February 21, 2024

Via Email

To: Toronto District School Board Trustees

CC: Colleen Russell-Rawlins, TDSB Director of Education

Louise Sirisko, TDSB Associate Director, Innovation and Equitable Outcomes

Nandy Palmer, TDSB System Superintendent, Special Education and Inclusion

Dear Trustees,

I write in my capacity as the Chair of TDSB’s Special Education Advisory Committee (SEAC) for 2024. I have been a member of TDSB’s SEAC since 2015, previously served as its Chair in 2016 and 2017, and am a life-long volunteer disability rights advocate.

My SEAC colleagues and I look forward to the opportunity to work with all TDSB trustees this year and to advocate for improvements to the learning opportunities that TDSB provides to students with special education needs. As a first step in this direction, I aim in this letter to bring to your attention two important matters.

## TDSB’s Forthcoming Budget

At its February 12, 2024 meeting, SEAC passed an important motion and recommendation to trustees. We ask trustees to accept its recommendation as a core principle as TDSB develops and approves next year’s budget. SEAC’s motion states:

“SEAC recommends to the TDSB trustees that the forthcoming TDSB budget should ensure that there are no cuts to services, supports, learning opportunities, or resources for students with special education needs. Those students require an increase to the services, supports and staffing provided for them.”

## 2. TDSB’s New Policy and Procedure Regarding Community Advisory Committees such as SEAC

I wish to identify for you several serious concerns with the Community Advisory Committees and the Board of Trustees Governance Procedure (PR741) that the Board adopted on January 31, 2024. That document addresses the structure, operation, and reporting of Community Advisory Committees, including SEAC.

Several members of SEAC have shared concerns in varying detail with me and with TDSB staff. I too have these concerns. In this letter, I focus on issues as they apply specifically to SEAC. Other Community Advisory Committees may have similar concerns, worthy of the trustees’ attention.

1. These policies and procedures are very long, dense and hard to read. They use very bureaucratic language. This makes it challenging to extract from them what new practical demands, if any, these documents expect of SEAC members.

SEAC members and members of other Community Advisory Committees are volunteers. They have very limited time available for reviewing and trying to decipher such dense materials. That is not a productive use of their time.

1. These policies and procedures purport to apply to all Community Advisory Committees, including SEAC, except where they conflict with our enabling regulations. SEAC’s mandate and operations are set by provincial regulations. TDSB cannot alter them by these protocols or otherwise, as these materials acknowledge.

For that reason, little if anything in these policies and procedures will apply to SEAC. For example, these policies and procedures purport to require that either a Chair or Vice-Chair of SEAC must be a trustee. However, Ontario Regulation 464/97 provides that SEAC selects its Chair and Vice-Chair from among SEAC members. TDSB cannot limit who SEAC members choose as their Chair or Vice-Chair from among all SEAC’s members.

This year, SEAC selected both its Chair and Vice-Chair from members, neither of whom are trustees. It was open to SEAC to do so.

TDSB should instead restrict itself to adopting policies or procedures which it can adopt without running up against provincial regulations that create and mandate SEAC. It is unfair and wasteful to burden volunteer members on SEAC with having to parse such legal questions as which parts of the new TDSB policies and procedures may be inconsistent with Ontario regulations that create SEAC. Some if not most of these volunteers may not have extensive familiarity with administrative law principles or the rules of statutory interpretation that govern such questions.

1. I have given a strong commitment to my SEAC colleagues to concentrate the time and effort of SEAC on substantive actions that will improve educational opportunities for students with special education needs. I committed to avoid diverting their attention to unproductive, time-consuming, “inside baseball” procedural issues regarding SEAC’s operations. On their face, these new TDSB policies and procedures risk creating just that diversion from substantive issues that relate to our children.

These policies and procedures for Community Advisory Committees appear regrettably divorced and detached from the needs of vulnerable students with special education needs. In other words, as one reads through these materials, there is little if anything in them that would materially help the circumstances facing students with special education needs at TDSB.

1. TDSB should review these policies and procedures to assess what new time burdens they would impose on volunteer Community Advisory Committee members. TDSB should then discuss with SEAC whether and to what extent that is the best use of their limited volunteer time.
2. These materials refer to commitments regarding Indigenous Peoples and racialized persons. However, they do not appear to say anything about TDSB’s duty to ensure equal educational opportunities for students with disabilities. That is a fundamental legal and constitutional duty that is required by the Canadian Charter of Rights and Freedoms, the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act. They do not refer to the TDSB’s duties under the Convention on the Rights of Persons with Disabilities. These major omissions should be rectified.
3. While spelling out a series of procedural expectations at Community Advisory Committees, these materials do not mention, much less do they effectively address, TDSB’s duty under the laws listed above to effectively accommodate members with disabilities on Community Advisory Committees such as SEAC, so that they can fully and effectively participate in those Committees on a footing of equality. TDSB’s duties, specified in these protocols, should be revised to spell out and effectively implement this duty.
4. Overall, several SEAC members have expressed a serious concern that these materials create a perception that TDSB is attempting to micro-manage the work of Community Advisory Committees – community-based bodies who should be free to manage their operations and who exist to give TDSB their best independent advice. TDSB is, of course, always free to accept or reject that advice.
5. These protocols do not ensure that a recommendation formally passed by SEAC is promptly transmitted to all trustees for their collective consideration and that SEAC is afforded an opportunity to have a hearing with respect to that recommendation, if requested, before all trustees (and not merely before a committee of some trustees),.
6. TDSB did not provide SEAC with a fair and timely opportunity to provide input before these documents were approved. SEAC members received notice of a consultation on these materials just a few days before the deadline for giving feedback. This is inconsistent with TDSB’s oft-repeated commitment to a philosophy of “parents as partners.” It is important to remember that many of SEAC’s members are parents of children with complex needs. Given the time pressures that they live with daily, they are often not in a position to rapidly analyze such complex documents and provide feedback.

SEAC welcomes any opportunity to assist TDSB with these questions. I appreciate your taking the time to read this letter.

Sincerely,

David Lepofsky CM, O. Ont

Chair, TDSB Special Education Advisory Committee