



February 19, 2019

Case #19-00491

Jeremy Williamson
509C Allowance Avenue SE
Medicine Hat, AB T1A 3E6

Dear Mr. Williamson:

The Alberta Ombudsman's office received your letter in our office on January 31, 2019, in which you complained about Alberta Education, the Minister of Education, and other entities.

Before addressing your specific complaints, I would like to first clarify our office's jurisdiction over the entities you have identified in your letter.

The Ombudsman is authorized by the *Ombudsman Act* to investigate complaints about the administrative fairness of: Alberta government departments, agencies, boards, commissions; municipal governments; designated professional organizations; and the Patient Concerns Resolution Process of Alberta Health Services. This includes Alberta Education.

Section 12 of the *Ombudsman Act* (the Act) sets out the Ombudsman's functions and duties. It reads as follows:

12(1) Subject to subsection (2.1), it is the function and duty of the Ombudsman to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in the person's or its personal capacity, in or by any department, agency, professional organization or municipality, or by any officer, employee or member of any department or agency in the exercise of any power or the performance of any function conferred on the officer, employee or member by any enactment.

The Ombudsman has interpreted section 12 as limiting her ability to investigate complaints to only those matters identified in this section. While section 12 provides the Ombudsman with the ability to investigate administrative decisions or recommendations made to a Minister, it does not indicate that the Ombudsman has the ability to investigate the decisions of a Minister.

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Therefore, the Ombudsman does not have the legislative authority to address your complaints about the Minister of Education.

Further to this, matters of legislation are the responsibility of the elected representatives of the Legislative Assembly of Alberta. The Ombudsman has no authority to investigate complaints about how legislation is debated or created by the Legislative Assembly.

Regarding your other complaints, our office does not have jurisdiction over school boards, school districts, or teachers associations. As a result, the Ombudsman cannot investigate your complaints about the Alberta Teachers' Association, the Alberta School Boards Association, the Edmonton Public School District, Calgary Board of Education, Medicine Hat Public School District #76, Lethbridge School District #51, Battle River School Division, or Sturgeon Public School Division.

In response to your concerns related to Alberta Education (the Department) please see my comments below:

- 1) *Alberta Education's attempt to shut down Wisdom Home Schooling without respect to process, and without consideration to the impact upon the students who were/are under its authority.*

Section 15(2)(b)(iii) of the Act allows the Ombudsman to refuse to investigate a matter if the complainant does not have a personal interest. The section reads:

15(2)(b)(iii) The Ombudsman may in the Ombudsman's discretion refuse to investigate or cease to investigate any complaint if in the Ombudsman's opinion, the complainant has not a sufficient personal interest in the subject-matter of the complaint.

This means, in order for our office to consider an investigation into decisions made by the Department in a matter such as the closing of a home schooling program, an individual who is personally affected by this decision must submit a written complaint to our office, and explain why he or she believes the actions of the Department were administratively unfair to him or her.

- 2) *Alberta Education's connection to Dr. Kristopher Wells, the Institute for Sexual Minority Studies & Services (ISMSS), and the GSA Network.*

As per section 12(1) of the Act (quoted above), the function and duty of the Ombudsman is to investigate administrative matters affecting any person or body of persons. The fact that the Department may have a connection to any particular person or program does not appear to be

an administrative matter. Further, you provided no explanation why this connection should be a concern.

- 3) *Alberta Education's failure to screen links posted to the Alberta GSA Network website for inappropriate material.*

This complaint is difficult to assess as you have not provided any context nor evidence for the alleged failure, you have not explained how Alberta Education is responsible for the GSA Network website, and you have not explained how you have a personal interest in this matter. I refer you to section 15(2)(b)(iii) of the Act again, which requires a complainant to demonstrate a sufficient personal interest in the subject-matter of a complaint.

- 4) *Alberta Education's failure to implement processes and safeguards against inappropriate material be available through government funded resources.*

Please refer to my response to number 3) above. In order for this to be assessed, we would need you to provide evidence for your allegation, further explanation how the Department is involved, and to demonstrate a sufficient personal interest in the subject-matter of the complaint.

- 5) *Alberta Education's failure to punish or reprimand those responsible for the failures of the Alberta GSA Network.*

If an individual, personally affected by the Department's failure, has a personal response from the Department that he or she believes is unfair, they may submit it to our office along with a written explanation as to why they believe it is unfair. We will then review the complaint and determine whether it is a matter which we would investigate.

- 6) *Alberta Education's ongoing plan to rewrite curriculum without public understanding of who contributed to its creation or detailed explanations of what the stated goals are or why those goals were set.*

In addition to demonstrating a personal interest in a complaint, section 13(1)(a) of the Act does not allow the Ombudsman to investigate a matter until all available reviews and appeals have been accessed. It reads:

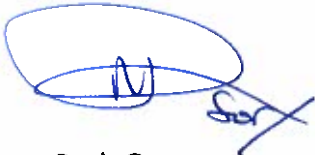
13(1)(a) Nothing in this Act authorizes the Ombudsman to investigate any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act until after that right of appeal or objection or application has been exercised in the particular case or until after the time prescribed for the exercise of that right has expired.

As a result, the Ombudsman asks you use all available appeals or reviews before she considers commencing an investigation into any complaints about the Department's actions. In this situation, if you wish to pursue your complaint about the rewriting of the curriculum further, you must address your complaint with the Department. You may write to curriculum development by emailing: EDC.DivisionalStrategicSupports@gov.ab.ca

If you contact curriculum development with your complaint and receive a response you believe is unfair, you should ask if your concerns can be elevated within the Department. Once you have exhausted all levels of review, you may then write again to the Ombudsman to request an investigation. If you do write to the Ombudsman, please provide a copy of any correspondence you receive from the Department, explain why you think the response is unfair and please ensure you note how you are personally affected. The Ombudsman will then decide whether to investigate your complaint.

You should be aware that under the Ombudsman Act, the Ombudsman may refuse to investigate a complaint if it relates to a decision, recommendation, act or omission you have known about for more than 12 months before submitting a complaint to the Ombudsman. If you submit a complaint after more than 12 months has passed, please provide an explanation as to why you took longer than 12 months to submit your complaint. The Ombudsman will consider your explanation and then decide whether to investigate your complaint.

Sincerely,



Beth George
Senior Investigator

Note: Any materials prepared as a result of a complaint submitted to the Ombudsman, including the complaint itself, and any material produced by the Ombudsman, such as this letter, cannot be used in any other proceedings, including before a board or court. This applies whether you or the Ombudsman have possession of any of these materials.

BMG/klh