

## Ruling on textbook fees supports board position

Last fall, we reported ASBA Legal Services had argued an appeal on behalf of Peace River School Division regarding the imposing of a general course fee and a fee for the rental of textbooks.

The Court of Queen's Bench ruled in favour of the school division. The case will provide significant assistance for school boards seeking to compel payment by parents for fees imposed for textbook rental, for general course fees and for the cost of replacement of damaged books. The case did not deal with locker rental fees or the general student activity fee, neither of which were appealed by the school division.

### *Two issues dealt with*

The court was required to determine two issues: first, whether the course fee and the fee for textbook rental are properly characterized as a "fee" or a "tax"; and secondly, whether the words "instructional materials or supplies" could be interpreted to include a fee for textbook rental.

On the fee versus tax issue, McIntyre J. held the charges by Peace River were properly characterized as a fee (and therefore within the statutory authority granted to school boards under the School Act). He held that Peace River quite appropriately relied upon estimates of the cost per student for both the textbook rental fee and the general course fee (which included a textbook component). In making this finding, he noted that the school division is:

unable to determine conclusively in advance how long an individual book will be used (e.g., it may get lost or badly damaged), or how long a certain set of books will be used (e.g., there may be a curriculum change requiring new books).

He also stated:

In my view, there is "a reasonable connection ... between the cost of the service provided and the amount charged", as required by Re Eurig (at para. 22). Even if a surplus exists overall (which the evidence indicated was not the case), the required nexus is present, and the amount charged are "fees", not "taxes". If no surplus exists, then the amounts charged cannot be taxes because they are not providing revenue "intended for a public purpose".

With respect to the issue of whether the authority to a school board to impose a fee for "instructional materials or supplies" included authority to impose a textbook rental fee, McIntyre J. also ruled in favour of the school division. McIntyre J. reviewed the history of section 60(2)(j) in the School Act, and held that "the section clearly allows the school division to impose fees on parents for instructional supplies and materials" and that textbooks are included within that phrase. Regarding this point, he stated:

In my view, "instructional supplies or materials" must necessarily include textbooks. It is difficult to think of a supply or material more essential to the instruction or teaching of students than their textbooks. While some disagree with charging a fee for textbook "rental", their argument is properly directed at the legislature, not at the school division's implementation of the legislation.

## Education Week April 28 to May 4

*Reaching New Heights* is the theme of Education Week April 28 to May 4. See this website for more information: [www.learning.gov.ab.ca/educationweek](http://www.learning.gov.ab.ca/educationweek).

## AHSCA to get \$2 M funding over five years

The Alberta Home and School Councils Association announced Monday that over the next five years, the association will receive \$2 million in government funding to support its work.

The conditional funds will be focused on supporting the AHSCA mandate which is to foster improvement in the school system through the participation of parents and community.

Next year's core grant of \$300,000 will allow the AHSCA to expand basic services and communicate more effectively with members. "The increased support is extremely encouraging, showing a real commitment by Alberta Learning to 'walk the talk' of supporting parental involvement," said Marilyn Fisher, AHSCA President.

## Francophone authority elections on May 13

The election of trustees to serve on Francophone school authorities takes place May 13, 2002.

## N.S. gov. responds to evaluation of "new look" school board

In the spring of 2000, the Nova Scotia government launched a pilot project in the Southwest Regional board, changing roles for school board members and administration. Board members ("trustees" elsewhere) focus only on educational issues. The CEO of the board reports directly to the Deputy Minister of Education. An interim evaluation was conducted and released in January 2002. The Nova Scotia government's response to that evaluation is available at <http://www.ednet.ns.ca>.