

The Charter in the Classroom: Students, Teachers and Rights

Topic: *The Canadian Charter of Rights and Freedoms*, Section 15: Equality Rights

Case: *Eaton v. Brant County Board of Education*, [1997] 1 S.C.R. 241

Instructional Expectations and Opportunities have been selected by provinces and territories for secondary schools and may be found in **Resources** under **Curriculum Expectations**.

Learning Environment

- Computer Lab access or classroom computers/laptops (Internet access)

Required Resources

- Making a Choice (Appendix 1)
- CC: STAR website – Concept 8 www.thecharterrules.ca
- Computers with Internet access

Content and Teaching Strategies of Lesson

Overview/Agenda/Review:

1. Hook: Equality Assembly and Discussion
2. Introduction - Overview of s.15
3. Brainstorming: What do students think s. 15 means?
4. Class Discussion: Distinction based on physical disability
5. Introduction of the Eaton case
6. Group Work: Making A Choice Handout
7. Consolidation
8. Extension Options: Discussion of Analogous and Enumerated Grounds, Parliamentary Debate

Hook:

- Announce to students that following this lesson, there will be an educational presentation in the gymnasium about students' equality rights. Take a quick survey of the class and ask students to raise their hand if they wear glasses. Tell those students that, unfortunately, they will have to stay behind and just read about the presentation because they're not allowed to wear their glasses in the gym and they probably won't be able to see the presentation properly. [If no students in the class wear glasses, pick an arbitrary height and state that students below this height cannot attend because their view will be blocked by those taller than them].
- In response to students who say it's not fair, state that there's nothing you can do about it because they really need to be able to see the presentation to understand it, and since they can't see from the back of the gym without their glasses, they won't be able to learn anything from the presentation. Remind them that they will still be able to read about it in class.
- Some students may protest, while others may see that this makes good sense, while still others might realize the connection you are trying to make with the application of section 15 in the classroom. Encourage students' comments and discussion by asking if anyone objects with this arrangement and why.
- Once students realize the injustice of segregating those with glasses just because they can't see as well as the others, reveal that there really is no presentation and begin discussion on how this relates to s. 15.

Introduction:

Introduce the topic of the lesson: Equality Rights -- Section 15(1) of the Charter

- Provide s. 15(1) in full either on the chalkboard or on chart paper for students to see:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Brainstorm: Ask students to comment on what they think s. 15 means and what is its purpose.

Class Discussion Questions:

Lead class in a group discussion using the following questions:

- 1) How did those wearing glasses feel about being segregated based on the fact that they wear glasses?
- 2) Is it a suitable alternative to keep students with glasses in the classroom and provide them with a written format of the presentation? Why or why not?
- 3) If not, what would be an appropriate alternative?
- 4) Do you think making a distinction between students who do and do not wear glasses constitutes discrimination under section 15(1) of the Charter? Why or why not?

Introduction to Eaton Case:

- Write the following statement on the board: "Any type of distinction based on a physical disability amounts to discrimination under section 15(1) of the Charter."
- Ask students to give a thumbs up if they agree or a thumbs down if they don't agree. Write down the number of votes for "agree" and "disagree," then ask the class to provide reasons for their votes.
- Introduce the facts behind the case of Eaton v. Brant (County) Board of Education (do not reveal the Supreme Court Decision) See Case Study at Concept 8.

Group work:

- Provide each student with a copy of the "Making a Choice Handout." (See Appendix 1) Working in groups of 4, students will review the facts of the case presented on the CC: Star website and fill in the handout. Based on their "careful and thorough consideration of Emily's educational interests and special needs," and keeping in mind their obligation to abide by section 15(1) of the Charter, ask students to make a placement decision for Emily.

Consolidation:

- Students will individually write a reflection answering the following questions: In your own words, what do you think the Supreme Court meant by the "difference dilemma"? Do you think any type of distinction based on a physical disability amounts to discrimination under section 15(1) of the Charter? Why or why not?

Extension Options:

- Discuss the term 'analogous' (similar to). Have students review the nine types of discrimination listed in s. 15. These are considered by the court as the enumerated grounds. What types of discrimination would students add to this list? Would the court see these as analogous grounds? Is it appropriate that individuals be able to convince the court that more types of discrimination exist than were listed in s. 15?

- Discuss the importance of parliamentary debate. In the David Lepofsky interview, we learn that distinction based on physical disability was not originally included as discriminatory under the Charter. What does this have to say about the importance of citizen involvement in parliamentary debate?

Sources for Extension Options: Ontario Justice Education Network (2007): Equality The Heart of a Just Society: Video Clips and Lesson Plans about Section 15 of the Charter, Teacher Resources, Companion Lesson Plans - Origins and Aspirations, pages 4 and 11. To request a free copy of the Equality DVD, send your name, mailing address and school name by email to info@ojen.ca.

Additional Resource:

Hurley, M. (2007). Charter equality rights: Interpretation of section 15 of Supreme Court of Canada Decisions. Ottawa, ON: Library of Canada. Available from <http://www2.parl.gc.ca/content/lop/researchpublications/bp402-e.pdf>

Appendix 1

Making a Choice

In *Eaton v. Brant (County) Board of Education*, the Supreme Court of Canada balanced Emily's educational and special needs to determine whether or not a segregated educational placement was in Emily's best interests.

Working in groups of 4, review the facts of the Eaton case presented on the CC: Star website. Using the table below, list all the possible arguments for and against each alternative (feel free to add to the table if you can think of another alternative other than those listed). When you have completed the table, use the information you have provided to decide which school placement would be in Emily's best interests. Be sure to keep in mind your obligation to abide by section 15(1) of the Charter when making your decision.

Alternatives	Arguments For	Arguments Against
Integrated Setting: Emily remains in her integrated classroom with a full-time educational assistant		

Alternatives	Arguments For	Arguments Against
Segregated Setting: Emily will go to a new school where she will be placed in a special education class, with some integration with "regular" classes for certain activities		
Other (specify):		

Final Placement Decision:
