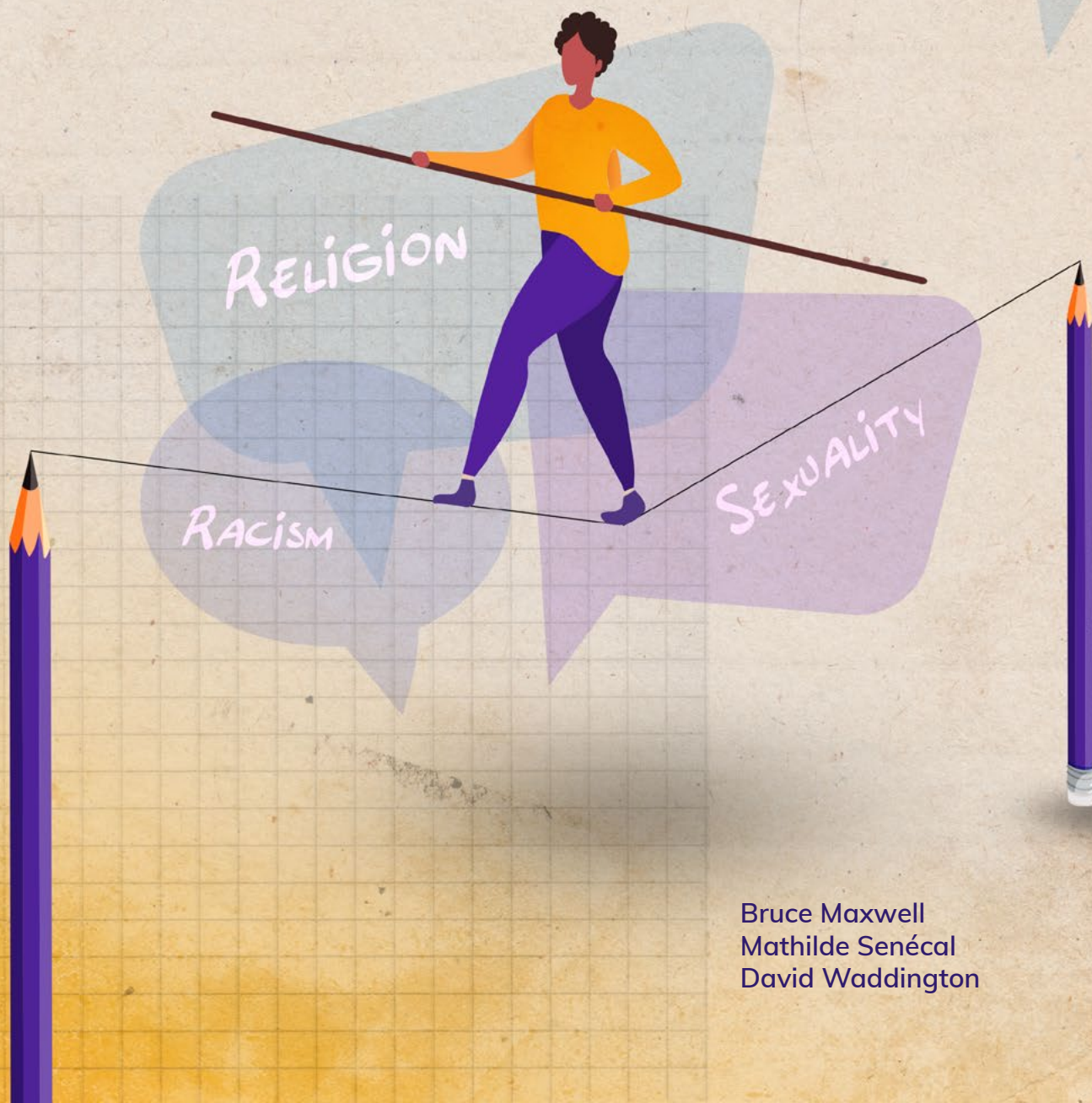


# Pedagogical Freedom and Dealing with Controversial Issues in Schools

A Guide for Teachers and School Leaders



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# Introduction

Education researchers have long defended the idea that because learning to discuss political and social controversies helps students develop critical thinking skills, it is an important part of civic education. (Dewey, 1916/2004; Gutmann & Thompson, 1996; Hess, 2009; Westheimer, 2015). In a democratic society, dialogue about public issues is supposed to be open, respectful of rights, informed, and rational. In theory, discussing controversial issues in the classroom makes it possible to create the kind of dialogue that we hope to see in the public arena.

However, for many elementary and secondary school teachers, discussing controversial issues with students is risky. One of the reasons why some teachers avoid discussing controversial

issues in the classroom is because they are aware that their pedagogical choices are under constant surveillance (Camicia, 2008; Swalwell & Schweber, 2016). The highly publicized case of a lecturer at the University of Ottawa who said “the N-word” in class is an example of the type of negative reaction that teachers can face (Pfeffer, 2020). Even though the lecturer used the word merely as an example of a pejorative term that has been reappropriated by a historically marginalized group, she was suspended from her duties. This kind of incident makes educators at all levels — elementary, secondary, college, and university — shudder, and teachers wonder what might happen to them if something that they say in class is perceived as “inappropriate” by students, their families or their employer.

The purpose of this guide is to provide teachers and school leaders with research- and law-based information that, we hope, will help them make pedagogically responsible decisions when dealing with politically and socially sensitive issues in the classroom. The first section of the guide defines pedagogical freedom as it applies to primary and secondary school teachers, and distinguishes pedagogical freedom from academic freedom. The second section presents and illustrates four legal principles that can be seen as delineating the reasonable and responsible exercise of pedagogical freedom. The third and final section of the guide looks specifically at the professional expectation that teachers be neutral or impartial when dealing with controversial issues in class. Here as well, we put forward some guidelines, based in research and the jurisprudence, that are aimed to support teachers and school leaders as they navigate decision-making in this area.



# Chapter 1

## PEDAGOGICAL FREEDOM IN PRIMARY AND SECONDARY TEACHING

The 1915 definition of academic freedom by the American Association of University Professors (AAUP) is still recognized today as the benchmark in North America. It states that academic freedom is a right reserved for those who hold a teaching or research position and have in-depth training in an area of academic expertise. Academic freedom encompasses the freedom to conduct research, pedagogical freedom, and freedom of expression outside an academic's professional life.

Primary and secondary school teachers don't have full academic freedom, but they do have a degree of pedagogical freedom. Pedagogical freedom encompasses the freedom to choose, in accordance with one's best professional judgement, pedagogical approaches, and evaluation methods. It also includes the freedom to select material to use in class insofar as such choices fall within the bounds of the official curriculum. Finally, pedagogical freedom also covers teachers' freedom of expression in

the classroom. In the context of teaching and talking about politically and socially sensitive issues with students, this means that, as long as teachers exercise their right to freedom of expression in a reasonable and responsible way, they have significant professional autonomy. Within the bounds of this pedagogical freedom, teachers can use teaching material, execute lesson plans, and hold class discussion, even if some parents and students may consider their choices objectionable (Clarke & Trask, 2006; Kindred, 2006; Maxwell, Waddington & McDonough, 2019).

The Supreme Court of Canada's 2002 ruling in the Chamberlain case (*Chamberlain v. Surrey School District No. 36*, 2002) illustrates how pedagogical freedom can protect controversial professional choices in teaching. In this case, James Chamberlain, an elementary teacher working in the Lower Mainland of BC, successfully invoked his constitutional right to freedom of expression to defend his decision to use picture books in

his kindergarten–grade 1 class that depicted the daily lives of families with same-sex parents. The school board refused to allow the use of the books because it felt that the books’ normalization of same-sex families clashed with the religious values of many of the school’s parents. Ruling in favour of the teacher, the Court indicated that,

in a public school, the values of the Canadian Charter of Rights and Freedoms, particularly tolerance for and acceptance of diversity, override the right of parents to ensure that their children receive an education in accordance with their religious beliefs.

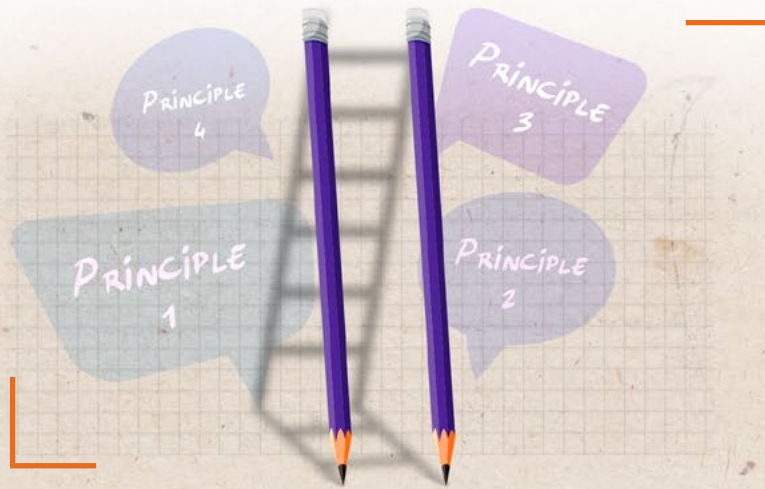
### The Morin affair: Challenging students’ personal beliefs

*Richard Morin, a ninth grade English teacher working in Prince Edward Island, spent more than 10 years defending in court his decision to present a critical perspective on Christian fundamentalism in class (Morin v. Regional Administration Unit #3 (PEI), 2002). As the first phase of a learning activity designed to encourage his students to think about the impact of people’s religious commitments on their beliefs in other spheres of life, Morin had his students watch a BBC documentary on the influence of Christian fundamentalism on politics in the United States. After receiving complaints from several parents about the documentary, the school leadership asked Morin not to screen the rest of it and to cancel the learning activity. Morin protested, the school board intervened in support of the principal’s position, and the dispute eventually ended up in the courts. Ultimately, the Prince Edward Island Court of Appeal quashed the decision of the school board and allowed Morin’s grievance on the grounds that*

*Morin’s constitutional right to freedom of expression applied in this case. Justice Webber summarized the position of the court in this way: “Surely teachers engaged in their profession of teaching can’t be found to have no right of free expression, while advertisers do have such a right, and even prostitutes carrying out their profession have such a right” (para. 58). In the eyes of the judges, however, the decisive factor in the case was the fact that Morin succeeded in convincing the Court that the pedagogical intention behind his controversial choice was to promote students’ critical thinking, an educational objective that Prince Edward Island’s provincial curriculum strongly urges teachers to pursue. The fact that Morin’s pedagogical intention meshed with the objectives of the provincial curriculum led the Court to conclude that Morin had exercised his right to freedom of expression in a reasonable and responsible way.*

As court rulings such as the one in the Chamberlain case suggest, teachers’ freedom of expression protects their pedagogical freedom when teaching and talking about controversial issues, but only if teachers exercise this right in a reasonable and responsible way. As we

will see in the next section of the guide, this means adhering to four key principles: curricular alignment, impartiality, avoidance of foreseeably inflammatory content, and age appropriateness (Maxwell, McDonough & Waddington, 2018).



# Chapter 2

## PEDAGOGICAL FREEDOM: FOUR LAW-BASED PRINCIPLES

Based on Canadian and US jurisprudence on teachers' freedom of expression in school, we put forward four principles that are intended to assist teachers and school leaders in making reasonable and responsible decisions about teaching and talking about controversial issues with students in schools: curricular alignment, impartiality, avoidance of foreseeably inflammatory content, and age appropriateness.

### Principle 1

#### Curricular alignment

The content and pedagogical approach that teachers adopt must be clearly justifiable in terms of teachers' basic professional responsibility to teach the official curriculum.



### Principle 2

#### Impartiality

Teachers must abstain from using their position of authority to promote their own personal opinions, viewpoints, or beliefs.



### Principle 3

#### Avoidance of foreseeably inflammatory content

Teachers must avoid content and speech that risks causing a reasonably foreseeable significant disturbance in the regular functioning of the class or school.



### Principle 4

#### Age appropriateness

The content, pedagogical approach, and language that teachers adopt must be adapted to their students' age and psychological development.

## Principle 1. Curricular alignment

The content and pedagogical approach that teachers adopt must be clearly justifiable in terms of teachers' basic professional responsibility to teach the official curriculum. The government has been given the power to determine what is

taught in school, as an educated population is in everyone's interest. Furthermore, in liberal and democratic societies, a measure of government control over the curriculum is an integral part of a democratic educational system.

### Examples:

- A. A teacher organizes and executes a detailed lesson plan on a particular political movement in a secondary school science class without making clear links to the subject being taught as it is described in the curriculum. This teacher's pedagogical choice is not in compliance with the principle of curricular alignment, since the course curriculum does not call for the teacher to provide instruction on the political movement in question.
- B. The parents of a primary school pupil complain to the school principal after finding out that their child's teacher read a book to his students that depicts the ordinary lives of same-sex families. Concerned that the normalization of same-sex families conflicts with their religious beliefs, the parents ask that their child not be exposed to this type of content in school. Because the curriculum explicitly recommends the use of teaching material that reflects and promotes respect for diversity and the value of equality, the teacher's pedagogical choice does not conflict with the principle of curricular alignment.



## Principle 2. Impartiality

Teachers must abstain from using their position of authority to promote their own personal opinions, viewpoints, or beliefs. This principle is based on the fact that students are vulnerable in the face of teacher authority. Since school-age students are a captive audience, they

deserve special protection against abuse of power. Teachers show impartiality by ensuring that multiple viewpoints on a controversial issue are presented in class in an atmosphere conducive to open-mindedness and respect.

### Examples:

- A. An elementary school pupil asks her teacher what she thinks about the country's recent involvement in a military campaign overseas. The teacher responds by saying that she is against it because she believes that adults, just like children, can always find peaceful solutions to conflicts. The teacher then encourages her students to participate in an upcoming anti-war demonstration with their parents. Although simply stating her opinion on the war is not inconsistent with the principle of impartiality, in light of the teacher's position of authority, suggesting that her students should share her view by participating in a demonstration can reasonably be considered the promotion of the teacher's personal beliefs.
- B. A secondary-level biology teacher tells his students that the pandemic was orchestrated by the government. He adds that the statistics concerning the number of cases and deaths were mostly invented. Furthermore, the teacher says, science has proven that vaccines can cause permanent disorders such as autism in young children and that the COVID vaccine could cause the same kinds of problems. Because he presented his perspective on the issue as certain while neglecting the strong and easily available evidence to the contrary, it is reasonable to conclude that the teacher was using his position of authority as a teacher to promote his personal beliefs. Hence, his pedagogical decision ran counter to the principle of impartiality.

### Principle 3. Avoidance of predictably inflammatory content

Teachers must avoid content and speech that risks causing a reasonably foreseeable significant disturbance in the regular functioning of the class or school. This principle is based on students' right to a school environment that is conducive to learning, a necessary condition for them to exercise their right to an education. While it

is understood that teaching and talking about controversial issues always has the potential to upset students, the principle requires teachers to exercise their professional judgement to avoid topics and activities that may foreseeably cause a material and substantial disruption in the school environment.

#### Examples:

- A. In an urban high school, a White English teacher uses the “N-word” in class and writes it on the board. Since the word is used repeatedly in the novel studied in class, the novel cannot be understood, the teacher tells her students, without understanding the historical and cultural significance of the word. Given the symbolic significance of the term for a historically marginalized community represented in the school, the teacher’s racial identity, and the public controversy around teachers saying the the “N-word” in class, it is entirely foreseeable that the pedagogical choice to use the word in class would provoke strong reactions among students and have the potential to cause a significant disturbance in the school.
- B. In a high school history class, a teacher presents a lesson on freedom of the press, a topic that features in the official curriculum. During the lesson, he describes the case of a journalist assassinated by Islamic extremists because the journalist was behind the publication of an image the extremists consider blasphemous. The majority of the students in his class are from Islamic families. The teacher announces that he is going to show the image in class, but gives his students the option of leaving the classroom if they do not want to see it. Although the teacher’s desire to show the image in the context of a lesson on basic liberties is understandable, given the extreme sensitivity of the image within the Muslim community, it is reasonably predictable that the pedagogical choice to show the image in class would give rise to a significant uproar not only among his students but their parents as well.

## Principle 4. Age appropriateness

The content, pedagogical approach, and language that teachers adopt must be adapted to their students' age and psychological development. This principle follows from educators' basic responsibility to ensure their students' well-being and maintain public trust in the school system and the teaching profession. Exposing students to disturbing content, or

content that could reasonably result in students feeling upset or unwelcome, risks undermining parents' confidence in entrusting their children to teachers and schools. It can also create a school environment in which students do not feel comfortable and safe. Of course, some content such as hateful, violent, or sexually explicit material is never appropriate for school.

### Examples:

- A. In response to a current event widely covered in the media, and as a means to have his students reflect on the effects of exposure to violent images on young people, a high school social studies teacher suggests that his class watch a video of a real murder. The video is available on the internet and several students have already seen it. Before showing the video, the teacher decides to let the students vote on whether they want to see the video in class. Most of the class votes in favour. After watching the video, the teacher leads an animated class discussion on the topic of violence in the media. Despite the teacher's good intentions to educate his students about the potential impact of exposure to violence, the overwhelming majority of the parents and the public believe that images of extreme violence have no place in schools. Furthermore, through his pedagogical choice he neglected the fact that some students might find the video highly upsetting.
- B. With a group of grade 11 and 12 students, a theatre teacher decides to put on a play that contains some strong messaging about the negative effects of substance abuse, a problem that has been on the rise among students in the school in recent years. The teacher's plan is to perform the play in front of the entire school at the end of the term. The play does not contain any sexually explicit or violent scenes, but does not hide the harsh realities of severe drug addiction. For example, in once scene, which takes place in a drug house, the main characters are all unconscious after taking narcotics. In the scene, a child left without adult supervision tries unsuccessfully to wake his mother who has died of an overdose. Although such scenes may be acceptable for older students, it is reasonable to expect that other students, some of whom may be as young as 12 years old, will find such scenes highly upsetting.



## Chapter 3

### USING THE PRINCIPLES IN PROFESSIONAL PRACTICE

In addition to providing a definition of “the reasonable and responsible exercise of pedagogical freedom” that teachers can refer to when making decisions about controversial content, the four principles outlined in this guide can also serve as a reference point to facilitate discussions among colleagues when they disagree about pedagogical choices. Given their legal grounding, the principles of curricular alignment, impartiality, avoidance of foreseeably inflammatory content, and age appropriateness have more credibility than just personal opinion and common sense. Finally, in cases in which teachers or school leaders are called upon to respond to a complaint by a parent, a student, or a colleague about a pedagogical choice regarding controversial content, the principles can serve as a basis for reflecting on whether the complaint is well-founded. If the complaint seems unfounded, the principles can be used to defend and justify the contested pedagogical choice.

The relevance of the four principles is not limited to the planning and management of classroom-based teaching about controversial issues however. They can also be useful when teachers and school leaders have to make spontaneous judgement calls about how to react appropriately in informal and possibly unexpected conversations with students about controversial issues. In such exchanges, teachers should be mindful of the fact that their primary role in relation to students is to provide instruction in accordance with the official curriculum, that they are expected to abstain from promoting their own personal viewpoints among students, that they have an obligation to maintain a stable and welcoming school environment, and that whatever they say to students should be adapted to their age and level of maturity. It is important to note that not all the principles are applicable in every case in which a pedagogical choice needs to be made on a controversial issue. Depending on the choice at hand, one or two principles may be particularly salient whereas the others may not be relevant at all.

Figure 1: Teacher–administration disagreement regarding pedagogical freedom: The series of typical events

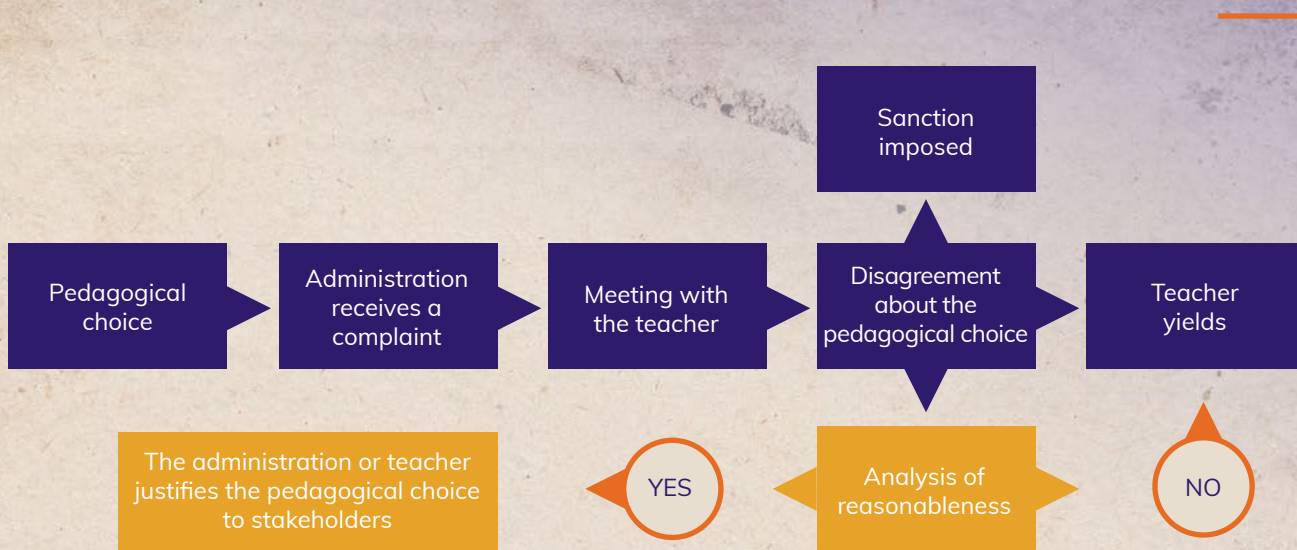


Figure 1 illustrates the typical series of events that occur in cases in which a teacher and their employer disagree about a pedagogical choice made by the teacher regarding teaching and talking about a controversial issue in the classroom. As shown, such disagreements almost always start with a complaint from a parent, student, or colleague. Figure 1 also illustrates at which stages in a conflict the principles may come into play to help avoid escalation and, ideally, help the teacher and their employer arrive at a consensus-based solution.

As mentioned, teachers can also refer to the four principles to make pedagogical choices with an eye to preventing complaints from arising in the first place—or at least to ensure that, in case of a complaint, their controversial pedagogical choice will be justifiable.



## Chapter 4

### TEACHER IMPARTIALITY

Understood as a professional obligation in teaching, the duty of impartiality is the expectation that, when teaching and talking about controversial issues with students, teachers present the facts and arguments in a fair and balanced manner, and avoid promoting their own personal viewpoint.

As mentioned, impartiality is an essential aspect of the reasonable and responsible exercise of pedagogical freedom as defined by the courts. However, it is not just the legal system that asks teachers to be impartial.

The duty of impartiality also appears relatively frequently in codes of ethics for teachers (Maxwell and Schwimmer, 2016). For example, the code of ethics of the Nova Scotia Teachers Union states that “[t]he teacher should be as objective as possible in dealing with the controversial matters

arising out of curriculum subjects, whether scientific or political, religious or racial” (section 1.5). According to the code of ethics of the Association of American Educators (2023), “[t]he professional educator endeavors to present facts without distortion, bias, or personal prejudice” (section 1.5).

The professional commitment to the duty of impartiality as expressed in codes of ethics for teachers reflects a similar commitment to impartiality among teachers themselves. Research into teachers’ perspectives on teaching and talking about controversial issues in school shows that the vast majority of teachers themselves think that teachers have an obligation to be impartial (Hess, 2004; Journell, 2016; Misco & Patterson, 2007; Nganga et al., 2020; Oulton et al., 2004; Ozturk & Kus, 2019). The same research reveals why teachers prefer impartiality.

## The influence of job security on teachers' decision-making regarding impartiality

*Research into teachers' perspectives on pedagogical freedom suggests that most teachers are motivated to adopt a neutral, impartial position in part by pragmatic concerns about job security (Waddington et al., 2023). The more teachers consider a subject to be sensitive, the more they say they tend to adopt a neutral, impartial position. By the same token, teachers who have greater job security are much more likely to say that they would teach politically sensitive subjects in a committed manner by disclosing their personal point of view.*

Two of the reasons for adopting impartiality relate to students' intellectual development. First, many teachers are concerned about unduly influencing or "indoctrinating" their students. If the objective is to teach students to think for themselves, taking a strong personal position in front of students seems to run counter to this objective. Second, teachers are sensitive to importance of respecting students' freedom to learn, their freedom of conscience, and their freedom of expression. Classrooms in which teachers strongly express their own positions and convictions on controversial issues may not be learning environments in which students can feel free to develop and express their own points of view.

A third key reason why teachers prefer impartiality is because of fear of complaints or sanctions. Teachers know that if they are seen as promoting a viewpoint on a controversial issue that certain parents, students, or colleagues disagree with, they may be putting their job security at risk. This sense of uncertainty is aggravated by the fact that it is often difficult to predict which statements are likely to elicit complaints or disapproval. Teachers can minimize these risks by remaining impartial whenever they teach and talk about controversial issues with students.

## Neutral impartiality versus committed impartiality

When it comes to dealing with controversial issues in class, it can be useful to distinguish between “neutral” and “committed” impartiality (Kelly, 1986). Neutral impartiality means that a teacher deals with a controversial issue in a fair and balanced way and does not share their personal point of view on the issue with their students. This is what most teachers mean by

“impartiality.” However, sometimes teachers choose to share their personal point of view with students and at the same time maintain a balanced and fair discussion in their treatment of the issue, by showing a range of arguments for and against, for example, and by striving to present information in an unbiased way. This is committed impartiality.

*Being impartial does not necessarily mean that teachers can never disclose their personal point of view on ethical, political, or social issues to their students. Rather, it is a question of being careful not to impose one’s point of view on students, which could be perceived as an abuse of the teacher’s authority when dealing with controversial issues in the classroom. As Justice Rosalie Abella put it in a ruling of the Supreme Court of Canada, impartiality in teaching does not oblige teachers to “shed their own beliefs. It is, instead, a pedagogical tool utilized by good teachers for centuries—let the information, not the personal views of the teacher, guide the discussion” (Loyola High School v. Quebec, CSC 12, 2015, para. 78).*

The educational interest of committed impartiality is that it models the skills of democratic deliberation and critical thinking that teachers want to their students to learn (Westheimer, 2015). When teachers opt for committed impartiality, they illustrate by example that it is possible to have an opinion about a controversial issue—even a strong

opinion—and be open-minded about the matter. For many students, having a committed impartial teacher may be a uniquely valuable educational experience, as it may be the only time that they will be exposed to an adult who is able to take a stand on a controversial issue and yet give it a fair hearing.



## Impartiality as a teaching tool

With the exception, perhaps, of the most ardent defenders of teacher neutrality, teachers understand that situations can arise in the classroom in which neutrality needs to be put aside (Hess & McAvoy, 2015). When teaching and talking about hot-button issues, it can be critical to come across to students as genuine. Insisting too strongly on being neutral can create a classroom dynamic in which students perceive their teacher as play-acting about an important subject. This perception can be an impediment to a serious and honest discussion on the controversial issue at hand.

Another situation in which a teacher might prefer expressing a commitment to a position over remaining committed to neutrality is in a class discussion in which a student defends an unpopular viewpoint

that the teacher considers to be reasonable. In defending an unpopular viewpoint, the student may feel significant pressure give up their position so as not to stand out from their peers. By openly siding with the student, the teacher uses their authority to legitimize the student's perspective and keep the discussion moving ahead.

These examples of legitimate professional choices around teacher disclosure show that the duty of impartiality can and should be adjusted to classroom circumstances and that such things as the teacher's pedagogical intentions and the quality of their relations with their students should be factored in. From this perspective, impartiality should be thought of as a flexible pedagogical tool rather than a rigid professional duty.

### Guiding questions about impartiality and neutrality

1. *Am I maintaining a professional stance as opposed to personal stance on the controversial issue?*
2. *Am I making a good faith attempt to deal with the issue in a fair and balanced way?*
3. *What impact is the choice not to share my personal perspective on the controversial issue going to have on my students' educational experience?*
4. *What impact is the choice to disclose my personal perspective on the controversial issue going to have on my students' educational experience?*
5. *How well does the way I teach and talk about controversial issues model the ideal of democratic citizenship that I wish to promote among students?*



## Conclusion

Teaching and talking about controversial issues in classrooms and schools provides students with unique opportunities to develop critical thinking, become informed about debates on important public issues, and acquire skills associated with democratic citizenship. By proposing a set of law-based guidelines that define the reasonable and responsible exercise of pedagogical freedom in teaching, the aim of this guide is to help educators be more confident while engaging in this significant but professionally risky educational work. The four principles of curricular alignment, impartiality,

avoidance of foreseeably inflammatory content, and age appropriateness can be used to facilitate dialogue between colleagues in the event of disagreements about how to handle controversial issues in class. But they can also provide educators with a standard for making decisions—and justifying those decisions—about teaching and talking about controversial issues that are based not on common sense, personal preferences, or popular opinion but on teachers' ethical and legal obligations to students and, ultimately, on what is in the educational interest of students themselves.

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