

ETFO celebrates Supreme Court of Canada's landmark decision to uphold educators' privacy rights

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TORONTO, ON – The following is a statement from the Elementary Teachers' Federation of Ontario (ETFO):

“ETFO celebrates the Supreme Court of Canada's landmark decision to uphold the fundamental rights of educators to workplace privacy. This monumental victory, achieved through ETFO's steadfast advocacy, ensures that school boards, as governmental entities, respect the *Canadian Charter of Rights and Freedoms* in all that they do.

After nearly a 10-year legal battle to protect its members, this historic decision provides welcome guidance about reasonable expectations of privacy in the workplace, and the unintended or accidental disclosures of private communications. It unequivocally reaffirms ETFO's position that educators have a right to the protections under section 8 of the Charter against unreasonable search and seizure and a reasonable expectation of privacy at work, a principle that is crucial for maintaining a safe and respectful working environment.

This decision is a significant triumph. It reinforces the principle that privacy rights exist in the workplace, and it ensures that workers can perform their duties without unwarranted intrusion. The decision highlights the importance of protecting personal information and ensuring that any surveillance or data collection by employers is addressed appropriately.

Privacy cannot be compromised; Ontario educators must be able to work in environments where they feel safe and respected, and where their rights are upheld. This decision marks a pivotal moment in the fight for educators' rights in Ontario and sets a powerful path forward for the protection of workers' privacy elsewhere. ETFO proudly stands at the forefront of this victory, celebrating the reaffirmation of our members' Charter rights.”

Background

In 2015, ETFO filed a grievance on behalf of two members who were disciplined by the YRDSB after their principal accessed information they had posted on a password-protected log they created using personal accounts on a YRDSB computer.

In August 2018, an arbitrator dismissed ETFO's grievance, concluding that while there was a reasonable expectation of privacy for the log itself, this was diminished because the log was discovered on an open, unattended, board-issued laptop in the workplace. As such, they determined that the YRDSB had not breached the reasonable expectations of the members' privacy. The Ontario Divisional Court upheld this decision in June 2020, holding there are no “privacy rights” for public sector employees under the Charter.

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ETFO determined to push further on this issue. In June 2022, the Ontario Court of Appeal overturned the Divisional Court's decision, holding that the arbitrator and the Court erred in interpreting the members' Section 8 rights in their workplace. In their landmark decision, judges unanimously agreed that "there is no doubt" that "public school teachers [are] protected from unreasonable search and seizure" under the Charter.

Following this decision, the Supreme Court of Canada accepted the school board's application to hear this matter and the hearing took place on October 18, 2023. Given the decision's broad implications, a number of unions, other organizations, and attorneys general from across the country intervened to make submissions in court, including:

- Attorney General of Canada
- Attorney General of Ontario
- Canadian Civil Liberties Association
- Centre for Free Expression
- EGALE Canada

[ETFO](#) represents approximately 83,000 members, including public elementary teachers, occasional teachers, designated early childhood educators, education support personnel, and professional support personnel. Visit BuildingBetterSchools.ca.

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