

June 4, 2019

FAQ – Frequently Asked Questions about the Student “Choice” Initiative Legal Challenge

Who filed this legal challenge?

On May 23, 2019, the Canadian Federation of Students, alongside the York Federation of Students filed this legal challenge.

What is the Student “Choice” Initiative?

The Student Choice Initiative is a policy directive from the Ministry of Training, Colleges and Universities that allows students to opt-out of ancillary fees (non-academic fees) that the government deemed non-essential. Many of the non-essential fees include crucial student-run services and groups like students’ unions, campus publications, radio associations, food centres, cultural groups and more.

Why are you filing this legal challenge?

Our legal challenge seeks to contest the Minister’s directives on the grounds that they are unlawful and were made in bad faith. It raises several grounds that warrant the court setting aside the directive, including that they:

- Represent an unprecedented and entirely improper intrusion upon the autonomy of colleges and universities and the long-standing MOU’s and agreements they have in place with student associations to collect and remit fees that have been democratically approved by the student body; and
- Were announced without notice and implemented without any meaningful stakeholder consultation with those directly affected, including universities, colleges, student associations or the CFS.

How did the CFS decide to file this legal challenge?

Since January, members and students’ unions across the province have been educating and mobilizing the public (with great support) against the Student “Choice” Initiative. Alongside direct action, many members expressed interest in exploring legal options to show opposition to the policy directive and get it repealed.

As such, the National Executive Committee (which is comprised of one representative from each province and representatives for different constituencies and caucuses) met numerous times before filing this challenge to discuss the options, implications and legal parameters of proceeding with a legal challenge.

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Several options were discussed, but the National Executive decided to proceed with this legal challenge because they concluded that:

1. No student money would be used for this challenge;
2. Other jurisdictions outside of Ontario may adopt this policy so it was a time sensitive and urgent matter; and
3. Only a legal challenge could stop the policy directive in a timely manner.

After they approved a motion to proceed with the legal challenge, the Ontario Executive Committee (which is comprised of one representative from each member students' union in the province) met twice to receive a legal update and notice to file.

Who is paying for this legal challenge?

The government's attack on students' autonomy is an issue that students and our solidarity partners consider extremely important. The Federation set up a legal fund acknowledging that student money should be spent on campaigns and services that students rely on. With that said, this legal challenge is fully supported by coalition partners like the Ontario Public Sector Employees Union (OPSEU), Unifor, the Canadian Union of Public Employees (CUPE) and the Public Service Alliance of Canada (PSAC). We are very grateful for their support and for the support of workers from across the province and country.

What outcome is the CFS hoping for from this legal challenge?

The CFS hopes that the court sees that this government is overreaching through this policy and motions to repeal the Student Choice Initiative, effective immediately. This will allow students' unions, campus publications, radio stations and other student groups to continue operating under previous fee collection and remittance policies, further allowing students to continue accessing quality services and resources.

What about students' unions that are not members of the CFS? How will this affect them?

The Student Choice Initiative affects students and students' unions across the province regardless of whether they are affiliated with the CFS or not. When the CFS advocates for students' rights, we recognize the importance of advocating for all members and non-members alike. We hope that this issue will encourage students across the province to see the value in a united student movement and hope that the Student Choice Initiative is repealed for all.

If your organization has value why would students opt out?

Without proper information and due to the increasing cost of post-secondary education, many students may opt-out even though they may know which services and advocacy they will require throughout their time as a student.

Students' organizations, unions and services are democratically voted on to ensure consistent, long term and high-quality services and advocacy. Through referendums, students have collectively decided to pool resources for food centres, bursaries, campus events, mental health services and more. These organizations and services that are run by students, for students fill a void on campus that cannot be filled by the administration or government.

Why is the YFS the only students' union putting itself forward for this challenge?

The York Federation of Students is one of the largest students' unions in the country, offers a variety of supports and services to its diverse membership and recognizes the detrimental impacts of this policy to associations of all sizes. While the CFS represents unions across the province and country, unions themselves are directly targeted by this policy. Many services that are provided by the York Federation of Students are fundamental to the work of the CFS. Since many categories of our collective work were deemed non-essential, the York Federation of Students felt that it was necessary to sign on.

If you, your students' union or organization would like to participate in the We The Students campaign, please email federation@cfsontario.ca.