

Saskatchewan court sides with Catholic school division in funding dispute

In a unanimous decision, the Saskatchewan Court of Appeal has upheld the right of separate schools in the province to receive government funding for the education of non-Catholic students.

The province's highest court overturned a 2017 court ruling by Justice Donald Layh that would have prevented provincial funding of non-Catholic students attending Catholic schools.

"We are relieved, reassured and grateful for this decision," said Tom Fortosky, executive director of the [Saskatchewan Catholic School Boards Association](#), in a statement following the March 25 ruling.

"Even though the Government of Saskatchewan had assured us they would do whatever is necessary to protect your choice for your child's education, this ruling confirms what we have said and believed all along: parents know what is best for their children and they should be able to choose Catholic, faith-based education if that is what they want – no matter their reasons, faith backgrounds or traditions."

"We're ecstatic," added Serena Shaw, president of the [Alberta Catholic School Trustees Association](#) which had intervenor status in the case. "It's really good news for the Saskatchewan school board and the Saskatchewan government."

"Right now what this means for them is that they'll get to continue educating they way they were and being funded for the students they are educating, regardless of their faith. Certainly we share similar constitutional legislation as they do, and so anything that happens there, could have consequences in Alberta."

The case has played out since 2005 when the York School Division (now Good Spirit) first filed a complaint against what is now the Christ the Teacher School Division. The complaint centred on the Catholic division establishing St. Theodore Roman Catholic School in the rural town of Theodore, northwest of Yorkton, after the public division closed the school due to a lack of enrolment. Parents rallied to save the school to keep their children from being bused to Springside, 17 kilometres away.

The public division argued Catholics made up only a small proportion of the school population and that the mandate of Catholic schools should be limited to the education of Catholic students.

It wasn't until 2015 that the case made its way to a Yorkton courtroom, and not until 2017 when Layh ruled in favour of the public board. The provincial

government of then-premier Brad Wall quickly invoked the notwithstanding clause, which allowed the status quo to stand for five years.

“Our system has been in place in excess of 100 years,” Saskatchewan Party Minister of Education Don Morgan said at the time. “The choice option has been there and it’s worked well. We’ve built our infrastructure around that. We’ve built neighbourhoods around that type of school system. We would use the notwithstanding clause on an ongoing basis to ensure that those choices remained.”

The school boards association, however, couldn’t rely on the Saskatchewan Party being in power forever and sought a permanent solution to put an end to this once and for all instead of relying on the notwithstanding clause being invoked every five years.

Fortosky thanked the many donors who funded the cost of the appeal. A campaign was launched in 2017 to cover these costs so that scarce funds – the province had gone into cost-cutting mode to tackle an escalating provincial deficit at the time – would remain in the classrooms of all eight Saskatchewan Catholic boards.

“A significant amount of time and money has been spent on this court case and we are hopeful that we can all refocus our energy and resources on our students and families to build upon the exemplary model of education we have in this province,” said Fortosky.

Along with the ACSTA, the intervenors included the Ontario English Catholic Teachers’ Association, Ontario Catholic School Trustees’ Association, Association franco-ontarienne des conseils scolaires catholiques, and Public School Boards’ Association of Alberta.

Though the Saskatchewan high court has made its ruling, the public school division still has the option of appealing the ruling to the Supreme Court of Canada.

Saskatchewan is one of only three provinces in Canada where Catholic education rights are enshrined in the constitution, along with Ontario and Alberta.