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Statement by Karen Sharma, Executive Director of the Manitoba Human Rights Commission on the International Day against Homophobia, Biphobia and Transphobia

In 1997, a teacher in British Columbia named James Chamberlain sought approval from his local school board to use three new books for his Kindergarten to Grade One class about family life, a core component of B.C.'s primary school curriculum. These books represented 2sLGBTQIA+ families, where the children had parents of the same gender. As a teacher, Chamberlain was doing what he could to ensure his teaching materials reflected the diversity of the families he taught, and to foster an environment of inclusion and respect amongst his young students. Unfortunately, Chamberlain's request to use these books was denied by the school board, who felt the content was not age appropriate and may cause offense to some families' values in its community.

Chamberlain sought judicial review of the school board's decision and, five years later, the case went before the Supreme Court of Canada ("SCC"). In 2002, the SCC issued a landmark ruling finding the school board's decision to ban these books unreasonable.¹ While this decision is over twenty years old, its message remains as relevant today as it was then. Writing for the majority, Chief Justice Beverly McLaughlin turned to the goals of British Columbia's public school system, as set out in BC's *School Act*:

Canada is a diverse and multicultural society, bound together by the values of accommodation, tolerance and respect for diversity. These values are reflected in our Constitution's commitment to equality and minority rights, and are explicitly incorporated into the British Columbia public school system by the preamble to *the School Act* and by the curriculum established by regulation under the Act [...] the message of the [Act] is clear: The British Columbia public school system is open to all children of all cultures and family backgrounds. All are to be valued and respected (at paras 21-23).

With respect to the School Board's refusal to approve Chamberlain's teaching materials, Chief Justice McLaughlin made it clear that the Board's decision violated the principles of secularism and tolerance set out in the *School Act*:

Instead of proceeding on the basis of respect for all types of families, the Superintendent and the Board proceeded on an exclusionary philosophy. They acted on the concern of certain parents about the morality of same-sex relationships, without considering the interest of same-sex parented families and the children who belong to them in receiving equal recognition and

respect in the school system. The Board was not permitted to reject the books simply because certain parents found the relationships depicted in them controversial or objectionable (at para 58).

Chief Justice McLaughlin further stated:

When we ask people to be tolerant of others, we do not ask them to abandon their personal convictions. We merely ask them to respect the rights, values and ways of being of those who may not share those convictions. The belief that others are entitled to equal respect depends, not on the belief that their values are right, but on the belief that they have a claim to equal respect regardless of whether they are right. Learning about tolerance is therefore learning that other people's entitlement to respect from us does not depend on whether their views accord with our own. Children cannot learn this unless they are exposed to views that differ from those they are taught at home (at para 66).

On this International Day against Homophobia, Biphobia and Transphobia, as we witness school divisions across Manitoba considering whether books depicting 2sLGBTQIA+ peoples should be present in their libraries and school environments and hear concerning stories from community about inclusive learning materials and symbols being removed from school grounds, we must reflect upon the lessons learned from *Chamberlain*.

Schools are places where *everyone* belongs.

This principle is affirmed in the preamble of Manitoba's *Public Schools Act* and Manitoba Education's K-12 Action Plan.² We know that schools can only be effective when they welcome, value, and encourage the diverse perspectives, skills, talents, and experiences of their students. As set out in the K-12 Action Plan, schools must carry out their mandates using *inclusive* perspectives and practices.

The call to remove books depicting 2sLGBTQIA+ experiences does not reflect the goals of and purpose behind our public school system. It not only undermines our ability to teach acceptance, respect and understanding – it also makes learning environments for 2sLGBTQIA+ youth and their families isolating and unsafe, and allows for the perpetuation of harmful stereotypes. The First³ and Second⁴ National Climate Surveys on homophobia, biphobia, and transphobia in Canadian schools clearly indicate that 2sLGBTQIA+ students who reported that their identities were reflected in one or more of their courses were significantly more likely to describe feeling: “like a real part of [their] schools,” “I can be myself at school,” and “proud to belong to their schools.” At a time when we know that 2sLGBTQIA+ youth are at a greater risk for bullying, harassment, violence and suicide,⁵ ensuring their representation and belonging in schools is not just about practicing inclusion – it is about keeping 2sLGBTQIA+ youth alive.

This year's International Day against Homophobia, Biphobia and Transphobia recognizes the importance of standing together in our fight against discrimination impacting the 2sLGBTQIA+ community. Now, more than ever, it is critical that we stand firm and resolute in our commitment to ensuring 2sLGBTQIA+ peoples are welcome, safe, and represented in every space— particularly in our schools, where our youth deserve to learn in an environment of equity, inclusion, and respect.

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¹ *Chamberlain v. Surrey School District No. 36*, 2002 SCC 86 (CanLII), [2002] 4 SCR 710.

² *Manitoba's K-12 Education Action Plan*, May 2023.

³ See Taylor, C. & Peter, T., with McMinn, T.L., Elliott, T., Beldom, S., Ferry, A., Gross, Z., Paquin, S., & Schachter, K. (2011), *Every class in every school: The first national climate survey on homophobia, biphobia, and transphobia in Canadian schools. Final report*. Toronto, ON: Egale Canada Human Rights Trust.

⁴ Peter, T., Campbell, C.P., & Taylor, C. (2021), *Still every class in every school: Final report on the second climate survey on homophobia, biphobia, and transphobia in Canadian schools*. Toronto, ON: Egale Canada Human Rights Trust.

⁵ See Prokopenko, E and D. Hango. 2022, *Bullying victimization among sexually and gender diverse youth in Canada.* *Insights on Canadian Society*. Statistics Canada Catalogue no. 75-006-X.