

# ARCH *Alert*

ARCH's Quarterly Newsletter on Disability and Law in Ontario.

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## Note from the ARCH *Alert* Editors

*By Kerri Joffe and Amanda Ward*

Hello, and welcome to the December 2017 issue of the ARCH *Alert*!

In this issue we highlight and celebrate International Day of Persons with Disabilities (IDPD), which takes place annually on December 3. IDPD aims to promote the rights and well-being of persons with disabilities in all aspects of society and development. It also aims to increase awareness of the situation of persons with disabilities in every aspect of political, social, economic and cultural life. This year marks the 25th anniversary of IDPD, and the first article in this ARCH *Alert* explains the history of this important day. We hope that many of you will participate in celebrating IDPD. To help you do that, ARCH's website has a list of IDPD events happening in Ontario: <http://www.archdisabilitylaw.ca/node/1258>

We hope you enjoy this issue of ARCH *Alert*.

As this year comes to a close, we would like to wish everyone a wonderful and safe holiday season and happy New Year.

On IDPD, let's all participate in full force and let people know that equal rights for persons with disabilities are worth fighting for!



## International Day of Persons with Disabilities 2017

*By Lila Refaie, Staff Lawyer*

December 3<sup>rd</sup> is the International Day of Persons with Disabilities (IDPD). This year marks the 25<sup>th</sup> year of the IDPD. Proclaimed in 1992 by the United Nations General Assembly<sup>1</sup>, the IDPD is an annual commemoration of disability rights in all dimensions of society. The IDPD promotes the dignity, rights and well-being of persons with disabilities and raises awareness of disability-related issues in political, social, economical and cultural life, while endorsing the need to build towards a more inclusive society.

In 1976, the United Nations proclaimed that the year 1981 would be the International Year of Disabled Persons (IYDP). At the time, the international community focused the theme for the year on the right of persons with disabilities to full participation and equality. On

<sup>1</sup> UN Resolution A/RES/47/3

December 3<sup>rd</sup> 1982, the United Nations General Assembly adopted a World Programme of Action Concerning Disabled Persons<sup>2</sup>. This action program was developed as a global strategy to enhance disability prevention, rehabilitation and create equal opportunities, including promoting full participation of persons with disabilities in all aspects of life. It also included recommendations for nations to implement this strategy.

Following the IYDP, the United Nations declared 1983 to 1992 as the United Nations Decade of Disabled Persons (UNDDP). The international community would use this decade to implement the World Programme of Action. From 1992, December 3<sup>rd</sup> was announced as the IDPD. Originally, this day was known as the International Day of Disabled Persons. In 2007, the official name was changed to the International Day of Persons with Disabilities.

### **Theme for IDPD 2017**

Every year, the United Nations releases a theme for the IDPD. This year, the theme is: Transformation towards a sustainable and resilient society for all.

Recognizing the importance of inclusion within society, the theme puts the spotlight on the 2030 Agenda for Sustainable Development, adopted by the United Nations in 2015, and the transformative changes envisioned by the Agenda. The 2030 Agenda brings forth a plan of action for the international community to put in place sustainable economic, social and environmental developments. Based on the principle of “leaving no one behind”, the focus is on empowering vulnerable people, including persons with disabilities, around the world. To achieve this, 17 Sustainable Development Goals were developed. The goals range from ending poverty and world hunger to ensuring social inclusion and equality in all areas of life. They also touch on environmental changes and economic growth. Every nation member of the United Nations has pledged to implement these goals.

To read the 2030 Agenda in its entirety go to:

<https://sustainabledevelopment.un.org/post2015/transformingourworld>

### **How can you observe the IDPD 2017 in your local community?**

There are many ways to observe IDPD. You can organize an event in honour of the day, attend IDPD events, celebrate the contributions made by persons with disabilities as agents of change or take action in your local community to help realize the objectives of the day.

As every year, the United Nations will hold events at their headquarters in New York to commemorate IDPD on December 1<sup>st</sup>. Events are also organized worldwide on or around December 3<sup>rd</sup>.

<sup>2</sup> UN Resolution A/RES/37/52

ARCH's website has a list of events taking place in Ontario to celebrate and mark IDPD. To see the list go to: <http://www.archdisabilitylaw.ca/node/1258>



## **Yanhong Dewan Reflects on Trying to Make Blood Donation More Fair**

*By Jessica De Marinis, Staff Lawyer*

For the past five years, ARCH Disability Law Centre has had the pleasure of working with Yanhong Dewan, who is a tireless advocate for persons with disabilities in Ontario.

Yanhong's story with ARCH began in 2012 but her passion for giving back to her community started long before that. For example, Yanhong grows her hair long so she can donate it to make wigs for cancer patients, and she often raises money for the Special Olympics. Yanhong is also a person who is labelled with an intellectual disability.

In 2012, Yanhong went to the Canadian Blood Services (CBS) clinic in her area to donate blood. She was excited and proud to be part of such an important life-saving service in her community.

However, her excitement quickly turned into confusion and upset, when the nurse started asking Yanhong the standard questions on the blood donor screening form. The screening form was long, complicated, and used lots of big words. Yanhong could have given answers to the questions, but she could not understand the screening form the way it was written. Yanhong wanted her mother to explain the questions to her in a way she could understand, but CBS didn't allow this. The nurse at CBS told Yanhong that she was not allowed to donate blood.

Later at home, Yanhong's mother explained the questions on the screening form to Yanhong in a way that she understood. Yet, CBS did not let Yanhong try the blood donor screening process again.

After she was turned away from CBS, Yanhong filed a complaint with the Canadian Human Rights Commission. In her complaint, Yanhong says that CBS discriminated against her because of her disability. CBS did not accommodate her disability in the blood donor screening process.

Yanhong wanted CBS to make the blood donation process more fair. She wanted to make sure the blood donation process is accessible so that other persons with intellectual disabilities could participate too.

Yanhong suggested different ways that CBS could have accommodated her disability. But CBS said that the accommodations that Yanhong asked for would make the blood donation process unsafe. CBS said that the blood donor screening process was *already* as accessible as it could be.

But Yanhong knows that disability accommodation is different for each person. Even though CBS thought the blood donor screening process was already accessible, it wasn't accessible for Yanhong. Yanhong was frustrated that CBS did not try to give her the unique accommodations that she needed.

Jessica De Marinis, Staff Lawyer at ARCH, spoke with Yanhong about her experience advocating for the rights of persons labelled with intellectual disabilities.

**Jessica** – Yanhong, why do you think donating blood is important?

**Yanhong** – Because my family donates blood – my sister and my mom and my uncle all donate blood. I wanted to donate blood so that other people with disabilities can donate too. It makes me feel good to help people in the hospital who need blood.

**Jessica** – What happened the first time you tried to donate blood?

**Yanhong** – The first time I tried to donate blood, the nurse read to me a couple of the questions on the form. She did not let my mom help me understand the big words on the form. Then the nurse told me I could not donate blood.

**Jessica** – Did the nurse tell you why she did not let you donate blood?

**Yanhong** – She thought I could not understand because I could not read the big words by myself.

**Jessica** – Did the nurse try to help you understand by explaining the words to you?

**Yanhong** – Not too much, no.

**Jessica** – On that day, did you understand the big words on the form?

**Yanhong** – No.

**Jessica** – Could you answer the questions on the form now?

**Yanhong** – Yes.

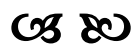
**Jessica** – How did it make you feel when the nurse said you cannot donate blood?

**Yanhong** – CBS called me the R-word and it made me sad and not happy. It made me feel like a bad girl and that I was stupid.

**Jessica** – Why is it important to you to tell your story?

**Yanhong** – Because I want CBS to change the big words so that other people can donate too.

Yanhong continues to tell her story and advocate for CBS to make the blood donation process accessible for everyone.



## Proposed Federal Accessibility Legislation

*By Kerri Joffe, Staff Lawyer*

In the summer of 2016, the Government of Canada announced its plan to develop federal accessibility legislation. This new law is intended to promote equality of opportunity and increase the inclusion and participation of Canadians with disabilities. As envisioned by Canada's first (and former) Minister of Sport and Persons with Disabilities, the Honourable Carla Qualtrough, an accessible Canada means "... creating an inclusive society where all Canadians have an equal opportunity to succeed, and are equal participants."

Current Minister of Sport and Persons with Disabilities, the Honourable Kent Hehr, has indicated that a draft law is expected to be released in Spring 2018.

A report summarizing the nation-wide public consultations that were conducted laid out six areas of focus that the public felt were important for the federal accessibility legislation. These include lowering unemployment rates for persons with disabilities; reducing the number of buildings that are inaccessible to persons with physical or intellectual disabilities; removing accessibility barriers in Canada's air, rail, ferry and bus travel; improving accessibility of government programs and services; accessible information and communications; and procurement of goods and services. The report also showed that during the nation-wide consultations, a majority of people indicated that they want the Government of Canada to be a leader in accessibility, both within the government itself and in the Government's support of private organizations. People wanted the Government of Canada to set ambitious goals for improving accessibility, with clear and measurable targets. To read the full report go to: <https://www.canada.ca/en/employment-social-development/programs/planned-accessibility-legislation/reports/consultations-what-we-learned.html#h2.7>

ARCH has participated in a number of consultations and projects providing input to the Government of Canada on the federal accessibility legislation. ARCH has emphasized the importance and relevance of the United Nations *Convention on the Rights of Persons with Disabilities (CRPD)* for the new federal accessibility legislation. The *CRPD* already provides a blueprint for achieving accessibility within a rights-based approach. Therefore, ARCH has recommended that the federal accessibility legislation adopt and include relevant language and concepts from the *CRPD*, including in relation to accessibility, access to justice, personal mobility, access to information, federal employment, participation in public and political life as well as cultural life, recreation, leisure and sport.

The new federal accessibility legislation presents an enormous opportunity to develop law that is truly effective in advancing accessibility and the rights of persons with disabilities. Using the *CRPD* to inform the federal accessibility legislation is an important way that Canada can fulfill some of its international legal obligations to promote and protect the rights of persons with disabilities.

To read more detailed information about the recommendations ARCH has made about the federal accessibility legislation go to:

[http://www.archdisabilitylaw.ca/Discussion\\_Paper\\_FedAccessibilityLegislation\\_CRPD](http://www.archdisabilitylaw.ca/Discussion_Paper_FedAccessibilityLegislation_CRPD) and <http://www.archdisabilitylaw.ca/node/1205> .



## Basic Income Update

*By Yedida Zalik, Staff Lawyer*

Ontario's Basic Income Pilot Project may be the most discussed development in social assistance this year. Interest in this type of project is not new. An early basic income experiment happened in Manitoba in the 1960's and 1970's. In that case, a guaranteed annual income led to lower hospitalizations, lower health care costs, as well as more people graduating from high school, with the stability of the income being a primary driver of change. But there was limited follow-up from that project.

Recently, policy makers have shown a renewed interest in basic income. The reasons for this interest have been debated, and the benefits of basic income are controversial. The next article provides a list of resources which includes some information about different perspectives on basic income.



**Ontario's pilot project**

In early 2017, Ontario launched a pilot project to explore basic income as an alternative to social assistance. The project involves 4000 people over three years, in three regions of Ontario: 1) Hamilton, Brantford and Brant County, 2) Thunder Bay and the surrounding area, and 3) Lindsay. If you live in one of these three regions you might be able to participate in the pilot project. The government is also supposed to develop another basic income project in partnership with First Nations.

In the first two regions, some people have already started receiving basic income. The basic income project started taking participants in Lindsay in October 2017.

Some people in these regions will not get basic income, but will participate in the project by answering questions. Their answers will be compared to answers given by people who receive basic income, which will help the researchers and government understand the impact of the pilot project. People in this situation will get an honorarium to thank them for participating.

**Participating in the project as a person with a disability**

If you receive Ontario Disability Support Program (ODSP) benefits, you must withdraw from ODSP in order to receive basic income. You are supposed to receive extra money on top of the regular basic income amount, to pay for disability related-costs. But depending on your situation, participating in the basic income pilot project may not be the best choice for you. You will receive more money on basic income than you would get from ODSP, **but** you might not get other things that you need. For example, if you participate in the basic income pilot, you will still get drug and dental benefits, but you cannot get the Special Diet Allowance; Vision Benefits such as glasses, Mandatory Special Necessities (MSN) such as diabetic, incontinence and surgical supplies, benefits for guide, hearing or service dogs, and income support for assistive devices. You will have to decide if it's better to get more money or to get the other benefits. If you participate in the basic income pilot, you may still be able to get ODSP employment supports.

Other benefits that you get outside of ODSP might change. For example, if you get a child care subsidy, that amount might go down because your income will be higher from basic income than it would be from ODSP. Or, if you live in subsidized housing, your rent amount might change.

You will also have no caseworker support if you receive basic income. You will not be able to access your ODSP caseworker for questions or advice.

It is important to carefully calculate your costs to decide whether basic income or ODSP is better for you. The basic income pilot team says that they will help people do this



calculation. You can also get help with this from the local community legal clinics in each pilot project area.

Joining the pilot project is voluntary. Even if you join, you can leave the project at any time. But if you leave, you will not be able to re-join it later. If you withdrew from ODSP to get basic income, but then leave the pilot project, you must follow ODSP's rapid reinstatement and re-application procedures to return to ODSP. You will not have to prove that you meet the ODSP definition of disability.

ARCH thanks Jennefer Laidley of the Income Security Advocacy Centre for her feedback on this article. If you would like more resources about basic income, you can find a list in the next article.



## More Information on Basic Income

*By Mary Hanson, Librarian*

Please note that the following selected resources are intended to provide additional information from a variety of voices. Their inclusion does not imply that ARCH endorses any particular viewpoint.

- Ontario. Ministry of Community and Social Services. **Ontario Basic Income Pilot.** <https://www.ontario.ca/page/ontario-basic-income-pilot>  
Key information and updates on the pilot project in the five communities, with links to the 2016 discussion paper by Hugh Segal "Finding a Better Way" and public consultation report.
- Income Security Advocacy Centre. 2017. **Basic Income: Information and Resources** <http://incomesecurity.org/public-education/basic-income-information-and-resources/>  
Regularly updated ISAC webpage with links to online reports, submissions and webinars on what basic income will mean for Ontarians on social assistance.
- **Basic Income Canada Network** (website) <https://www.basicincomecanada.org/>  
Non-partisan organization aims to promote informed, constructive public dialogue among people of diverse backgrounds, interests and skills, and encourage the development of options. Resources include links to Ontario local networks.

- TVO. 2017 Jun. 20. **The Agenda: Ontario's Basic Income Pilot** (video with transcript). Toronto: Ontario Educational Communications Authority.  
<https://tvo.org/video/programs/the-agenda-with-steve-paikin/ontarios-basic-income-pilot>  
Interview by Steve Paikin with Hugh Segal.
- Tarasuk, Valerie. 2017 Jun. **Implications of a Basic Income Guarantee for Household Food Insecurity**. Thunder Bay: Northern Policy Institute.  
<http://www.northernpolicy.ca/upload/documents/publications/research-reports/paper-tarasuk-big-en-17.06.14.pdf>  
Inadequate access to food due to poverty affects almost one in eight households in Ontario. This report argues that a basic income guarantee is an effective way to reduce household food insecurity - and improve health outcomes for Ontarians.
- Torjman, Sherri. 2017 May. **Dismantling the Welfare Wall for Persons with Disabilities**. Ottawa: Caledon Institute of Social Policy.  
<http://www.caledoninst.org/Publications/PDF/1112ENG.pdf>  
The current social assistance system can leave recipients worse off financially if they have some earnings from paid employment than if they just stayed on welfare. Author discusses reform options in federal and provincial income security programs, and the need to enable access to disability-related supports outside of welfare.
- Withers, A.J. & John Clarke. 2017 Apr. 24. **Poverty in Canada: What Basic Income Means for Disabled People**. *Global Research*. <https://www.globalresearch.ca/poverty-in-canada-what-basic-income-means-for-disabled-people/5586723>  
Critiquing current social policy approaches to disability income support in Ontario, the authors outline reservations that the Basic Income program will benefit persons with disabilities.
- Stapleton, John. 2017 Jan. **Basic Income for All Canadians: What Would Change?** Toronto: Metcalf Foundation.  
<http://metcalffoundation.com/wp-content/uploads/2017/01/A-Basic-Income-for-all-Canadians.pdf>  
Author of *The Welfareization of Disability Incomes in Ontario* compares the actual budgets of four people receiving income security benefits and receiving very different treatment under the current system - an elderly veteran, a senior living in poverty, a single mother, and a member of the working poor. These real-life situations show who of these would get more money under a basic income program... and who would not.

- Himelfarb, Alex & Trish Hennessey, eds. 2016 Oct. **Basic Income: Rethinking Social Policy**. Toronto: Canadian Centre for Policy Alternatives. Ontario Office.  
[https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office%2C%20Ontario%20Office/2016/10/CCPA%20ON%20Basic%20Income\\_FINAL.pdf](https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office%2C%20Ontario%20Office/2016/10/CCPA%20ON%20Basic%20Income_FINAL.pdf)  
Collection presents a range of opinion on the idea of a basic income.
- Zon, Noah. 2016 Aug. **Would a Universal Basic Income Reduce Poverty?** Toronto: Maytree.  
[https://maytree.com/wp-content/uploads/Policy\\_Brief\\_Basic\\_Income.pdf](https://maytree.com/wp-content/uploads/Policy_Brief_Basic_Income.pdf)  
Policy brief argues that while a universal basic income sounds like a better way to reduce poverty, it could leave some people worse off. In exploring different visions of basic income put forward and their costs, the author discusses the need to clearly identify what problem basic income is intended to solve, and to improve the broader social safety net accordingly.
- Mendelson, Michael, Ken Battle, Sherri Torjman and Ernie Lightman. 2010. **A Basic Income Plan for Canadians with Severe Disabilities**. Ottawa: Caledon Institute of Social Policy.  
<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/income-security-reform/basic-income-plan-for-canadians-with-severe-disabilities>  
Report, prepared for the Council of Canadians with Disabilities and the Canadian Association for Community Living, proposes a new federal Basic Income program that would replace provincial/territorial social assistance for most working age persons with severe disabilities.



## The Changing Landscape of Medical Assistance in Dying in Canada

*By Catherine Frazee, Professor Emerita, Ryerson University*

### ***Rising numbers, with little oversight***

In the last issue of ARCH Alert, published in June 2017

(<http://www.archdisabilitylaw.ca/node/1220>) we reviewed the findings of the Government of Canada's first report on the implementation of Medical Assistance in Dying (MAiD). A second report has since been released, and can be found by going to

<https://www.canada.ca/en/health-canada/services/publications/health-system-services/medical-assistance-dying-interim-report-sep-2017.html> .

The second report updates the aggregate figures on the number of deaths across the country resulting from MAiD. Over a six-month period, the number has increased from 803 to 1,179, which means that a total of 2,149 Canadians have now died as a result of euthanasia or assisted suicide since the passage of our MAiD law in June 2016

This data reveals that the rate of deaths as a result of MAiD has increased nearly 50% between January and June of this year. The Government of Canada asserts that such an increase is “consistent with international experience”, but disability advocates will need to remain vigilant about the extent to which increasing use of MAiD may reflect changing social attitudes and cultural norms. We know that ableism is a powerful force that works to undermine disabled people’s equality and well-being. What we do not know yet is the full extent of how ableist views and practices may influence and be influenced by the increased frequency with which Canadians die by euthanasia or assisted suicide.

Are attitudes about MAiD beginning to change the way people think about dying and end-of-life experience? Are attitudes about aging, frailty, dependence and disability changing, now that MAiD is a legal option? Does the quality of services and supports in different regions of Canada affect people’s choices and expectations about MAiD? These are complex questions, questions that advocates and researchers who are sensitive to the dynamics of ableism will need time, data and resources to study. Unfortunately, however, the government’s reports on MAiD give no indication of commitment to this kind of inquiry.

The government’s report does, however, acknowledge that public reporting related to MAiD will be “a critical component in fostering transparency and public trust”. Health Canada is developing regulations for a federal monitoring system scheduled to come into force some time in 2018. They have committed to “a period of public consultation” prior to finalizing those regulations. It will be crucial at that time for the government to hear from disability activists, advocates and scholars to ensure that the regulations are free of ableist bias and that the practice of MAiD is monitored for any patterns of harm affecting disabled people.

### ***Newfoundland case raises alarms***

Our last report for ARCH Alert described the experience of Mr. Archie Rolland to illustrate how injustice and mistreatment in the lives of disabled people can leave them feeling that they have no choice other than to pursue an assisted death. We observed that cases of this nature call for greater vigilance than merely reporting annually on the number of persons who have died by MAiD in each province and territory.

Another case that came to light in a CBC report earlier this year raises similar alarms about the pressure that people with disabilities may be subjected to under the current system of medical assistance in dying.

Candice Lewis is a 25-year-old disabled woman who lives in Newfoundland with her mother, Sheila Elson. In July of this year CBC news reported on a troubling encounter when Candice was receiving emergency medical treatment in hospital. According to Ms.

Elson, a doctor approached her to propose that she consider a medically-assisted death for her daughter. When she firmly stated that she was not interested, the doctor accused her of being selfish. You can read the CBC report by going to <http://www.cbc.ca/news/canada/newfoundland-labrador/doctor-suggested-assisted-suicide-daughter-mother-elson-1.4218669>.

While we do not know if the physician disputes this report of what happened in the hospital corridor, there is no doubt that Candice and her mother were traumatized by this encounter. Their experience raises important questions of why assisted suicide would be “offered” when it had not been requested, why a doctor would seek her mother’s agreement without even knowing Candice’s wishes, and whether the availability of assisted death might have in any way compromised the commitment of a medical team to save Candice’s life. To pressure anyone to consider or consent to MAiD would be a violation of the law. But would such a violation be reported, investigated, and lead to appropriate disciplinary action? This will depend in part on our own vigilance and advocacy.

Taking a wider view of this troubling case, many advocates are also deeply alarmed at what *might have happened* had Ms. Elson been less resilient, and less determined that her daughter’s life continue. As Liz Kessler, who blogs for Rabble.ca, wrote in July: “Some parents of disabled children do not value those lives. Some parents in that position might have listened to the doctor and taken it as permission to have their child killed.” (Go to <http://rabble.ca/blogs/bloggers/liz-kesslers-blog/2017/07/lets-talk-about-fact-doctor-recommended-murdering-patient> to read her full post.)

Sheila Elson bravely brought her family’s story into public view because, in her words “We don’t want it to happen to anybody else”. As we continue to evaluate the risks and unintended consequences of Canada’s MAiD law, it will be critical for individuals who feel pressured in any way toward assisted death to bring their stories forward, and for advocates, lawmakers and medical professionals to listen to these stories with respect and thoughtful attention and to take appropriate remedial action.

### ***Experts and advocates consider expanding the reach of MAiD***

Since euthanasia and assisted suicide were first legalized in Canada in June of 2016, a number of safeguards affecting who may receive an assisted death have been subject to scrutiny. As the law currently stands, certain groups of people are excluded from the MAiD criteria:

- persons under the age of 18;
- persons who are unable to consent to the procedure at the time it is being administered; and
- persons whose natural death is not reasonably foreseeable.

These exclusions were intended to safeguard persons who might be vulnerable to seek an assisted death at a time of crisis or a moment of weakness, and to ensure that MAiD would

never be administered without informed and voluntary consent. However, the Government committed to further study the complex questions associated with the possibility of making MAiD available for persons younger than 18 years of age, persons whose natural death is not reasonably foreseeable but who request MAiD because of a mental health condition which is intolerable to them, and persons who are no longer capable of expressing consent but who have earlier – when they had legal capacity – documented their desire for an assisted death under certain conditions.

In December 2016, the Government retained the services of the Council of Canadian Academies to bring together a team of experts to review and assess the evidence on each of these three highly sensitive and controversial topics. You can read about the panel of experts appointed to conduct this review process, and about the mandate and progress of their work, by going to <http://www.scienceadvice.ca/en/assessments/in-progress/medical-assistance-dying.aspx> . For some background about a controversy that left disability advocates concerned that the panel would conduct its research without taking into account the dark history of “mercy killing” affecting disabled persons, you may wish to go to <http://policyoptions.irpp.org/magazines/june-2017/assisted-dying-lessons-history/> .

The Expert Panel’s final report on these three topic areas will be released late in 2018. The Panel will not make specific recommendations, and it is hoped that their review of the evidence will be thorough, balanced and fair, and will adequately reflect the dynamics of inequality and vulnerability experienced by Canadians with disabilities.

### ***MAiD for minors***

The question of whether there are circumstances in which doctors should be able to end the lives of children and youth under the age of 18 has featured prominently in recent media, since the results of two important surveys were made public in October. In the first survey, conducted by the Canadian Paediatric Surveillance Program (CPSP), Canadian pediatricians reported on the frequency with which they are receiving inquiries and requests for MAiD from both minors and their parents. In the second survey, undertaken by the Canadian Pediatric Society (CPS), pediatric physicians in Canada offered their personal views about whether young adults and children, or their parents, should be permitted to request and receive MAiD.

To see a summary of the CPSP survey, go to <https://www.cpsp.cps.ca/uploads/publications/CPSP-2016-Results.pdf>. Notably in this survey, inquiries and explicit requests from children and youth were relatively rare, compared to at least 5 times as many such inquiries made by parents. The vast majority of parents who asked about or requested MAiD, did so in relation to infants and children under the age of 13.

For a news report following release of the CPSP survey, go to <https://beta.theglobeandmail.com/news/national/pediatricians-across-canada-report-fielding-questions-on-assisted-dying-survey/article36723278/>. What is perhaps most



striking about this report, is the way in which experts describe the “types of cases” that would prompt parents to seek an assisted death for their child: “brain-damaged babies who cannot breathe on their own or swallow their saliva [and] children with neuro-degenerative diseases that attack their body and brain”. Such messaging may be heard by nondisabled parents of young children with disabilities quite differently than by adults with disabilities who rely upon ventilators and/or feeding tubes and who live with significant neuro-degenerative diseases. This difference in perspective, expressed in how our culture describes and judges certain impairments, can have profound consequences if euthanasia for minors is permitted.

For many people with disabilities, the results of the CPSP survey provide a chilling reminder of the vulnerability of disabled children, particularly those who are medically fragile and/or unable to communicate verbally. This alarm will be compounded by the second survey mentioned above – the CPS survey, which you can learn about by going to <https://www.youtube.com/watch?v=5i4yHRdOR0Y>. In this report, we learn that one-third of the physicians who participated would support providing MAiD for minors who do not have a terminal condition, but instead something called an “intolerable disability”.

From a historical perspective, the passion of a mother like Sheila Elson to protect her daughter’s life contrasts sharply with the unrepentant assurance of a father like Robert Latimer. Robert Latimer was convicted for murdering his disabled daughter Tracy in 1993 and yet became a kind of cultural hero for a majority of Canadians who believed that his punishment was too severe. For a recent update on Robert Latimer, go to <http://thestarphoenix.com/news/local-news/robert-latimer-mclachlin>.

Even after serving 10 years in prison, Robert Latimer still insists that what he did “was right”. His certainty appears to match Sheila Elson’s certainty, but the outcome for Tracy Latimer, who was killed by Robert at age 13, was profoundly different from Candice Lewis’ outcome. Candice is happy to have been discharged from hospital and is now, along with her mother, able to speak publicly about what happened there. To watch a recent video interview with Candice and Sheila Elson, go to <https://www.youtube.com/watch?v=hB6zt43iCs8>.

### ***Doctors more comfortable with MAiD***

Doctors, and in some regions, nurse practitioners, command a great deal of authority in conversations about assisted dying, and of course in the administration of euthanasia under our MAiD law. Physicians’ attitudes about assisted dying are therefore an important factor as we consider whether MAiD requires more robust safeguards, or whether the law should be expanded to include groups of persons for whom MAiD is not currently an option.

There is some indication that doctors are becoming more comfortable with MAiD. In August 2017, an informal poll at the Canadian Medical Association revealed that a majority of physicians (67%) now support making MAiD available to mature minors, and just over half of those polled (51%) support making MAiD available to persons who wish to die because



of a mental health condition. Among these same physicians, there was overwhelming support (83%) for permitting patients to request euthanasia in an advance directive – a formal process by which a person could consent to MAiD at some unspecified time in the future, when they no longer have legal decision-making capacity. To read a news report about this poll, go to <https://beta.theglobeandmail.com/news/national/cma-poll-finds-rising-support-for-medically-assisted-death/article36074165/>.

What is particularly notable in this evidence of doctors' attitudes is that just a few years ago, in 2013, only 34% of Canadian physicians supported the very idea of legalizing assisted death. Now, after just one year of its legal practice, it seems that physicians, journalists and many other mainstream Canadians have embraced the practice of euthanasia and assisted suicide, and are ready to extend its reach into new realms. As the Canadian Medical Association Vice President, Dr. Jeff Blackmer observed, "The mood is changing".

Is this changing mood a positive development for disability rights, or a cause for concern?

In a future issue of ARCH Alert, we will look at two other areas under consideration for expansion of Canada's MAiD law: assisted death for persons who have a mental health condition, but whose natural death does not meet the current requirement as "reasonably foreseeable"; and assisted death for persons who no longer have legal capacity to give their consent, but who made a prior legal request for MAiD when they were capable. We will also update you on an important case currently underway in Québec, involving two individuals with disabilities who have requested MAiD but are not eligible under the current law because they are not dying or near death.

Medical Assistance in Dying remains a difficult and controversial topic for all Canadians. If you have questions or concerns arising from this article, you may contact the author at [cfraze@ryerson.ca](mailto:cfraze@ryerson.ca) or ARCH Disability Law Centre at [archlib@lao.on.ca](mailto:archlib@lao.on.ca). Both are committed to open and respectful dialogue.



## DLI Alumni Event

*By Faith Cameletti and Stephen Petrina, DLI Students*

On Wednesday, November 22, 2017, past and present DLI students, and ARCH staff met at 55 University to celebrate five years of the Disability Law Intensive (DLI) at ARCH Disability Law Centre and Osgoode Hall Law School. Attendees mingled with both new and familiar faces, and enjoyed dinner, refreshments and a tour of ARCH's new office at 55 University.

Current DLI students benefitted from the opportunity to chat and consult with DLI alumni. Students swapped stories of the delights, laughs and surprises of their first DLI experiences and first exposure to legal clinic work.

In a short address, Dianne Wintermute, Staff Lawyer at ARCH, thanked students for their participation and contributions to the program over the past 5 years. She said “Without your participation in the DLI, we (ARCH) would not have been able to grow and flourish in the ways that we have.” Dianne then invited the DLI alumni to donate some of their time in the coming years to assist in the orientation of future DLI students. One thing was clear in the room of former and current DLI students: the DLI is not merely a one year program that students participate in, but rather an ongoing project that is constantly growing and developing through the work of its participants. The students have helped shape not only the DLI program, but ARCH Disability Law Centre as well.

### **Stephen’s Reflection**

My experience at ARCH thus far has been wonderful. I feel that I have learned so much, not only about disability law, but also about working in a legal environment more generally. I have spent this past term working in Law Reform and have had the opportunity to do legal research, write legal memos, draft correspondence for and meet with clients, and participate in facilitating a Public Legal Education session. I participated in ARCH’s Social Media Project, which involved tracking current news and developments relevant to disability law and sharing them with the community through Twitter. At the alumni event, I had the opportunity to meet many students who had a part in some of the projects that I am currently working. It was nice to finally put faces to the names in the memos and work I have been reading during my time in the DLI.

My time at ARCH has made me truly appreciate the value of a good working environment. The staff at ARCH is friendly, professional, and supportive. Whenever I have questions or concerns regarding my work or anything in the office, I am able to consult with not only my supervising staff lawyer, but with the other lawyers and staff as well. I feel that such support is important in clinical legal education as students are often new to practical legal work, making feedback and guidance invaluable to the learning experience and development of skills. I was happy to hear that these sentiments are common among DLI students, as former students described their experiences with the DLI with high regard.

### **Faith’s Reflection**

This past fall, I had the pleasure of completing the “client services” portion of my DLI rotation. I’ve thoroughly enjoyed my experience thus far and can honestly say that each day in DLI has been different. Sometimes I’d come in expecting to work on one assignment, only to discover that we’d acquired a new case that I could start working on. The diversity of cases and subject matter has been one of my favourite aspects of the program. In only a few months, I’ve seen such a wide variety of legal issues and got to

practice all different types of community lawyering activities, including but not limited to: research, writing, meeting with clients and public education.

What I've appreciated most about my placement so far is working in ARCH's collaborative environment. I'll never forget when, in conversation, my supervising lawyer corrected something I said to say I'm working "with her" not "for her." This is just one example from the many ways the staff respect and value our work as students. It can be so intimidating when you're learning and working in a new field but the welcoming environment of the DLI has allowed me to learn and grow while still feeling safe and supported.

Looking forward to starting my Law Reform rotation in the New Year!



## **Bill 164 – An Act to Amend the Human Rights Code**

*By Mariam Shanouda, Staff Lawyer*

### **Background on Bill 164**

On October 4, 2017, Member of Provincial Parliament (MPP) Nathalie Des Rosiers introduced Bill 164, *An Act to Amend the Human Rights Code*. This Bill aims to amend the Ontario's *Human Rights Code (Code)* to include four new prohibited grounds of discrimination: genetic characteristics, social conditions, police records and immigration status. 'Prohibited grounds' means that a person, organization or service provider cannot discriminate against someone because of an inherent personal quality or characteristic.

The *Code* currently states that the following are prohibited grounds of discrimination: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. In addition, receipt of public assistance is a prohibited ground of discrimination in certain circumstances.

The addition of the four new grounds will widen the scope of human rights protection and make sure that more characteristics are protected under the *Code*.

### **The Four New Prohibited Grounds of Discrimination**

#### *(a) Genetic Characteristics*

Genetic testing is often used to determine whether a person carries certain genes and chromosomes indicating that they may inherit a condition or disability in the future. For

example, some people get tested for specific types of cancer, for Crohn's disease, or for Tay-Sachs disease, among other conditions.

This ground is intended to prohibit discrimination in two different types of circumstances. The first circumstance is when someone gets test results that indicate they may acquire a disability in the future because of their "genetics." If someone tests positive for a certain genetic makeup, those test results should not be used to discriminate against them.

The second circumstance is when someone does not actually want to get genetic testing, but is required to do so in certain situations. No one should be forced to submit to a test that they are not comfortable taking.

#### *(b) Social Conditions*

This new prohibited ground is perhaps the broadest of the four new grounds. According to Bill 164, the definition of "social conditions" is

"... a social or economic disadvantage resulting from,

- (a) employment status,
- (b) source or level of income,
- (c) housing status, including homelessness,
- (d) level of education, or
- (e) any other circumstance similar to those mentioned in clauses (a), (b), (c) and (d)."

This is particularly important for disability communities because many persons with disabilities live with low incomes and may depend on government income supports like the Ontario Disability Support Program (ODSP). If a person with a disability experiences discrimination, for example being denied access to a service based on the fact that they are receiving ODSP, their claim may fall within the scope of this new ground.

It will be particularly interesting to monitor how "social conditions" is interpreted by the Human Rights Tribunal of Ontario (HRTTO), especially taking into consideration the broad scope of subsection (e).

#### *(c) Police Records*

The *Code* currently stipulates that a person cannot be discriminated against because of their "record of offences." Record of offences refers to a record that is created when a person commits a crime and is convicted of having committed that crime. But a police record is much broader; it refers to every time a person's name is mentioned in a police report for any reason, even if a person has not been arrested, charged, or convicted of committing a crime. Bill 164 proposes striking out "record of offences" and replacing it with the much broader "police records."

This may be especially significant for persons with mental health disabilities, who may have non-criminal contact with police when they, their families or others call the police for emergency help. Even though the person has not been charged or convicted of any criminal offence, those instances can become a part of the person's police record which may then show up as part of a background check. Being the target of mental health profiling can also result in the creation of a police record. This can create significant barriers in a variety of contexts, including when a person applies for a job and is asked to submit to a background check where a police record is pulled up and the person's mental health disability is disclosed. It can also create barriers when applying for volunteer positions, educational programs and housing. A person who has a non-criminal police record should not be subject to discrimination because their mental health disability was disclosed by a police record, or because of notes contained in a police file.

The Ontario Human Rights Commission has a number of resources about the discriminatory impact of police records checks. To read these resources go to: <http://www.ohrc.on.ca/en/search/site/police%20records%20checks>

#### *(d) Immigration Status*

The *Code* currently states that a person cannot be discriminated against based on their citizenship. Bill 164 suggests amending the *Code* to include the additional ground of "immigration status" alongside "citizenship." This ground is intended to protect persons in situations where someone is asked for their immigration status when it is inappropriate, for example when they are seeking access to a service. The ground will also cover situations when a person experiences discrimination once they have disclosed their immigration status, for example being refused a service because they are not a Canadian citizen or because they are a refugee.

#### **Conclusion**

If Bill 164 becomes law, the addition of four new prohibited grounds will be important to persons with disabilities. Persons with disabilities are not only discriminated against because of their disability; they may also experience discrimination based on other characteristics, such as their level of income or education, the source of their income, whether they have any genetic characteristics that indicate they may acquire further disabilities in the future, or whether they have a non-criminal police record. By expanding the scope of the *Code*, and introducing these new grounds, Bill 164 aims to ensure that persons are protected from discrimination based on different and multiple grounds.

## Multiple Chemical and Environmental Sensitivities

*By Dianne Wintermute, Staff Lawyer*

ARCH Disability Law Centre and the Canadian Environmental Law Association recently worked together to produce a report on the impact of Multiple Chemical and Environmental Sensitivities (MCES) on the lives of persons with this disability. Our report was informed by persons with MCES and the barriers they face in employment, in housing, in transportation, when accessing medical services, and when accessing justice. We also spoke with doctors who are leaders in this field.

The Task Force on Environmental Health issued their Interim Report just prior to the intended release date for our report. We want our report to be as up to date as it can be, therefore we have delayed the release of our report in order to respond to some of the issues raised in the Interim Report in addition to the work we have already done.

The Task Force is set up by the Ministry of Health and Long Term Care. Its goals include:

- Informing possible guidelines and/or policies to support persons whose disability is triggered by environmental factors;
- Increase knowledge in the health and public sector about disabilities caused by environmental factors;
- Identify gaps in knowledge, evidence and care;
- Identify person centred actions to improve the health of persons with MCES.

The Interim Task Force Report is called Time for Leadership: Recognizing and Improving Care. The Interim Report of the Task Force can be found by going to:

<http://www.health.gov.on.ca/en/public/programs/environmentalhealth/>

The Task Force report identifies stigma, a lack of understanding (and sometimes compassion) by medical professionals, and a lack of funding for research, as some barriers faced by persons living with MCES. Much of the Task Force Report is concerned with characterizing MCES, and the lack of understanding and research in the medical field.

We urge the Task Force to consult more broadly with individuals who live with MCES, as well as individuals who work with persons with this disability. There are individuals who live with MCES on the Task Force, however, this disability affects individuals in such varied and unique ways, we believe further consultation is imperative, as the lived experience of persons with MCES is an important voice that needs to be heard.



## Ontario Court of Appeal Finds that Consent and Capacity Board Does Not Have Jurisdiction to Award s 24(1) Charter Remedies

By Karen R. Spector, Barrister and Solicitor

On August 17, 2017, the Court of Appeal for Ontario released the decision of *ES v Joannou*, 2017 ONCA 655. This case considered whether the Consent and Capacity Board (CCB) has jurisdiction to grant remedies under s 24(1) of the *Charter*. The case involves a person found incapable of consenting to treatment who was restrained and forcibly treated with anti-psychotic medication prior to challenging the finding of incapacity in court.

ARCH appeared as an intervener before the Court. ARCH argued that persons subject to psychiatric detention should be able to obtain remedies before the CCB for breaches of their *Charter* rights that occur during the course of their detention. ARCH also argued that s 18 of the *Health Care Consent Act (HCCA)* should be interpreted in a manner consistent with human rights legislation. Section 18 governs when treatment can start where a person's capacity to make treatment decisions is in issue. ARCH submitted that such findings would most promote the dignity, autonomy and access to justice for persons with disabilities.

For a unanimous court, Justice Rouleau determined that although the CCB can decide questions of law, the CCB does not have jurisdiction to award s 24(1) *Charter* remedies. The Court held that *Charter* issues may be raised on appeal from the CCB or by way of a separate originating application to the Superior Court that can be combined with the appeal.

The Court further held that even though the CCB does not have s 24(1) *Charter* jurisdiction, it recognized that the CCB's decisions have an impact on a person's *Charter* rights including "the right not to be detained and the right to control one's body". As such, the CCB must exercise its statutory powers and discretion in a manner that complies with the *Charter*. How this will play out in practice remains to be determined.

The Court's finding that the CCB does not have jurisdiction to award *Charter* remedies will have far reaching implications as it undermines access to justice for persons with disabilities. Given the deprivations of liberty and autonomy that stem from detention and psychiatric treatment, persons with mental health disabilities require access to a prompt, expedient, and cost effective legal process to adjudicate potential breaches of their *Charter* rights. Individuals who seek to obtain a remedy for *Charter* violations that occurred during the course of their detention must seek redress before the courts (with its inherent barriers including costs, complexity and delay) to protect their rights rather than before the CCB, which has a more informal, quick and efficient process.



## Respecting Rights Turns Five in 2018!

By Sue Hutton, Community Legal Worker

Respecting Rights was founded in 2013 by Peter Park, ARCH Executive Director Robert Lattanzio, developmental services social worker Sue Hutton, and newly retired developmental services manager Lorry Cumming. Respecting Rights wanted to bring a better understanding of, and more respect for, the rights of persons labelled with intellectual disabilities to the developmental services sector. One way that Respecting Rights does this is by travelling around Ontario offering legal rights workshops for people labelled with intellectual disabilities and their support networks. The Respecting Rights approach has people labelled with intellectual disabilities at the centre of the work, developing the content and delivering workshops along with lawyers and social workers.

Respecting Rights likes to think in terms of threes. We call our workshops a “triple scoop” approach. The workshops are delivered in a team of three: a person labelled with an intellectual disability, a social worker specializing in developmental services advocacy, and an ARCH lawyer. The workshops are delivered to three groups: people labelled with intellectual disabilities, their staff, and family members of someone labelled with an intellectual disability.

Peter Park was the first to say that self-advocates needed to team up with lawyers to bring a deeper perspective to rights information. Peter suggested the name “Respecting Rights”, as he felt it was important to make sure that respect was a key theme in the message. So many rights trainings across Ontario are done quickly, and do not respect the needs of people with disabilities who require accessible language and other disability accommodations.

Many of Respecting Rights’ workshops teach about the rights of people with disabilities to make their own decisions. Educating people about their right to make their own decisions in a way they understand is so important. For so many people labelled with intellectual disabilities, decision-making rights are unfortunately not acknowledged, and staff or family members make decisions for them – about the major things in life as well as the subtle things. In Respecting Rights workshops we emphasize the importance of supporting people to make their own decisions. It’s not always easy, but it’s important for a person’s autonomy and dignity. Having people with disabilities side by side with ARCH lawyers helps to deliver the point. We like to stick to the People First statement, “Nothing about us without Us”.

In the workshops we talk about what legal capacity really means according to the laws in Ontario. We discuss the *Convention on the Rights of Persons with Disabilities (CRPD)*, the international law that sets out the rights of people with disabilities. We make a point of telling people about Article 12 in the *CRPD*, which says that people with disabilities have the right to legal capacity on an equal basis as others. We believe it’s really important to

spread the word of supporting people to make their own decisions, because autonomy and dignity are important to all of us.

We use plain language and role plays a lot in our workshops. Role plays are fun and are a concrete way of teaching about legal capacity and advocacy. Making our workshops accessible for persons labelled with intellectual disabilities is very important. Although it's our workshop for people with disabilities that focuses on role plays, we have done supported decision making role plays with families as well. In addition to delivering workshops, Respecting Rights is also very involved in law reform efforts related to the rights of people labelled with intellectual disabilities. For example, we have held a number of meetings with the Ministry of Community and Social Services to talk to them about improvements to developmental services. At these meetings we talk in plain language so that everyone can participate in the meeting. Through technology, we help people labelled with intellectual disabilities from across the province get involved in our meetings.

If you know anyone who would benefit from a Respecting Rights workshop, please share this article.

For more information about Respecting Rights workshops, contact Sue Hutton [huttons@lao.on.ca](mailto:huttons@lao.on.ca) or 1-866-482-2724 x 2227.



## **Forcillo Update: Bail Allegedly Breached, Forcillo in Custody** *By Mariam Shanouda, Staff Lawyer*

Officer James Forcillo, who was convicted in January 2016 of attempted murder in the death of 18 year old Sammy Yatim and sentenced to six years in prison in July 2016, has been arrested by Toronto police for allegedly breaching his bail conditions.

In criminal law, bail refers to a set of conditions by which an accused person who is awaiting trial must abide. Bail is often set in order to allow an accused person to await their trial outside of jail, while at the same time making sure that the accused person abides by the terms and shows up to the trial.

One of the more common conditions of bail is the assignment of a surety. A "surety" is a person who is assigned by the court to be responsible for the accused person, and to ensure that the person abides by their bail conditions.

In the case of Forcillo, his then-wife and her parents were assigned as his sureties when the court granted him bail. His bail conditions included, among other terms, residing with

his surety (wife) at their home address; notifying the Special Investigations Unit (SIU) of any change in address if he moved; remaining at his principle residence at all times except in a medical emergency; keeping the peace; remaining in Ontario; not possessing any weapons; and, not contacting the victim's family.<sup>1</sup>

In November, SIU officers found Forcillo at a home that was not his principle address. It has since come to light that Forcillo is now divorced from his wife, and when the police found him, he was at the home of his fiancée.<sup>2</sup> Forcillo had applied to the court to live at an address other than the one stated in his bail conditions, but the court had not yet approved this change. As such, the fact that Forcillo was found at his fiancée's residence constituted a breach of his bail conditions.

Forcillo is now in custody until his bail hearing, which has been set for November 30.<sup>3</sup> If the court finds him guilty of breaching his bail conditions Forcillo will be facing a possibility of another sentence for this crime, in addition to the attempted murder conviction which he is currently appealing. The maximum sentence for breaching bail conditions is two-years.<sup>4</sup>

ARCH first reported on the death of Sammy Yatim and the Forcillo trial because of its relevance to persons with disabilities, in particular mental health disability communities and their allies. To read our previous articles, go to the June and September 2016 ARCH Alerts: <http://www.archdisabilitylaw.ca/arch-alerts>. ARCH continues to monitor this case.



## **Income Security: A Roadmap for Change – What is in the report for persons with disabilities?**

*By Yedida Zalik, Staff Lawyer*

The recent report, *Income Security: A Roadmap for Change*, was written by three working groups: the Income Security Reform Working Group, the First Nations Income Security Reform Working Group and the Urban Indigenous Table on Income Security Reform. They wrote it because the provincial government wanted their feedback on income security. The feedback of all three groups was combined into one document: the Roadmap for Change.

<sup>1</sup> Gillis, Wendy. *Attorney General Seeking to Revoke Const. James Forcillo's Bail*. Toronto Star. November 16, 2017. Web. November 17, 2017.

<sup>2</sup> Powell, Betsy. *Investigators' Visit to Apartment Led to Const. James Forcillo's Arrest*. Toronto Star. November 17, 2017. Web. November 17, 2017.

<sup>3</sup> Ibid.

<sup>4</sup> *Criminal Code*, s. 145(3).

The Roadmap prescribes a new approach to income security, from a much different perspective than the current system operates. While the report is significant for all persons on low income, it includes some specific recommendations relevant to persons with disabilities. For a fulsome review of the contents, the Income Security Advocacy Centre (ISAC) has developed excellent background resources that you can access, along with the report, by going to <http://incomesecurity.org/policy-advocacy/a-roadmap-for-change-tools-you-can-use-to-have-your-voice-heard/>. This article will focus on relevant aspects of the Roadmap for people with disabilities.

The report recommends services be designed based on rights under international conventions. This is a new and important lens through which to consider income security. Significantly, throughout the report, the Roadmap refers to international conventions, including the *UN Convention on the Rights of Persons with Disabilities (CRPD)*. Quotes from the *CRPD* are sprinkled across the document, signalling the role of the *CRPD* in shaping the Roadmap. In addition, the Roadmap states that First Nations should assume authority over design and delivery of disability programming, including the Ontario Disability Support Program (ODSP), for First Nations peoples.

The report also stresses that people with disabilities need their own, separate and distinct income security program. It recommends that government transform the current system to include more supports and better access for people with disabilities, while maintaining and improving ODSP. It also recommends major improvements to Ontario Works, which most persons with disabilities access first before getting onto ODSP. Taken together, these recommendations envision a very different system of supports for persons with disabilities in Ontario.

### **Assured Income**

The Roadmap also envisions a new program of Assured Income that would support people with disabilities. This program would move away from the “welfare” model and toward a more reliable and supportive model of supports. It would allow people to move in and out of the workforce, thereby responding more appropriately to the reality of people with disabilities, especially those with episodic disabilities, who may be able to work at certain times, for disability-related reasons. A number of supports would accompany this program.

The Roadmap says that the government should design this new program in partnership with people with disabilities. This process would include an assessment of whether eligibility should be based on individual income or family income. Either way, the Roadmap recommends that assets not be included when determining financial eligibility for this program.

### **ODSP and OW**

The Roadmap recognizes that many people with disabilities receive Ontario Works (OW), rather than ODSP. Therefore the report discusses changes to both programs to improve responsiveness to people with disabilities. It recommends that both programs end their

current punitive approach and explicitly work to eliminate poverty and foster inclusion. It recognizes that this shift requires both legislative amendments and changes in caseworker culture.

The Roadmap recommends that ODSP continue as a distinct benefit program, using its current definition of disability. It states that people should be given support to apply for ODSP. It acknowledges the poor quality of disability adjudication, and recommends decision-making improvements and a smoother application process. Significantly, it specifically notes that ODSP and OW must accommodate the needs of persons with disabilities.

The Roadmap recognizes the additional costs of living that persons with disabilities must incur. Therefore, in setting an income standard, the report says that there must be a 30 percent top up for persons with disabilities. It also recommends the continuation of targeted benefits, such as the Special Diet Allowance, at least until the income standard is reached. It recognizes that some aspects of this benefit may be required indefinitely, due to specific dietary expenses incurred for some disabilities.

In addition, the report also recommends that families with children with disabilities be provided with extra supports. And it also makes recommendations to the federal government, including improvements to the Canada Pension Plan Disability Benefit, support for a national housing strategy, and creation of a national program for people with disabilities.

Whether or not you agree with all the Roadmap's recommendations, its fresh approach provides a new angle for advocacy. The Government of Ontario is accepting feedback on this report until January 5, 2018. Community members can use their feedback to advocate for a better social system. ISAC has developed a feedback toolkit that you can access by going to <http://incomesecurity.org/policy-advocacy/a-roadmap-for-change-tools-you-can-use-to-have-your-voice-heard/>

ARCH thanks Jennefer Laidley of the Income Security Advocacy Centre for her feedback on this article.

## **Inclusive Education in Sault Ste. Marie**

*By Luke Reid, Staff Lawyer*

ARCH Disability Law Centre and the Education Advocacy Initiative were in Sault Ste. Marie this October to discuss inclusive education. The Education Advocacy Initiative is a partnership between Community Living Ontario, ARCH, Inclusive Education Canada, University of Western Ontario, Brock University, and Brockville and District Association for Community Involvement.

While in Sault Ste. Marie, ARCH gave a keynote address to a large group of parents, students, support workers, educators and school board administrators. The keynote address discussed the legal basis for inclusive education, and opportunities within the current legislative framework to realize an inclusive vision for our education system. After the keynote address, several breakout sessions were held with enthusiastic small groups of powerful advocates to discuss these issues. These breakout sessions indicated the advocates were eager to take advantage of opportunities to promote inclusion within educational settings.

Other keynote speakers included several esteemed inclusive education experts such as Gordon Porter, founder of Inclusive Education Canada, Stephanie Vucko, founder of A to Z strategic consulting, and Amy Kipfer, an educator at the Avon-Maitland School Board.

The event was the launch of a commendable effort by Community Living Algoma to begin advocating for a more inclusive education system in the Algoma region. Throughout the event, presenters, participants and educators were given the opportunity to contribute to an overarching inclusive education agenda and to help Community Living Algoma develop an effective advocacy strategy geared towards this vision.

ARCH looks forward to new and exciting developments coming out of the Algoma region. For those of you in this area, we encourage you to contact Community Living Algoma to see how you can become involved. Local advocacy is key to realizing a fully inclusive education system for all.



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Or you can send your donation cheque to:

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We welcome your comments, questions and feedback. We will endeavour to include all information of general interest to the community of persons with disabilities and their organizations, but reserve the right to edit or reject material if necessary. Please address communications regarding **ARCH ALERT** to: Theresa Sciberras, Program and Litigation Assistant, ARCH Disability Law Centre, 55 University Avenue, 15<sup>th</sup> Floor Toronto, ON M5J 2H7, Fax: 416-482-2981 or 1-866-881-2723, TTY: 416-482-1254 or 1-866-482-2728, e-mail: [scibert@lao.on.ca](mailto:scibert@lao.on.ca) Website: <http://www.archdisabilitylaw.ca/>



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