

Gallant government abandons school bus duality court case

Description

The Liberal government is abandoning its constitutional court case on dual school busing and will instead leave decisions on student transportation to individual district education councils.

It's a stunning reversal for a government that said last year it wanted the New Brunswick Court of Appeal to clarify whether dual bus systems for English and French school systems were required by the Constitution.

But the court said in a procedural decision last month it still wasn't persuaded it should even hear the case at all.

- [Court of Appeal undecided about hearing case on dual busing](#)

Wednesday the Liberals said given that hesitation, they would abandon the reference case and instead let DEC's decide for themselves on school busing.

'It's up to the districts.' – *Brian Kenny, education minister*

That means a francophone and an anglophone district could choose to share buses, Education Minister Brian Kenny told reporters.

"The districts were set up to have local autonomy," he said. "It's up to the districts."

Kenny said the Court of Appeal clearly had "reservations" about ruling in the case. "I wanted to make sure that we provided clarity on this."

He pointed out that DEC's are made up of parents and representatives elected by parents.

Section 23 of the Charter of Rights and Freedoms guarantees minority-language parents the right to govern their own schools, so by leaving the bus decision up to education councils — the mechanism for that governance — the province can argue it's complying with the charter, even if the councils decide to share buses.

Difficult for districts

But Michel Doucet, a law professor and language rights expert at the University of Moncton, says a francophone district that decides to share a bus route with an anglophone district would have to show that it's not violating the language rights of students.



Michel Doucet, an official languages expert at the University of Moncton, expects school districts in New Brunswick will maintain separate busing systems in the wake of Wednesday’s decision by the provincial government. (Jacques Poitras/CBC News)

“It would be difficult for them ... and if they would do it without justifying it under Section 23, they would open the door to a legal challenge.”

Doucet says he expects the new policy means nothing will change and the two busing systems will continue to operate. He pointed out all three francophone districts in the province have adopted resolutions opposing shared, so-called bilingual busing.

“So basically we’re just back to where we were a year and a half ago, before the reference was made to the Court of Appeal,” he said.

Reference ruling sought last year

The Gallant government decided to send the dual busing issue to the Court of Appeal for a reference

ruling last year, after weeks of controversy.

- [Serge Rousselle sends dual busing case to appeal court](#)

The tipping point came when then-Education Minister Serge Rousselle told the two school districts in Kent County, one English and one French, that their sharing of a school bus run wasn't allowed.

That prompted a backlash and the Liberals decided to send the case to the courts, even though they were adamant the Constitution required them to provide two bus systems.

Kenny said Wednesday the new policy will allow the two school districts in Kent County to resume their sharing arrangement if the two education councils choose to do so.

Higgs reacts

Progressive Conservative Opposition Leader Blaine Higgs said "We'll wait to see the impact of this policy, but if the districts will be given more decision-making power, we'd suggest they be able to decide the entry point for early French immersion. I know of at least two districts that would make good use of that power."

Higgs has relentlessly criticized the Liberals over the last two weeks for deciding to move the entry point for French immersion from Grade 3 back to Grade 1.



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