



Case Pre-Brief: **Conseil scolaire francophone de la Colombie-Britannique v. British Columbia**

Hearing of September 26, 2019 | On appeal from the Court of Appeal for British Columbia

This case is about language education rights for French speakers in British Columbia. The Supreme Court has to decide what school services B.C. must have for its French-speaking community.

The *Canadian Charter of Rights and Freedoms* is part of Canada's Constitution. Section 23 deals with the right to minority-language education. This is the right to go to school in French or English when it's not the main language of the province or territory you live in. Section 23 covers citizens whose first language is French or English. It also covers citizens who went to primary school in that language, even if it's not their first language. It says they have the right to send their children to school in that language. But it also says there have to be enough children to justify paying for schooling in that language. The services needed could be different, depending on the number of children.

The Conseil scolaire francophone de la Colombie-Britannique is B.C.'s French-language school board. It said the province had to do more for French-language education throughout the province. It wanted B.C. to give more money to French-language schools and fix school buildings and property. It said B.C. should pay for not spending enough on French-language schools in the past. The school board said B.C.'s laws and policies breached the French-speaking community's language education rights. B.C. said it couldn't provide all the services the school board wanted because it would cost too much. It said there weren't enough students to justify it.

The trial judge said the province breached the French-speaking community's rights under section 23 of the *Charter* in several areas of B.C. This was because of the way the province decided how to fund minority-language education. But she said this didn't mean the province had to build new schools and facilities, which would cost over \$300 million, right away. She did say that B.C. should have paid more for school bus transportation. Not doing so breached section 23. She said the school board should get \$6 million in damages for this.

The Court of Appeal said courts needed to be practical when looking at section 23. Giving the school board what it wanted would cost over \$300 million. It said section 23 of the *Charter* didn't mean the province had to provide all the school facilities right away. It also said the trial judge was wrong to say B.C. had to pay \$6 million for transportation. This was because the policy wasn't unconstitutional at the time. It was only found unconstitutional when the trial judge said so. People don't usually have to pay for damages caused by laws or policies that are only found unconstitutional later. The school board appealed.

The Supreme Court will have to decide how courts should deal with minority language rights under section 23 of the *Charter*. This case raises many different issues. One issue is what governments have to do when there aren't enough students to justify offering full school services in the minority language. Another is whether courts should look at costs when deciding whether a breach of section 23 can be allowed. (Section 1 of the *Charter* says that certain rights can be limited, but only if the limit is reasonable and can be justified in a free and democratic society.) Still another is whether the province should have to pay damages to the school board in this situation.

This decision could affect many other minority-language communities across Canada. Many organizations applied to be "interveners" in this case. Interveners are people or groups who get the court's permission to give their point of view, even though the case doesn't directly affect them. They submit arguments in writing. Some are also allowed to make short arguments in person at the hearing. They help the judges see different angles and make a better decision.

Judges hearing the case: Chief Justice Richard [Wagner](#) and Justices Rosalie Silberman [Abella](#), Michael [Moldaver](#), Andromache [Karakatsanis](#), Suzanne [Côté](#), Russell [Brown](#), Malcolm [Rowe](#), Sheilah [Martin](#), and Nicholas [Kasirer](#)

More information (case # 38332): [Case information](#) | [Factums](#) (written arguments from both sides)

Lower court rulings: [trial](#) (Supreme Court of British Columbia) | [appeal](#) (Court of Appeal for British Columbia)

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