# Special Education Advisory Committee (SEAC)

MEETING NOTICE – Thursday December 7, 2017 at 7:00 pm

Association for Bright Children (ABC) Melissa Rosen

Autism Society of Ontario – Toronto Lisa Kness

Brain Injury Society of Toronto (BIST) regrets

Community Living Toronto *vacancy*

Down Syndrome Association of Toronto Richard Carter

Easter Seals Ontario Deborah Fletcher

Epilepsy Toronto Steven Lynette

Integrated Action for Inclusion (IAI) Margarita Isakov

Learning Disabilities Association Toronto *vacancy*

VIEWS for the Visually Impaired David Lepofsky

VOICE for Hearing Impaired Children Paul Cross

TDSB North East Community Aline Chan Jean Paul Ngana

TDSB North West Community Curtis Bulatovich

TDSB South East Community regrets

TDSB South West Community Paula Boutis

TDSB Trustees Abdul Patel

Regrets: Diana Avon (ABC), Olga Ingrahm and Diane Montgomery (SE Community), Cynthia Sprigings and Melissa Vigar (BIST), Nora Green (SW Community), Dick Winter (SE Alternate), Jordan Glass (NW Alternate), Trustee Alexander Brown, Trustee Alexandra Lulka

TDSB Staff Present: Uton Robinson, Executive Superintendent, Special Education and Section Programs

 Lynn Strangway Superintendent of Education, Learning Centre 2, Learning Network 13

 Lori Moore, Centrally Assigned Principal for Special Education

 Jennifer Newby, Centrally Assigned Principal, Learning Centre 4

 Margo Ratsep, SEAC Liaison

 Lianne Dixon, Vice Principal, retired

Minutes by: Margo Ratsep

**MINUTES**

*(All notes included in these minutes are paraphrased by the recorder.)*

1. **Call to Order**

The meeting was called to order at 7:03.p.m. Paula Boutis substituted as Vice Chair. The Chair welcomed everyone and invited members around the table to introduce themselves. He announced Trustee Abdul Patel is replacing Trustee Pamela Gough on SEAC as the result of board reorganization. He commented on the work already accomplished by SEAC through motions made to date, highlighting the collaborative work done by members with a diversity of viewpoints to provide valuable recommendations and advice to the board. Moving into the municipal election year, he sees an opportunity to advocate for action on what SEAC has already recommended.

1. **Declaration of Possible Conflicts of Interest**

No conflicts of interest were declared.

1. **Approval of the Minutes for SEAC Meeting of Monday, November 6, 2017**

Emailed requests were made to amend the minutes by clarifying wording under Item 5, (third to last bullet); Item 6 (a member’s request for information) and by noting correspondence that had been received (added as new Item 9). On motion by Paul Cross, the Minutes of November 6, 2017 were approved as amended.

1. **Retirement of Margo Ratsep**

The Chair and Executive Superintendent Robinson thanked the SEAC Liaison for her years of service in support of SEAC and gave best wishes from all SEAC members and presented her with a thank you gift.

1. **Motion # 6 “Refusals to Admit”**

The Chair introduced guest Luke Reid, legal counsel at the ARCH Disability Law Centre and reviewed the history of Motion #6, from the initial presentation on the topic in February through the first draft SEAC motion and feedback in the follow-up SEAC meetings in May, June and November 2017 meetings. He presented the draft motion, in which he has tried to capture the latest round of feedback and to make it clear and more concise. The voting process followed past practice: SEAC members review each motion item, identifying items that require further discussion (with discussion to take place before voting), and voting on items for which further discussion is not needed.

Initial input before voting on the Motion:

* In response to the inconsistent use of the words ‘should’ and ‘must’ in the motion, a friendly amendment was adopted to use ‘should’ in place of ‘must’ since SEAC is an advisory group.
* A friendly amendment was adopted to replace ‘he or she’ with the actual subject.

There was insufficient time to complete voting on all items of the motion. Items 1 to 5 were carried without votes in opposition. The Chair requested that Motion # 6 items 1 to 5 be forwarded to the January meeting of the Program and School Services Committee (PSSC). See Appendix A for SEAC Motion # 6.

**Additional Motion (added to the agenda)**

A change in the agenda was made to allow a new motion brought forward by the Association for Bright Children. ABC Alternate Melissa Rosen proposed the motion, stating it affirmed ideas which SEAC members have already indicated agreement on over the course of the year. Melissa Rosen spoke to the background of the motion and read the motion, seconded by VOICE representative Paul Cross.

The Chair expressed concern that he had not seen the motion before the meeting, that a print copy of it was included in the hard copy materials provided that evening to SEAC members but not provided in an accessible alternative format, and that the motion needed greater discussion. He invited Executive Superintendent Uton Robinson to share additional information about the topic of the motion. Uton explained that a decision had not been made regarding any recommendations in the Enhanced Equity Task Force (EETF) report. In result of input received during the consultation process, the report is being revised and will be available on-line December 9th. He pointed out that contrary to a statement in the background accompanying the motion, there has been lots of input during the consultation period and that recommendations made by SEAC are to be taken into consideration. No definitive vote will take place at the December 13th board meeting. The process has the board voting to “receive” the report at the meeting. Receipt of the report will be followed by further deliberation and more opportunities for public consultation. Uton emphasized the need to see the final report rather than relying on the current version posted.

Trustee Patel confirmed that trustees are just receiving the report on December 13th, not voting on it.

Discussion followed, with the following points being made:

* The overall timeline is too short. The one opportunity offered for feedback by parents will be a January 31st delegation opportunity, with a final vote by the board at the beginning of February.
* The ABC motion does not speak to the concerns of all members of SEAC focused on greater inclusion
* SEAC needs to follow an orderly and fair process by which everyone can provide input. The draft EETF report is being revised. If wanting SEAC to comment on anything in the EETF report, would have given notice to read the report, share advance concerns, reviewed the report together and then brainstorm around the table. None of this has happened, making it difficult to comment on anything.
* The concern is education policy and the ideas already mentioned, not just the EETF report
* Object to voting on a motion have not had an opportunity to read. The SEAC needs to be attuned to accessibility needs.
* The draft EETF report has things that are contrary to motions SEAC has passed in the past and that are harmful to students represented by SEAC members
* This motion will not negate the work done on inclusiveness
* A suggestion that Trustee Patel take this concern to the meeting and express SEAC’s concern that the recommendations not be pushed too fast.

During the discussion, Melissa Rosen adopted a number of wording changes in the motion as friendly amendments and removed the background statements. See Appendix B for the revised Motion.

The Chair argued that the motion is largely premature and that what might be beneficial to address concerns about the content of the Enhanced Equity Task Force (EETF) Report and the consultation process, would be for the board to increase the amount of time available for the final draft report be reviewed and to permit more public input.

Melissa Rosen called for a vote on the motion. She closed discussion by clarifying that although the Enhanced Equity Task Force (EETF) is part of the process, the motion is not about EETF. The motion addresses program and service movement in a certain direction that many exceptionally advocates would be concerned about.

1. **Setting SEAC Priorities for 2018**

Deferred to the January meeting

1. **Staff Updates and Requests for SEAC Input**

Deferred to the January meeting. Paula Boutis and Richard Carter volunteered to review the brochures and send in feedback for the January meeting.

1. **Association Reports**

Epilepsy – 2nd Annual Holiday Celebration is running from now to December 23 at Nathan Phillips Square.

1. **Other Business**

Uton Robinson thanked Margo for her many years of service and presented her with a parting gift of a large Poinsettia. Lack of time prevented other new business.

1. **Adjournment**

The Chair thanked SEAC members for all their energy and efforts over the past year and extended his best wishes for the holiday season. On motion of Steven Lynette the meeting adjourned at 9:17 p.m.

Reminder: The next meeting is on Monday, January 15, 2018

**Appendix A**

**Toronto District School Board Special Education Advisory Committee (SEAC)**

**Motion #6 Need for TDSB to Establish A Policy on "Refusals to Admit"**

**Draft #4 November 26, 2017 (Revised at the meeting and renumbered prior to voting)**

## BACKGROUND

At its February 2017 meeting, SEAC received a presentation by the ARCH Disability Law Centre. It raised concerns that school boards, including TDSB, at times inappropriately use "refusals to admit" students to school. This issue can significantly affect students with special education needs and all students with disabilities. A school or principal may tell a their family to keep the student at home for hours, days, or longer, without giving reasons or following safeguards required when a student is suspended or expelled.

ARCH told SEAC it learned that TDSB did not then centrally collect statistics on how often these exclusions occur. ARCH expressed concerns (not limited to TDSB) for example, that a school may tell a family to keep a student with a disability at home, either because proper accommodations have not yet been arranged at school, or because supports, such as a Special Needs Assistant, were away. ARCH said when ARCH lawyers intervene, these situations are more likely corrected (again, not limited to TDSB).

TDSB staff made presentations to SEAC at its May, June and November 2017 meetings. TDSB staff said TDSB has no policy on the use of refusals to admit. Practices can vary from school to school. TDSB has a procedure (not a policy) regarding appeals from a refusal to admit. TDSB staff have been working on draft reforms after SEAC raised this.

## RECOMMENDATIONS

SEAC recommends as follows:

### TDSB Needs a Refusal to Admit Policy

1. TDSB should promptly adopt a comprehensive, mandatory policy on when TDSB will exercise any power to refuse to admit a student to school. (Carried)

### What is a Refusal to Admit?

2. The refusal to admit policy should have no loopholes that would let a principal or teacher exclude a student informally without complying with the policy.

1. A "refusal to admit" should include any time TDSB formally or informally asks or directs that a student not attend school, or that the student be removed from school, whether in writing or in a discussion
2. A refusal to admit includes a TDSB request or direction that a student only attend school for part of the regular school day.
3. A refusal to admit does not include a situation where a family requests that a student be absent from school for all or part of a school day, but TDSB is willing to let the student attend school.

(All Item 2 elements were carried individually as amended.)

### Ensuring Alternative Education to Student Whom TDSB Refuses to Admit to School

3. The "refusal to admit" policy should require TDSB to ensure that a student, excluded from attending school, is provided an equivalent and sufficient educational program, and that TDSB keeps record of and publicly accounts for its doing so.

(Carried)

### When a Refusal to Admit is Allowed

4. The policy should specifically spell out the situations when TDSB can consider refusing to admit a student, including:

1. A refusal to admit should only be imposed when necessary to protect health and safety.
2. A refusal to admit should go no further and last no longer than is necessary.
3. A principal should only resort to a refusal to admit if the principal can demonstrate that the student presents an imminent risk to health or safety which cannot be addressed by lesser measures, such as suspension.
4. If a refusal to admit is to take place, the first resort should be to exclude the student from a specific class, accommodating that student in another class. Only if that can't be sufficient, should a principal consider excluding the student from that school, accommodating the student at another school. TDSB should only refuse to admit a student from any and all schools if it is impossible to accommodate them at any other school.
5. The policy should give clear examples of the circumstances when a refusal to admit is permitted, and when it is not permitted.
6. A refusal to admit should not be allowed to last more than five consecutive school days.
7. TDSB should justify the refusal to admit. It should not be for the student or the student’s family to justify why the student should be allowed to attend school.
8. When TDSB staff decide whether to refuse to admit a student, they should take into account all mitigating considerations that are considered when deciding whether to suspend or expel a student.
9. TDSB should not refuse to admit a student with a disability on the ground that TDSB staff believe they cannot accommodate the student's needs, e.g. because staff is absent.

### (All item 4 elements were individually carried as amended)

### Extension of Refusal to Admit

5. The policy should set these terms:

1. If after a refusal to admit expires, TDSB wants to extend it, TDSB staff must justify it.
2. The student's family need not prove why the student should be allowed to return.
3. An extension of a refusal to admit must first consider excluding the student from a single class, and then the option of excluding the student from that school, and only as a last resort, excluding the student from all schools.
4. An extension should not be permitted if TDSB has not put in place an effective alternative option for the student to receive education.

(All Item 5 elements were carried in a single vote.)

Due to lack of time, Motion # 6 Items 6 through 10 were not voted on and will be revisited in January.

### THE FOLLOWING MOTION # 6 ITEMS (amended at the meeting) WERE NOT VOTED ON

### Fair Procedure

6. The "refusal to admit" policy should set out fair procedures that TDSB must follow when refusing to admit a student. These procedures should ensure accountability of TDSB and its employees, including:

1. A student and their families should have all the procedural protections that are required when TDSB is going to impose discipline such as a suspension or expulsion.
2. The principal should be required to notify the school superintendent in writing that the principal is going to refuse to admit a student and the reasons for this.
3. The prior review and approval of the superintendent should be required. If it is an emergency, then the superintendent should be required to review and approve this decision as quickly afterwards as possible, or else the refusal to admit should be terminated.
4. The superintendent should independently assess whether TDSB has sufficient grounds to refuse to admit, and has met all the requirements of the TDSB refusal to admit policy (including ensuring alternative education programming is in place for the student).
5. The principal should be required to immediately notify the student and his or her family in writing of the refusal to admit, the reasons for it, and the duration. That should include outlining steps TDSB has taken or will be taking to expedite a student’s return to school and provide an expected timeline for the completion of these steps.
6. The principal should immediately tell the student and the family, in clear and plain language, in writing, what a refusal to admit is, its duration, the reasons for it, the steps TDSB is taking to expedite the student’s return to school and time lines for those steps, the TDSB's process for reviewing that decision, and the family's right to appeal it (including how to use that right of appeal). This should be provided in a language that the family speaks.
7. These procedures should again be followed any time TDSB extends a refusal to admit.
8. A refusal to admit should not be extended for an accumulated total of more than 15 days (within a surrounding 30 day period) without the independent review and written approval of the executive superintendent of the Learning Centre where that student ordinarily attends.
9. No refusal to admit should be extended for an accumulated total of more than 20 days (within a surrounding 45 day period) without the independent review and written approval of the Director of Education.

### Appeals

7. The refusal to admit policy should include a fair and prompt appeal process which includes:

1. The appeal should be to officials at TDSB who had no involvement with the initial decision to refuse to admit or any extensions of it.
2. TDSB should promptly inform the student and family about how to start an appeal, who is involved in the appeal, the procedures for the appeal, that the student and family can present reports, support people or experts or any other information they wish, and can have a representative, either a lawyer or other person, to speak for them or assist them with the appeal.
3. The appeal should include an in-person meeting with the student and family.
4. The appeal should be heard and decided very promptly.
5. On the appeal, the TDSB should have the burden to prove that the refusal to admit was justified, that it went no further and lasted no longer than was necessary, and that proper alternative education programming was provided or offered.
6. A decision on the appeal should promptly be provided in writing with reasons.

### Accountability and Transparency of TDSB's Use of the Refusal to Admit

8. The policy should include:

1. TDSB should set a specific code for marking attendance for a student who is absent from school for all or part of a day due to a refusal to admit.
2. Each principal should be required to immediately report to their superiors in writing whenever a student is excluded from school, including the student's name, whether the student has special education needs or otherwise has a disability, the reason for the exclusion, the intended duration of the exclusion, and the substitute educational programming that will be provided to the student while excluded from school.
3. TDSB should centrally collect these reports.
4. TDSB should make public quarterly aggregated data (without any names or identifying information) on the number of refusals to admit, reasons for them, percentage that involve , students with special education needs or any kind of disability, the number of days missed from school, and measures to provide alternative education during refusals to admit.

### Funding for Emergency Disability Accommodation Needs

9. To help ensure that refusals to admit are not used due to a failure to accommodate a student's disability, the TDSB should create an emergency fund for accelerating education disability accommodations needed to facilitate a student's remaining in or promptly returning to school, in connection with an actual or contemplated refusal to admit.

### Interim Safeguards

10. Starting immediately, and until a new "refusal to admit" policy is approved, TDSB should require that any formal or informal refusal to admit a student must be in writing, with reasons for it, and with the family being told of their right to appeal under the existing TDSB appeal procedure. TDSB should require that any refusals to admit during this period be centrally reported in writing, with statistics reported quarterly to the Board, the public and SEAC.

**Appendix B**

**Toronto District School Board Special Education Advisory Committee (SEAC)**

**MOTION (Revised at the meeting before voting)**

On motion of Melissa Rosen, seconded by Paul Cross:

Whereas SEAC recognizes and supports a very diverse variety of Special Education needs and the requirement for an appropriate variety of beneficial education options for the students both identified and not identified with Special Education needs in the TDSB; and

Whereas these options must be based on best practices, and education research on how to meet different students' needs, and should offer relevant options and real parent and student choice; and

Whereas in a Board of this exceptionally large size and diversity of needs, a variety of different options to meet different and diverse needs should be offered in appropriate classroom environments; therefore

The TDSB Special Education Advisory Committee (SEAC) recommends to the Toronto District School Board that the Toronto District School Board deliver a variety of appropriate education options to meet diverse Special Education needs, based on education research, feedback from educators, parents and students on all relevant options, and advocacy by those with specific involvement and experience with those specific exceptionalities.

The motion carried (8 in favour, 1 opposed, 2 abstentions).