# Report to Toronto District School Board Special Education Advisory Committee

# from SEAC Chair David Lepofsky for the June 5, 2017 TDSB SEAC Meeting

Date: May 31, 2017

By: David Lepofsky, CM., O.Ont,

Chair

Toronto District School Board Special Education Advisory Committee

# 1. Introduction

Please note that the meeting room for our June 5, 2017 meeting has changed. We will meet in the same building 5050 Yonge Street, but in **Committee Room A**.

We have an even more jammed-packed meeting for June 5, 2017 than we have had in recent months, and all our recent meetings have been quite jammed. This report is somewhat longer as a result of our full agenda. I hope it helps you prepare, and look forward to seeing you all.

I encourage everyone to please arrive before 7 pm, so we are sure to have a quorum before we start. At our last meeting, we were short of a quorum for the first couple of minutes.

It may be necessary to extend our meeting to as late as 9:30 pm, but I aim to avoid doing this if at all possible.

# 2. Final Vote on Wording of Motion #5 Recommendation 3 (a)

I plan for us to take a final vote at our June 5, 2017 meeting on the wording for Recommendation 3 (a). I am not proposing to invite any further debate on this at our June 5, 2017 SEAC meeting. This is because it has been the subject of a long, fantastic and totally thorough debate and discussion over several meetings, and over many emails. Of course, we are all free to share any further thoughts on this topic over email before our June 5, 2017 meeting.

As I indicated at our last meeting, I propose to place before SEAC at our June 5, 2017 meeting the different options for the wording of Recommendation 3 (a) which have been shared among us. The four options that resulted from all these exchanges are set out below. I propose to invite a vote on each one at a time, either in favour, against or abstain. SEAC members can vote on every single one of them. In other words, you can vote in favour of more than one, or against more than one, if you wish. If you like two of them, plan to vote in favour of both of them. What we submit to the TDSB trustees will show the votes recorded on each option. I believe this is the best way to capture the diverse views of SEAC on this important topic.

I am also closing the process of adding any other wording options. Through our previous meetings and the email exchanges since our last meeting, there has thankfully been ample opportunity to get more wording options on the table.

On this important issue, TDSB trustees will get to see the spectrum of different wording that SEAC members offered, and the preferences each garnered among SEAC's membership.

**Wording Options**

Please remember that this part of the Motion deals only with inclusion Vis a Vis students with disabilities. Gifted students with no disabilities are covered elsewhere.

This specific vote is also not a debate or vote on whether TDSB should offer special education classes.

For your assistance, only one of these four options uses the word "segregated", Option #1. Options 2, 3 and 4 do not. Options 3 and 4 do not use the "last resort" language that several SEAC members wished removed. Each option makes parental preference prevail in these decisions. As such, our menu has ample choices to help you express your preferences.

Here are the 4 options, on which I will invite votes:

## Option #1: Original Wording in Motion #5 Considered at SEAC April 2017 Meeting

*3 (a) Consistent with voluntary parental choice, students with disabilities should be educated in the least restrictive environment with needed educational accommodations promptly put in place. Segregation of a student with a disability should be the last resort. It should only occur with parental consent, and after all less restrictive alternatives have been considered and rejected.*

## Option #2 Paula Boutis's Wording Discussed at May 2017 SEAC Meeting

*3 (a) Placement of a student with a disability in a special education class should be a last resort. Consistent with the Education Act, prior to placing a student in a special education classroom, TDSB, except where there is voluntary informed parental consent, should seek to ensure that a child, as a first option, is placed in a regular classroom with appropriate special education services and supports being implemented.*

## Option #3: Wording Proposed by Melissa Rosen

*3 (a) Placement of a student with a disability in a special education class should be as a result of rigorous parental consultation and in the most enabling environment. Consistent with the Education Act, prior to placing a student in a special education classroom, TDSB, except where there is voluntary informed parental consent, should seek to ensure that a child, as a first option, is placed in a regular classroom with appropriate special education services and supports being implemented.*

## Option #4: Paul Cross's Wording

*3 (a) Consistent with the Education Act, prior to placing a student in a special education classroom, TDSB, except where there is voluntary informed parental consent, should seek to ensure that a child, as a first option, is placed in a regular classroom with appropriate special education services and supports being implemented.*

# 3. Proposed SEAC Motion #6 on TDSB's Use of Its Power to Refuse to Admit a Student to School" (Also sometimes called "exclusion from school")

At our May 1, 2017 SEAC meeting, TDSB staff member Ted Libera, Central Coordinating Principal for Caring and Safe Schools, reported on the lack of a formal policy or procedure on how TDSB will use its power to refuse to admit a student to school. At our earlier February 2017 SEAC meeting, Robert Lattanzio, Executive Director of the ARCH Disability Law Centre, reported to us on serious problems with the use of this power in school boards in Ontario (not limited to TDSB).

I earlier placed before SEAC a draft Motion #6 to respond to this. We will be receiving from TDSB an updated draft policy or procedure on this issue in advance of our June 5, 2017 SEAC meeting. We can give feedback on that draft and can consider whether to pass our Motion #6, either as written or with revisions. I am asking Margo Ratsep to again include the draft Motion #6 in our meeting materials for this meeting.

After our May 1, 2017 SEAC meeting, I made a presentation to TDSB's Program and Student Services Committee on May 3, 2017. As part of this, I reported to TDSB trustees on the troubling information we had learned about the "refusal to admit" power. As we have heard, there is no TDSB policy or procedure on it. It is left to the discretion of each principal. That risks its arbitrary use. Moreover, TDSB did not track or require principals to report on each use of this power, making things worse.

At that PSSC meeting, TDSB Director of Education John Malloy reported that TDSB staff is now working on addressing these issues. I have made it clear that this is a special education issue, though the power to refuse to admit is not limited to students with special education needs. I have also made it clear that SEAC would like to be involved in the development of policy and procedures in this area, by offering our advice and input.

This is a clear illustration of SEAC bringing out an important and troubling issue, and our efforts fueling reform. I want to reiterate something I said at the May 1, 2017 SEAC meeting on this subject. I have not yet been able to imagine a single fact situation where a principal would ever need to resort to the "refusal to admit" power. That would have to be a situation where the principal cannot effectively justify a suspension or expulsion of a specific student under the Education Act, and yet there is such a pressing need to take the extraordinary step of barring that very student from coming into school using the "refuse to admit" power. I will encourage TDSB staff to address this. If there is no fact situation, real or hypothetical, where it would be justified to bar a student from school under the "refusal to admit" power, and yet the student could not be suspended under the school's power to suspend, then TDSB should restrain its principals from using its "refusal to admit" power.

# 4. Clarification Regarding Recommendation #7 in SEAC's Motion #5 Regarding Congregated Schools

Just before and after SEAC's May 1, 2107 meeting I received some emails and two delegation requests. These raised concerns primarily about Recommendation #7 in SEAC's Motion #5. That recommendation deals with congregated schools at TDSB, i.e. schools which only have students with special education needs. Two people will be making delegations to SEAC on this at our June 5, 2017 meeting.

Among concerns raised with me in writing or in conversations are the following:

1. A concern that SEAC was recommending in Motion #5 that all students with special education needs must only be educated in regular classrooms, and that any and all special education classes must be abolished.
2. A concern that SEAC's recommendation does not recognize the value of the education, supports and services provided to students with special education needs at the congregated schools, or reflects a view that those programs and services are of no value to those students.
3. A concern that SEAC's recommendation does not take into account the full range of needs of students with more severe disabilities or more complex needs, and that SEAC's recommendations are based on the needs of students with disabilities with greater abilities or levels of function.
4. A concern that SEAC's recommendation does not recognize the need for each student's needs to be individually assessed when deciding what educational placement, supports and services they need.
5. A concern that under SEAC's recommendation, students with special education needs now receiving their education at a congregated school would or could be forced to leave that school and/or to lose the services, supports and expertise of the staff at those schools.
6. A concern that SEAC's recommendation calls for all the congregated schools to be shut down, and for the educational programs, services and supports offered there to be eliminated, with the loss of expertise accumulated by their professional staff.

I briefly addressed some of these concerns at the start of SEAC's May 1, 2017 meeting. I here expand on what I said at that meeting.

I want to make it very clear that our Motion#5, including our Recommendation #7 in that Motion, is not meant to convey *any* of the messages, listed above. SEAC's motions do not call for the abolition of Intensive Support Programs, classes specifically for students with special education needs. SEAC's recommendations do not call for any abolition of the Intensive Support Programs that TDSB now offers at TDSB's congregated schools.

SEAC's recommendations do not question that good staff are delivering good programs in congregated schools. It does not question that students in those schools need and benefit from the programs, services and supports they now get in those schools.

SEAC's Motion #5, and all its earlier reform recommendations, are built on the solid starting point that each student's needs at TDSB must be individually assessed, and effectively addressed. That goes for *every student* with special education needs, whatever their needs may be, and no matter what their disabilities may be. SEAC's recommendations concern students with all kinds of disabilities. SEAC's recommendations also urge that parental choice must always prevail when it comes to the placement of students with special education needs.

Of course, SEAC only makes recommendations to TDSB. It does not govern or manage TDSB. It is up to TDSB to accept some, all or none of SEAC's recommendations.

If TDSB were to accept SEAC's recommendations, parents need not fear that they must now fight a rear-guard battle to preserve the services that their children now receive at congregated sites. SEAC's Motion #5 makes it clear in three different ways that families of students now at a congregated school should be allowed to remain there, and to get all the services and supports they now get, if that is their preference:

a) Recommendation 7, that is the prime focus of concerns raised above, makes it clear that if TDSB accepts it, any student now receiving education in a congregated school should have the right to continue to receive their education there, if that is what the parents wish.

b) Recommendation #4 (c) states that no students with special education needs should be put in a worse position by the transition from TDSB's current approach to inclusion. It calls for strong safeguards for this, and for these to be monitored.

c) Recommendation #8 urges that TDSB should minimize the times when students with special education needs are shuffled from attending one school to another school.

Recommendation 7 is meant as a discrete and limited proposal: It in effect recommends that the education, services and supports offered in any and all TDSB congregated schools need not be delivered in a school building where only students with special education needs are permitted to go to school, and where absolutely *no* students without disabilities are also receiving their education somewhere in the same building.

TDSB should review its programs with this in mind, as a long term activity. It is not meant to call for the closing of any schools and the cancellation of any supports or services now offered. There does not appear to be any educational reason why those students now attending those schools can only ever be safely and effectively served in a school building in which no students without disabilities also receive their education, elsewhere in the same building space permitting, (such as siblings ) who have no disabilities.

At least some of the congregated schools now periodically bring in students without disabilities to visit and interact, sometimes called "reverse integration". If a specific student with complex disabilities had medical or pedagogical reasons why they should not ever interact with or be close to any students without disabilities at school, TDSB should be able to create a way to effectively accommodate that need, as it would have to do now, during such "reverse integration" activities.

If, for example, TDSB decided in its long term planning to replace one of the existing congregated school buildings with a brand new one, it can design that new building to include all the space, resources and supports now offered there for students with special education needs. It could also endeavor to add another wing in which students without special education needs could study. This would not take away from the special education, services or supports offered in that new building. It would not eliminate or reduce the Intensive Support Programs offered there. It would create a greater possibility for these students to interact, not as visitors and hosts, but as fellow students all studying somewhere under the same roof.

It is always very much appreciated and valued for any families, parents or others to take the time to voice any views they have about anything SEAC does, including concerns or criticisms. Recommendation 7's heading may well have led to some or all of the concerns expressed to us. It states: "Phase Out Schools that Are Entirely Segregated"

The body of that recommendation states:

*"TDSB should develop and implement a long-term plan to ensure that none of its schools is entirely segregated exclusively for students with disabilities. This should be done over a reasonable time. It should be done without displacing any students now situated in one of those schools absent the consent of the student or their family. In the interim, TDSB should create as many opportunities as it can for students in those special education schools to learn and interact with students without disabilities during the school day, with an emphasis on working towards those students' future employment opportunities."*

On reflection, the heading can easily be read as going much further than the text of the recommendation itself. A replacement heading like: "Congregated Schools" could address this.

# 5. Ontario Government Launches Survey on Accessibility Barriers in Ontario's Education System

The Accessibility for Ontarians with Disabilities Act Alliance, which I chair, has been leading the non-partisan campaign to get the Ontario Government to develop and enact an Education Accessibility Standard under the AODA. I reported at our December 5, 2016 SEAC meeting that Premier Wynne had that day finally agreed to her Government creating an Education Accessibility Standard, to tear down the many accessibility barriers that students with disabilities face in Ontario's education system.

Over the following period of almost six months, we at the AODA Alliance have led the campaign to get the Ontario Government to start the process of appointing the Education Standards Development Committee. That is the committee that will make recommendations to the Ontario Government on what the promised Education Accessibility Standard should include.

On May 25, 2017, the Ontario Government at last started that recruitment process. In a broadcast email, it invited members of the public to apply to serve on the Education Standards Development Committee. I myself will be applying to serve on that committee.

In its May 25, 2017 announcement, the Ontario Government has also launched a public survey about accessibility barriers that students with disabilities face in Ontario's education system. The Ontario Government invites feedback via this survey by July 14, 2017. The Ontario Government also invites school boards to conduct their own events, such as public forums, to gather information on accessibility barriers in Ontario's education system.

Unfortunately, the Ontario Government's survey is far too narrow, and disregards many of the important accessibility barriers in Ontario's education system that the Ontario Government was told about last fall. Fortunately, the survey leaves it open to anyone to discuss any kinds of accessibility barriers in Ontario's education system, not just the five limited and incomplete categories of accessibility barriers that the survey focuses on.

The Ontario Government's timing of this announcement presents real practical problems for school boards such as TDSB. The school year is almost over. It is not realistic to fully engage students, teachers, other school staff and parents in time to meet the Ontario Government's July 14, 2017 deadline. It is very regrettable that the Ontario Government took almost six months to develop this short and incomplete survey.

Speaking for myself, I believe it would be fantastic if TDSB would this fall launch a comprehensive series of activities, involving student, school staff and parents, to learn about and compile a list of the accessibility barriers in Ontario's education system and what can be done to fix them. This could be a fantastic educational project. Students can learn about the different kinds of disability accessibility barriers (not just the lack of ramps for people using wheelchairs). Students could then do barrier scavenger hunts. The project could conclude with students researching online and otherwise, to find options for overcoming these accessibility barriers.

This project would also be directly responsive to SEAC's Motion #5 which calls, among other things, for educational activities to enlighten students, school staff and parents about disability accessibility and inclusion. I would hazard a prediction that many if not all SEAC members would support such an effort at TDSB. Some may be interested in helping out.

Based on my knowledge as chair of the AODA Alliance, any information gathered on this in September and October would still be timely and helpful for the Education Standards Development Committee, once the Government appoints it. There is no loss in conducting this activity in the fall, rather than rushing to try to do it now, in the last four weeks of school.

For more on the Ontario Government's announcement, visit: <http://www.aodaalliance.org/strong-effective-aoda/05292017.asp>

# 7. Response to the May 2017 TDSB Staff Report to the Program and Student Services Committee on Digital Accessibility at TDSB

At the May 3, 2017 meeting of the TDSB Program and School Services Committee PSSC, TDSB staff presented a report to the trustees on progress on digital accessibility. This clearly came as a response to SEAC's Motion #4, passed on June 13, 2016, on the subject of digital accessibility. This report will be included in your meeting package, and will be posted on the SEAC website.

I want to offer a few reflections on the TDSB digital accessibility report:

* It is commendable that TDSB staff have decided to take action on SEAC's Motion #4, and to report to PSSC on this.
* It was more than ironic that TDSB's staff report on digital accessibility was sent to me at that meeting with appendices that were themselves entirely inaccessible.
* The report states:

*"The Purchasing Department includes statements regarding digital and information technology accessibility criteria in all Requests for Proposal (RFP) and other tenders for sale of products and services, including hardware and software."*

It would be helpful for SEAC to see what text is included on accessibility, so we can give input on whether it is sufficient. It would also be helpful to learn how this has affected TDSB's actual purchasing decisions? Have any venders been turned down due to insufficient accessibility of their products? Has accessibility remediation been built into any contracts?

* The report states:

*"• Various tools are used to test the Board website for WCAG 2.0 (World Wide Web Consortium Web Content Accessibility Guidelines) compliance. The Board’s public website (http://www.tdsb.on.ca) is compliant with Level A standards and is working towards Level AA compliance in accordance to AODA timelines. To ensure TDSB school website compliance to AODA requirements, schools must use the Board content management tool provided to them by Web Services to build and manage their sites. The School Sites/Academic Workspace redesign project is underway to build a common framework between these two systems in order to support accessibility."*

This is certainly not my consistent experience either with the TDSB website or with documents produced by TDSB, such as its digital accessibility report and the many PDFs the TDSB staff regularly produce.

* The report states:

*"• It is expected that electronic documents created by the Board will be available in accessible formats after staff are fully trained in document accessibility. A training plan for staff will follow the initial pilot group training scheduled for April 5, 2017."*

It is good that TDSB plans this training. It is indeed troubling that such training had not been undertaken before now, when the AODA has been on the books since 2005. It has been a year since we passed our Motion #4 on digital accessibility. I have pointed out several times when TDSB has sent me or the public inaccessible documents.

* The report repeatedly talks about AODA compliance. Stronger digital accessibility requirements arise from the Ontario Human Rights Code This plan should address these higher requirements.
* It is commendable that the report repeats that TDSB is creating the position of Accessibility Coordinator, responsible for all accessibility compliance. SEAC had recommended that TDSB create a new position, the chief accessibility officer. This too is an illustration of our input having the potential to make a difference. It is important that that position not be buried down in the TDSB bureaucracy. It should report to the Director of Education. Where it is not given this profile in the hierarchy, past experience elsewhere shows that the position is far less effective.
* The report does not set out a comprehensive plan to review TDSB's digital assets to identify digital accessibility problems. It does not provide for any teacher training on adaptive technology used in that teacher's classroom. Lack of teacher training on the adaptive technology used by a student in the classroom can constitute a real accessibility barrier.

# 8. CNIB's Offer to Present to TDSB Students on Vision Loss

CNIB Toronto has extended an offer to make presentations in TDSB schools on blindness and vision loss. I attach at the end of this report the sample letter CNIB sent me to share with SEAC. This requires no SEAC decision or action. I share it at the end of this report, for your information. The offer from CNIB could be incorporated into a fall TDSB strategy for barrier scavenger hunts.

# 9. Use by SEAC Members of their SEAC Membership on Letters They Write to Public Officials

In an email exchange over the past weeks among some SEAC members, the question was raised with me about whether, when or how SEAC members should identify themselves as a member of TDSB's SEAC, when they write their own letter to public officials or others. As SEAC's chair, I offer the following approach:

Any SEAC member who wishes to write any public official or other person on their own behalf, is of course always free to identify themselves as a SEAC member in their letter, including in their signature line, e.g. by simply signing a letter:

"John Smith, Member of the TDSB Special Education Advisory Committee"

To do that does not suggest in any way that the writer is speaking for SEAC as a whole on the letter's contents. However, I generally recommend against identifying oneself as a "SEAC representative" in such correspondence. It could leave the impression that your letter speaks for SEAC as a group.

I believe this captures the spirit of exchanges on this issue. I recognize that we all learn as we take part in this important work together. I hope this helps.

# 10. Sample Letter from CNIB to a TDSB School



Dear [teacher]

CNIB (The Canadian National Institute for the Blind) is moving into your neighbourhood at 1525 Yonge Street, and this means that thousands of people with sight loss will be coming to our area over the next few years. We want to raise awareness in the community to make sure our neighbourhood is inclusive and accessible to all, including your students!

We would love to come and talk to students at your school about living with sight loss, so they are prepared when they see more blind and partially sighted people out in the area. Our outreach work is carried out by CNIB Ambassadors, who are trained CNIB representatives that are blind or partially sighted.

During the Ambassador visit, your class with learn all about:

* The Ambassador's sight loss story and overcoming adversity
* How people use guide dogs to navigate
* What the white cane means
* How people who are blind read, and carry out other daily activities
* How they can help people who are blind in the community
* Understand diversity and become more inclusive
* How to volunteer with CNIB (high school students only)

We would love to visit your school in the Fall, or you can also book a class trip to our new community hub at 1525 Yonge St (Yonge and St Clair) so your students can learn hands-on in our accessible space. Ambassador presentations and visits to our community hub are free, and can range from 45 minutes to an afternoon, depending on your needs. Please book at least one month in advance.

For more information, or to arrange a CNIB Ambassador visit or class trip, please contact Ray Smith, Coordinator Advocacy & Stakeholder Relations at Ray.Smith@cnib.ca or 416.486.2500 ext. 7209.

We look forward to hearing from you soon!

Yours sincerely,

The CNIB GTA team

**11. Correspondence Received by the Chair**

1. Email dated Mail 29, 2017 from Carlo Ang Re: Request for Presentation to SEAC Jun 5 (UPDATED)

2. Email dated May 26, 2017 from Nicole Payette Re: Request for a Delegation to SEAC

3. Email dated May 12, 2017 from Janine Suboch Re: K-8 TDSB schools with HSP, LD, MID under same roof?

4. Emails dated May 2, May 16 and May 25, 2017 from Rhonda McEwan re: Information request - SEAC parent survey dataset

5. Email dated April 29, 2017 from Toronto Family Network re: SEAC meeting Monday May 1 docs (see below)

From: Toronto Family Network
Sent: Saturday, April 29, 2017 12:00 PM
Subject: SEAC Meeting Monday, May 1 docs

Hi David and Alexander,

We understand that the online parent survey will be addressed at Monday's meeting. David, we noticed in your Chair's Report that the survey needs to be better communicated to parents and suggestions are being sought regarding how this might be done. We would like to offer that a survey like this needs to be sent through the school councils in addition to principals providing this information to all staff to hand out to parents of students who are receiving special education services. In order for the survey to be accessible to everyone, it should also be made available in several languages. As we are all aware, many of the students receiving special education services are from different racial, cultural and language backgrounds and socio-economic groups. We feel it is important to keep in mind that not all families know about SEAC and the website where the survey can be found, let alone have a computer or access to the Internet.

We also see that the results of the survey indicate staff of the Board is in noncompliance of the law.  As we all know, it is the legal duty of the trustees (Education Act) to ensure that staff comply with the law. This raises the question what steps will trustees take to deal with this matter.

We also notice that feedback is being sought regarding special education information brochures. We would like to share with you that we provided extensive feedback regarding the content of the brochures last July. At our meeting, Uton said he would like to review what we had found in those brochures that were inaccurate and/or misleading due to omission. Reva actually rewrote all of the brochures (I believe there were 5 or 6 in total) so they would be in keeping with the legal requirements and she gave them to Margo as requested by Uton. We had done the same with the Special Education Plan. Reviewing the brochures and Plan took many hours of our time and we were hopeful that providing this feedback would be shared widely and benefit everyone.

We also noticed in your Chair's Report under Ontario Government's Special Needs Strategy that mention is made to a report by Rae Roebuck that was circulated to SEAC members via email for feedback. As this is a public board, could this report please be posted under SEAC on the Board's website? (Perhaps it is already there and we are having difficulty finding it.)

David, you mentioned also in your report about building a relationship with the Toronto Catholic SEAC. What a wonderful idea. Just to let you know, based on our experience, the Toronto Catholic board take notes at meetings which are read out to confirm as accurate and everyone in attendance signs off on the minutes. This includes IPRC and IEP meetings.

More relevant info we are sharing widely:

[**http://inclusiveeducation.ca/wp-content/uploads/sites/3/2013/07/Porter-and-Towell-Advancing-IE-2017-Online-FINAL.pdf**](http://inclusiveeducation.ca/wp-content/uploads/sites/3/2013/07/Porter-and-Towell-Advancing-IE-2017-Online-FINAL.pdf)

ADVANCING INCLUSIVE EDUCATION Keys to transformational change in public education systems by Gordon L. Porter and David Towell

[**http://inclusiveeducation.ca/wp-content/uploads/sites/3/2017/03/Legal-Framework-Inclusive-Education-Jody-Carr-Dec-30-2016.pdf**](http://inclusiveeducation.ca/wp-content/uploads/sites/3/2017/03/Legal-Framework-Inclusive-Education-Jody-Carr-Dec-30-2016.pdf)

Research was carried out in cooperation with ARCH Disability Law Centre and Inclusive Education Canada.

[**http://inclusiveschools.org/**](http://inclusiveschools.org/)

A web-based educational resource for families, schools and communities that promotes inclusive educational practices by sharing insights and best practices and by providing opportunities for connection.

We hope this is helpful.

We plan to be there Monday evening.

Have a nice weekend.

*Janis and Reva*