

December 14, 2018

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**RE: Consultation - Education in Ontario**

Dear Premier and Minister,

We are a partnership of organizations dedicated toward creating a fully inclusive education system for all students, including those with disabilities. We are writing to you regarding the recent consultation that your government announced related to Ontario's education system. This consultation has highlighted a number of pressing concerns for our education system, including:

- **Improving student performance** in Science Technology, Engineering and Math (STEM) and addressing how students should be better equipped with the necessary life skills or skills for the job market; and
- Developing a **Parental Bill of Rights**.

It is worth noting at the outset of our submission that an education system which emphasizes inclusivity for all students, of varying degrees of ability, will be best placed to maximize student performance and ensure that the goals of the *Education Act* are met - namely that students become highly skilled, knowledgeable, caring, and contributing citizens. In order to achieve this goal, the education system must abide by its obligations, under the *Human Rights Code* and the *Convention on the Rights of Persons with Disabilities*, to educate students in a non-discriminatory manner and to remove any barriers that may prevent many students from accessing a meaningful education.

Despite these obligations, persons with disabilities in Ontario still do not have equal access to education. Statistics Canada has recently noted that, “in general, persons with disabilities are less likely than those without disabilities to graduate from high school or from university...” and that they often experience more challenges in the labour force than those without disabilities.<sup>1</sup>

In response to these ongoing inequalities, our partnership recently undertook a wide-ranging, multi-jurisdictional survey of the parents of students with intellectual disabilities to examine some of the barriers that their children face when they are trying to access our education system. We subsequently published a report, titled *If Inclusion Means Everyone, Why Not Me?*, which identified numerous barriers that adversely affected student academic performance (attached).

Of particular note to the issues raised in the consultation was the following:

- 53% of parents reported that their child was not receiving proper academic accommodations;
- 67% of parents reported that their child was excluded from the appropriate curriculum based on their level of learning; and
- 32% of parents reported that their child did not have access to the appropriate support staff when it was required.

With these statistics in mind, it is unsurprising that 68% of parents reported that schools were meeting **half or less than half** of their child’s academic needs.

Exacerbating these problems was the fact that students with disabilities are often excluded all together from the classroom. Approximately 45% of parents stated that at one time or another they had to keep their child home from school as a result of a lack of accommodations or other services. More than half of parents also reported that their child’s day had been shortened, many of them citing reasons that were not related to the student’s needs (e.g. staffing shortages, transportation scheduling issues). These children lost on average 3.86 hours out of a 6 hour school day.

Given the preponderance of barriers affecting students with disabilities, it is not surprising that they experience lower educational achievement than their peers. With this in mind, we offer the following recommendations to address these issues and to better help students with disabilities achieve academic and vocational success.

### **Recommendations to Improve Student Performance**

- 1) **A Review of “Special Education” in Ontario** – It should be clear from our report that our education system is failing students with disabilities. In light of this

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<sup>1</sup>Statistics Canada. 2012. *A profile of persons with disabilities among Canadians aged 15 years or older, 2012*. Statistics Canada Catalogue no. 89-654-X. Version updated February 2017. Ottawa <https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2015001-eng.htm> (accessed December 6, 2018).

situation, we recommend that the Government conduct a systemic review of the status of education in Ontario specific to students with disabilities, with the goal of identifying and remedying the ongoing barriers that they face. Part of this review should include a comprehensive examination of the archaic statutory framework for the delivery of education services to students with disabilities with a view to modernizing it and bringing it in line with Canada's international human rights obligations. The review should also include an appraisal of the Ministry of Education's "Equity and Inclusive Education Strategy" and the degree to which it could be made more responsive to the needs of students with disabilities. This type of review would promote academic achievement for students with disabilities and would help to ensure that they have the skills that they need to enter the workforce.

- 2) **Encouraging Inclusive Placements** - The literature on inclusive education has long shown that students with disabilities experience greater academic and social benefits when they are placed in an inclusive classroom. Some of these benefits were echoed in our recent report. However, Ontario's education system remains largely segregated, meaning that students with disabilities are often cut off from their non-disabled peers and are in classroom placements where they are not expected to participate in Ontario's curriculum and do not receive academic credit for the work that they do. In order to remedy this situation, the Government should adopt a policy framework that encourages school boards to transition to an academic model in which education is provided to all students in one common learning environment and where instruction is designed to be delivered to students of mixed ability.
- 3) **Improved Accommodation** – As noted above, getting proper accommodations in school has been identified by parents as a significant issue impacting their child's academic achievement. It is clear that additional steps need to be taken to ensure that school boards are abiding by their obligation to properly accommodate students with disabilities. To this end, as part of its review of the education system, the Government of Ontario should undertake to identify common accommodations which are not provided to students with disabilities and to address the barriers that prevent them from being provided.
- 4) **Preventing Exclusions** – The exclusion of students with disabilities remains an ongoing problem in our education system and it is obvious that they have a negative impact on student achievement. Given the troubling statistics noted above and those outlined in our report, we recommend:
  - a. That the Ministry develop reporting requirements for all forms of exclusion, both formal and informal. These requirements should ensure that all withdrawals, absences, exclusions are recorded and forwarded to the Ministry of Education which will anonymize them and make them publicly available. Tracking should include instances where students are informally asked to stay home, where they are excluded via s. 265(1)(m) of the

- Education Act*, where their days are shortened, or where they are sent home due to a lack of appropriate supports.
- b. The Government should modify s. 265(1)(m) of the *Education Act* to preclude its use on students.
    - i. In the alternative, the Government should develop and implement procedural protections for students who are excluded via s. 265(1)(m). These procedural protections would afford families similar appeal rights as those outlined in Part XIII of the *Education Act* and would require a principal to explicitly consider the mitigating factors outlined in s. 2 and 3 of O. Reg. 472/07 when making a decision about whether to exclude a student under this provision.
  - c. The Ministry should modify the regulatory provision that allows a school board to shorten a student's school day (O. Reg. 298 s. 3(3)) to require that this only be used when it is in the best interest of the student. It should also require that the decision to shorten a student's day be reassessed at a minimum of every two months.

### **Bill of Rights Recommendations**

- 1) **Expanded Bill of Rights** - Any bill of rights for stakeholders in the education system should explicitly include all students, including those with disabilities. It should recognize the right of students to be consulted on matters affecting their education and their right to participate in decisions about their own education, to the extent that they are able.
- 2) **A Right to Impartial Conflict Resolution** – One of the most persistent findings in our study was related to the high levels of conflict between school board personnel and families. Approximately 74% of families reported conflict with school administrators. Parents frequently expressed a great deal of frustration at the fact that no appropriate impartial conflict resolution method existed to deal with many of their complaints. The Identification, Placement and Review Committee (IPRC) process is often the only forum available to parents when they have a complaint. However, this process is rarely seen by parents as impartial. It also has limited ability to make decisions about anything but 'identification' and 'placement', meaning that it cannot address disputes over programming or accommodations.

With this in mind, we recommend that a bill of rights include the right to access an impartial, accessible and expeditious dispute resolution mechanism for all matters related to the education of students with disabilities. This right should be accompanied by corresponding changes to the *Education Act* to set up a framework to create an appropriate dispute resolution mechanism. This mechanism should replace the IPRC process and should ensure that parents have the necessary supports, legal or otherwise, to access this new process.

- 3) **A Right to Accountability** – Another theme frequently conveyed by parents was the need for greater accountability in the education system. The right to greater accountability should be included in a new bill of rights. This should include accompanying changes to the *Education Act* to ensure more robust monitoring of the performance of the education system, particularly with respect to the academic performance and inclusion of students with disabilities.

If the above recommendations are implemented, they would go a long way towards addressing some of the fundamental inequalities in our system and would have a significant impact on the academic performance of all students, including those with disabilities. It would enhance the degree to which they have the opportunity to develop the necessary skills needed to be active contributing members of their communities.

With this in mind, we would like to **request a formal meeting with the Minister of Education** to further discuss and elaborate on our recommendations. Arrangements for such a meeting can be made by contacting:

- Robert Lattanzio, Executive Director, ARCH Disability Law Centre ([lattanr@lao.on.ca](mailto:lattanr@lao.on.ca)); or
- Chris Beesley, Chief Executive Officer, Community Living Ontario ([Chris@communitylivingontario.ca](mailto:Chris@communitylivingontario.ca)).

We look forward to your reply.

Yours Truly,

Community Living Ontario  
ARCH Disability Law Centre  
Brockville and District Association for Community Involvement  
Inclusion Research Team Brock University  
Canadian Research Centre on Inclusive Education Western University  
Inclusive Education Canada