP2 at 30-2, 67-9, 71, 80-2.

The number of **men and women** who have deep-seated homosexual tendencies is not negligible. **This inclination, which is objectively disordered**, constitutes for most of them a **trial**. They must be **accepted with respect, compassion, and sensitivity**. Every sign of **unjust discrimination in their regard should be avoided**. These persons are called to fulfill God's will in their lives and, if they are Christians, to **unite to the sacrifice of the Lord's Cross the difficulties** they may encounter from their **condition**. [CCC #2358, 1997 Second Edition.] [Emphasis added.]

Homosexual persons are called to chastity. By the virtues of **self-mastery** that teach them inner freedom, at times by the support of **disinterested** friendship, by **prayer** and **sacramental grace**, they can and should gradually and resolutely approach Christian perfection. [CCC #2359, 1997 Second Edition.] [Emphasis added.]

74. Pretending the Applicant has invented an interpretation of the Catechism of the Catholic Church untethered to an objective understanding of what it says and what it means is disingenuous. The Catechism could not possibly be clearer.
75. Refusing to deal with an issue the *complainants* continually raise and the Applicant continually answers is unreasonable, as is hiding behind the *Act* and the Code of Conduct, neither of which contains any clause indicating that what the Applicant has done is a breach.
76. At a minimum, the Roman Catholic values the Applicant is **required to at all times project** ought to be weighed against any other section or clause to determine whether the Applicant can reasonably be found in breach.
77. The Code of Conduct prescribes living out Roman Catholic values. It is not optional. Accordingly, a decision failing to weigh the Applicant's diligence in projecting Roman Catholic values, as required under the Code, with all other conduct required by the Code, is not a reasonable decision. The Board's response is nothing short of a cop-out. Rather than engaging in its responsibility as a separate school constitutionally entitled to hold and disseminate the doctrines of the Catholic faith, it throws its trustee under the bus—a trustee acting in faithful service to Catholic constituents as all Board policies make clear is appropriate, desirable and expected. Statements such as “[T]he issue before the Board does not turn on whether the Respondent's impugned conduct contravened Roman Catholic

values but whether the same violated the *Act*, the Code and the First Motion”⁶¹ and “The Board does not find that the Catholicity-related arguments have a bearing on its decision as to whether or not the Respondent is in breach of the Code or the First Motion”⁶² are incongruent with the preambles to the Board policies holding forth concerning the Board’s mandate to root everything it does in Roman Catholic teachings, values and principles.

78. Absent any consideration of the Roman Catholic values woven throughout and forming the basis for the Code of Conduct, the Board did not, in fact, focus on the Code of Conduct; it focused on *part* of the Code of Conduct. This is not reasonable. *Vavilov* stipulates that decision makers must have regard to all the relevant pieces: “A decision, to be reasonable, must be justified in relation to the **constellation of law and facts** that are relevant to the decision...Elements of the legal and factual contexts of a decision operate as constraints on the decision maker in the exercise of its delegated powers”.⁶³
79. It was not open to the Board to ignore the very basis of its Code of Conduct, Policy 3, Policy 1, and other Board policies in order to “reverse-engineer” its way to an “expedient” decision it desired to make.⁶⁴ It was equally incumbent on the Board to “*meaningfully grapple*” with the evidence before it⁶⁵ concerning the intersection of Roman Catholic values with the Applicant’s conduct, and its failure to do so renders its decision unreasonable. The Board’s disregard for an integral aspect of its Code of Conduct and other policies—Roman Catholic values—necessarily impacts, and interacts with, every other finding of contravention. *The failure to deal with the Roman Catholic values issue undermines every other decision the Board made concerning every other alleged infraction.*

⁶¹ CROP2 at 17.

⁶² CROP2 at 17.

⁶³ *Vavilov* at para 105. [Emphasis added.]

⁶⁴ *Vavilov* at para 121.

⁶⁵ *Vavilov* at paras 127-8. [Emphasis added.]

Disqualification Sanction

No sanction issues absent breach

80. No sanction, let alone the most severe sanction, is lawful in the Applicant's circumstances, because a sanction could only issue had the Applicant breached the Code of Conduct, which she did not.

The sanction of disqualification is demonstrably unfit

81. Even had the Applicant breached the Code of Conduct, however, disqualification, the severest sanction conceivable, is manifestly excessive. Even the Applicant in the Board's exemplar case of *Del Grande* was not disqualified from service, after intentionally insulting a **community in public** and while on **official board business**. Expressing a political opinion, however uncherished by the other Board members, does not rise to the level of disqualifiable conduct.
82. The penalty of disqualification of the Applicant is a substantial and marked departure from *Del Grande*, which, while dissimilar in some important ways, is the only case that is remotely comparable to the present case. It should thus be overturned:

In respect of the Sanctions Decision in particular, this court has held that to overturn a penalty imposed by a regulatory tribunal, "it must be shown that the tribunal made an error in principle or that the penalty was clearly unfit, which is to say that it manifestly is deficient or excessive and is a substantial and marked departure from penalties in similar cases." *Khan v. Law Society of Ontario*, 2022 ONSC 1951, at para. 77.⁶⁶

The sanction of disqualification fails to be prescribed by the common law

83. The sanction of disqualification imposed by the Board has no basis in common law in the present circumstances. *Calgary Roman Catholic Separate School District No. 1 v O'Malley*, 2006 ABQB 364 and *Calgary Roman Catholic Separate School District No. 1 v O'Malley*, 2007 ABQB 574—cases on which the Board relies—speak only to **common law disqualification for conflict of interest**. Neither disqualification nor the conflict of interest as the impetus for such is at play in the present matter.

⁶⁶ *Del Grande* at para 88.

The sanction of disqualification fails to be prescribed by the Act and/or the Code of Conduct

84. Neither does the *Act* provide for disqualification in the present circumstances. Other than specifically enumerating various conflicts of interest and conflict of interest-adjacent activities as reasons for, specifically, disqualification, the *Education Act*⁶⁷ points only to the provisions of the Code of Conduct. The *Act* states at section 87(1)(c): “A person is disqualified from remaining as a trustee of a board if that person...has breached the code of conduct of the board established under section 33, **where the sanction for the breach under the code of conduct may be determined by the board to be disqualification**”. [Emphasis added.]
85. If section 87(1)(c) were intended to impose disqualification for a breach of the Board’s Code of Conduct ***with nothing else***, section 87(1)(c) would end at the words “section 33”, as in, “A person is disqualified from remaining as a trustee of a board if that person...has breached the code of conduct of the board established under section 33”.
86. But section 87(1)(c) does not end there. Section 87(1)(c) goes on to state, “**where the sanction for the breach under the code of conduct may be determined by the board to be disqualification**”. [Emphasis added.]
87. This qualifying clause in section 87(1)(c) means something. The legislature is presumed always to be speaking. The legislature does not add words for the sake of adding words. Those words have a meaning. No interpretation of those words exists in the case law. But those words do have a meaning, and this Court must decide what those words mean.
88. The Applicant says those words mean that the Board’s ability to disqualify on the basis of a Code breach depends on whether the Board has allowed for the Board to disqualify on the basis of a Code breach. What the Board has allowed itself to do is contained in the Board’s ***Policy***. No sanction of disqualification exists in the Board’s Policy.
89. While the Court has, up to now, had no opportunity to weigh in on this issue in Alberta, the Ontario case of *Del Grande* lends some perspective. In that case, the applicant pled that the

⁶⁷ [SA 2012, c E-0.3](#).

sanctions imposed against him were manifestly excessive. The Court disagreed, **for the reason that all of the sanctions imposed were enumerated in either the Act or the board policy**: “The majority of the sanctions are provided for in s. 218.3(3) of the *Education Act*”; and “The remainder are authorized by Article 10 of the Code of Conduct”.⁶⁸

90. In the present case, Alberta’s *Education Act* merely **provides for the Board to provide for the sanction** of disqualification if it wants to. The Board’s Code fails to so authorize the Board in this regard. Nothing in the Code of Conduct prescribes the sanction of disqualification for breaches of the Code of Conduct. The Code of Conduct enumerates only censure and removal from Board appointments, and the like.⁶⁹ The words “without limiting what follows” found in the sanctions section⁷⁰ do not imply there is absolutely no limit on what the Board can do to a trustee. The regular principles of statutory interpretation **limiting to other like things** that which might be implicitly included still apply. Were it otherwise, the enumerated list would be meaningless. If the Board could censure and remove from committees, enumerated remedies, or end the trustee’s career entirely—one would expect something so radically disparate and comparatively severe as the latter to make an appearance on the list. Otherwise, the default presumption would be that the Board can do the things on the list and other things in a similar vein to those things appearing on the list.
91. Therefore, when the Board states, “The Act grants the Board jurisdiction to review trustee-related complaints, consider trustee conduct, and determine appropriate responses and remedies”, which is to say, “govern its internal procedures by regulating the conduct of its members”,⁷¹ it is only half correct. The Board can make a policy specifying disqualification; but ***the Board cannot make it up as it goes***. The Board’s ability to do what it attempted to do—disqualify the Applicant—depends entirely on whether its own Policy permits that.

⁶⁸ *Del Grande* at para 90.

⁶⁹ CROP2 at 36.

⁷⁰ Policy 4, Appendix A, Section 9, CROP2 at 36.

⁷¹ CROP2 at 4.

92. The dissenting trustee understood this, and placed it squarely before the Board, which admitted in its reasons to having been made aware that there was some doubt as to whether disqualification was even available to it,⁷² yet did not meaningfully grapple with this legal issue. Its failure to do so *alone* renders its decision to disqualify unreasonable on the *Vavilov* standard. Additionally, however, the Board's decision is substantively unreasonable because it misinterprets what the Board is permitted to do.

REMEDY SOUGHT

93. The Applicant applies to this Honourable Court for the following relief:
- a) An Order quashing the Decision;
 - b) An Order directing the unconditional reinstatement of the Applicant as a trustee of the Board;
 - c) Costs of this Application; and
 - d) Such further and other relief as this Honourable Court deems just and equitable.

⁷² CROP2 at 18.

LIST OF AUTHORITIES

1. *Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019 SCC 65](#)
2. *Del Grande v Toronto Catholic District School Board*, [2023 ONSC 349](#)
3. *Education Act*, [SA 2012, c E-0.3](#)