**Special Education Advisory Committee (SEAC)**

## MINUTES for Monday, March 7, 2016 DRAFT

### SEAC – Representatives and (Alternates):

Association for Bright Children Diana Avon (Catherine Drillis)

Autism Society of Ontario – Toronto Lisa Kness (Ginny Pearce)

Brain Injury Society of Toronto Cynthia Sprigings

Community Living Toronto Clovis Grant (Margarita Isakov)

Down Syndrome Association of Toronto Richard Carter (Elaine Dodsworth-Lever)

Easter Seals Ontario Deborah Fletcher (Adebukola Adenowo-Akpan)

Epilepsy Toronto Steven Lynette (Sheelagh Hysenaj)

Learning Disabilities Association Toronto Mark Kovats

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 Phillip Sargent Jordan Glass

TDSB South East Community Olga Ingrahm Diane Montgomery (Dick Winters)

TDSB South West Community Nora Green Paula Boutis (Ken Stein)

TDSB Trustees Pamela Gough Alexander Brown Howard Kaplan

Regrets: Clovis Grant, Jordan Glass, Pamela Gough, Howard Kaplan, Mark Kovats, Ken Stein

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

Ian Allison, Coordinating Superintendent, Special Education and Section Programs

Angelos Bacopoulos, Associate Director of Education, Facilities and Urban Sustainability

David Perceval, Senior Manager Building Design and Renewal

Chris Broadbent, Manager, Occupational Health and Safety

Guests:Luke Reid, ARCH Disability Law Centre

Consuelo Rubio, Human Rights Legal Support Centre

Recorder: Margo Ratsep, SEAC Liaison

## Call to Order

## Chair David Lepofsky called the meeting to order at 7:02 p.m.

## Declaration of Possible Conflicts of Interest

No conflicts of interest were noted.

## Confirmation of Minutes

On motion of Lisa Kness, the Minutes of the February 1, 2016 SEAC meeting were adopted.

The Chair informed SEAC he would be tape-recording the meeting. No objections were raised. He invited SEAC members and staff to introduce themselves to the gallery. He reviewed steps SEAC has taken to address its established priorities and outlined what would be covered at this meeting. He reported on his activities since the last meeting, which has included delegating on behalf of SEAC to three Board Committees and submitting a written request to the TDSB Board Chair Pilkey, to be permitted to delegate at the upcoming full board meeting.

## Special Education Proposed 3 Million Dollar Budget Cut to Special Education

Update from Executive Superintendent Uton Robinson

Executive Superintendent Robinson had provided an update to SEAC in advance of the meeting about the process being followed in staff allocation. (See Appendix A) In the last sentence of that update, he reported that no school-based special education staff will be cut. He informed SEAC that the next step will be looking at central budget for cost savings, but that it would be premature to comment as to whether or not there will be reductions or on what may have to take place with central, since discussion and planning is still in progress.

In response to questions, he clarified to SEAC that:

* Central staffing includes individuals who are within Teaching and Learning as well as Professional Support Services (Psychology, Social Work, Speech/Language Pathology, Occupational Therapy/Physiotherapy) staff.
* Discussions around the allocation of school-based, non-special education staff (e.g., lunchroom supervisors), fall under the mainstream budget, but there are no planned reductions to special education lunchroom supervisors in intensive support programs.
* Special Incidence Portion staff allocation is part of an additional Ministry process to address the complicated needs of certain students. The allocation is based on a file that is submitted to and reviewed by the Ministry. Resources are brought forward from the Ministry. The breakdown requires the board to pay 75% of the costs and the Ministry 25%.
* The Director is moving forward with guiding principles to put resources closer to the school, and this could include increases. (Trustee Brown commented on the process of this discussion and undertook to keep SEAC informed.)

SEAC members expressed their belief that it is important to have regular updates about Professional Support Services, since these services are integral to serving the needs of special education students. The board is required to consult on the special education budget. SEAC believes this requires consultation on any budget that impacts on special education students, no matter where they are serviced – in special education or mainstream classrooms.

SEAC input:

SEAC believes it is important to have regular updates about Professional Support Services, since these services are integral to serving the needs of special education students.

***Actions:***

***Uton Robinson undertook to refer SEAC’s question about budget impacts on Professional Support Services to Sandy Spyropoulos, Executive Superintendent of Student Services and Care and provide an update to SEAC at the April meeting.***

SEAC Chair David Lepofsky concluded the discussion with some closing comments:

* He thanked staff for sharing information in January about the $3 million in Ministry of Education cuts to High Needs Funding (HNA) so SEAC could be proactive in voicing its concerns and making recommendations to the board.
* Actions being taken by SEAC are successful in putting SEAC on the map increasing SEAC’s visibility and advocacy effectiveness, and need to continue.
* The lack of cuts made to ground floor special education teaching staff is due in part to SEAC’s actions.
* The board is required to consult on the special education budget. In his opinion, this requires consultation on any budget that impacts on special education students, no matter where they are serviced.
* The board has not received numbers yet. He will persist with the request to appear before the board since, according to the legislation, SEAC has the right to be heard by the board.

## SEAC Priority 1 – How can TDSB improve its process for deciding what educational services and supports a child with special needs will receive?

David Lepofsky introduced the presentations with details about the organizations and their functions, highlighting them as two respected legal clinics where families with special education needs may seek help. He reminded SEAC that they would be speaking about some trending issues, but that the information should not be heard as representative of all parent experience. Robert Lattanzio, Executive Director of the ARCH Disability Law Centre was unable to attend and was replaced by Luke Reid.

**5.1 Presentation by Luke Reid, ARCH Disability Law Centre**

Mr. Reid gave a very brief overview of education legislation that intersects with the kinds of parent concerns ARCH hears about. Concerns generally fall around the Individual Education Plan (IEP) and the Identification, Placement and Review Committee (IPRC). If a parent is unhappy about IPRC, they have a right to appeal to a *Special Education Appeal Board*. After that, appeal can be made to a *Special Education Tribunal* which functions as the final word. The only other legal process is through a Human Rights Complaint, which does not represent a good solution for the kinds of issues parents face with regards to the Individual Education Plan or the Identification, Placement and Review Committee (IPRC). .

Mr. Reid gave examples of some of the concerns they receive from calls or hear about when giving community-based presentations. They include:

1. Problems with accommodations – including concerns about:

* Not enough Educational Assistants
* Budgetary issues
* Parents not being told about meetings held regarding a student’s needs
* Parents unaware of the accommodation options the board has for their child
* Parents being told such things as: the child should be on medications; the school is not obligated to accommodate the child; the child is fine and no IPRC is needed; the school can’t manage the child’s behaviour

1. Inappropriate discipline or ‘exclusion’ for disability related behaviours

Mr. Reid explained that ‘exclusion’ comes from provisions in the Education Act, allowing a principal to exclude a child from school or classroom.[[1]](#footnote-2) This power is not tracked and is used as a temporary solution to a problem related to the student’s disability and the inability of the school to provide the needed support. While these exclusions are supposed to be temporary, some exclusions have been for as long as a month. Parents have access to only one appeal to the board.

1. Identification, Placement and Review Committee process

Mr. Reid gave examples of the kinds of concerns raised:

* Parents don’t feel supported by the school
* Bullying of the child by teachers or other students
* Talking about the child in front of the child and/or the child’s peers
* Feeling that the IEP is not being properly implemented
* Parents not properly consulted on IEP
* Delays in assessments, IPRCs,
* School board not always seen as a good place to go to resolve the issue – “It’s there to back up the staff.”
* If parents go to the board, there is not adequate follow-up enforcing the resolution
* Programs are highly inflexible – interpreted that way by staff, so that appropriate modifications/accommodations don’t happen – the program remains the same

Mr. Reid concluded with comments about the lack of a good/effective dispute resolution process for parents. The existing appeal processes are work-intensive gatherings/hearings, which are lengthy, acrimonious and unhelpful. Parents are often too exhausted to proceed in the appeal processes open to them.

**5.2 Presentation by Consuelo Rubio from the Human Rights Legal Support Centre**

Ms Rubio explained that the Human Rights Legal Support Centre can advise and represent applicants who want to bring about a Human Rights complaint. She highlighted that it is difficult to negotiate with school boards and to advocate for the student. She shared the following information about their work and gave some examples of experiences with different school boards:

1. Exclusion is a big issue – The Support Centre has the stance that students can be accommodated and brought back into the school. They want to avoid delay to get the child back into school as quickly as possible. She gave as an example one successful negotiation that involved a board’s exclusion of a child from transportation because it wasn’t from a licensed daycare facility. She raised the following points:

* Boards are not effective in communicating to parents about steps to taken when a child is excluded from school, so there is a gap in the provision of information to parents. She is surprised about how little the parents know – they are bewildered and don’t know what steps to take, so the Legal Support Centre can fill the gap.
* The Centre has developed a protocol with pointed questions on intake, and finds that they can educate the parents at the same time. Examples of questions include – Did you ask for accommodations? – When? – Did you ask in writing or orally? – Have you requested an IPRC? – Was there a psychological assessment conducted? – Did you appeal the IPRC decision? etc.
* Once they have a more complete picture of the issues involved, the Centre looks at the likelihood of success for the use of different strategies and provides advice to parents accordingly.
* For ‘intense’ situations, they have an urgent intervention stream to provide parents with a way to negotiate and resolve an issue more quickly and effectively.

1. Invisibility of people with disabilities – Ms Rubio commented from her own employment law background, that people with disabilities are ‘invisible’ and finds this in common with disabled children, who are ‘invisible’ to the board. The challenge is in how to deal with it. She gave some examples from around the province:

* A Board built a new school, with accessible washrooms for adults, but without accessible washrooms for children
* A disabled child went on a ski trip but due to accessibility challenges, sat in the wheelchair for the outing. The board did not provide special accommodations to facilitate the child’s participation
* Exclusion from school as a result of disability-related behaviour, with no plan for home schooling or follow-up with the child, and parents had no idea what happens next

She referred to a handbook published by another legal clinic which they have found useful, on how to advocate for your child in school. She agreed to email the information to David Lepofsky, to distribute to SEAC.

She commented on the important role of the principal in the process and wondered what tools principals are being given, so they can play a more effective role in the lives of disabled students. She also wondered why the input of the parent is not valued as much as it should be valued.

In closing the presentations, David Lepofsky requested more information from Uton Robinson about the tracking of exclusions, such as: How many? To what extent are they students with special education needs?

Uton Robinson explained that there is current discussion and review by senior team about the use of exclusion. Within families of schools, there is tracking through the principal to the Family of Schools Superintendent, but not a central deposit of the information. He cautioned that there are issues of confidentiality involved in tracking and monitoring, in order to protect identities. He explained that “Refusal to Admit” (265.1m) is sometimes needed to put the required resources into place for the student. The SEAC chair commented that confidentiality can be maintained in the collection of a single TDSB-wide figure for numbers of students subject to exclusion, since the total figure does not reveal the identities of any of the children to which it refers.

The Chair invited questions for the presenters and the following additional information was provided in responses from both presenters and staff:

* The Provincial Ombudsman can make recommendations but cannot impose a settlement. (SEAC Alternate Community Representative Dick Winters is looking into arranging for a presenter from the Ombudsman’s office.)
* Spec Ed Tribunals are adversarial and very difficult for parents.
* A case can be taken on by ARCH if it involves a systemic issue.
* A Special Education Tribunal only addresses placement.
* If a board does not implement the Tribunal’s decision, a breach of settlement application can be filed.
* The TDSB reports on numbers of Identification, Placement and Review Committee Appeals and Tribunals in the Special Education Plan, which is posted on the website
* There is public access to case law. CANLII is a free database of court decisions, with release of daily decisions.
* Detailed information about the Appeal and Tribunal processes is available in the TDSB Special Education Guide for Parents/Guardians, posted on the Special Education main page, on the TDSB website.
* Some settlements contain confidentiality provisions, insisted on by the respondents for the most part, rather than the parents.

In closing this segment of the meeting and thanking the speakers, David Lepofsky invited their suggestions, based on the kinds of issues they address, for SEAC to consider including in their recommendations to the board.

## 6. SEAC Priority 3 – What can be done to more effectively make TDSB education fully accessible, barrier-free and inclusive to children with special needs?

a) Briefing by David Lepofsky, SEAC Chair and Chair of the Accessibility for Ontarians with Disabilities Act Alliance

David Lepofsky gave a brief introduction to the focus of this segment of the meeting. School boards and the education system are built on the premise that mainstream class is NOT built for special needs kids, who then have to fight a rear battle to get what they need. This includes anything from physical buildings, information technology, curriculum, playground and gym equipment, etc. The focus for this part of the meeting is on facilities. He introduced the staff present to address this topic with SEAC. They include: Angelos Bacopoulos, Associate Director of Education, Facilities and Urban Sustainability, David Perceval, Senior Manager Building Design and Renewal and Chris Broadbent, Manager, Occupational Health and Safety and Chair of the TDSB AODA and Accessibility Capital Spending Priorities Committee

Mr. Bacopoulos provided a synopsis of the slide presentations he had provided to SEAC members in advance of the meeting (posted with the agenda on the TDSB SEAC website pages). During the subsequent question and answer discussion, the following information was shared:

* The first slide presentation shows the capital budget and talks about the state of TDSB schools and the huge challenges in trying to deal with crumbling infrastructure. Compared to other boards, TDSB is in worse shape than all boards in Ontario and most in the United States.
* The second presentation by Chris Broadbent provides an overview of how dollars are being spent on improving accessibility. For example, currently 80 of 550 schools are accessible and TDSB is using current funding to increase this to 146 schools.
* The Ministry of Education does not provide specific funding for addressing accessibility issues. They provide a sum of money and certain considerations that must be made in using it, e.g. no funding is available for playing fields. $90 out of $156 million is restricted to repairs that are listed on the backlog renewal list (e.g. in the slide presentation, there is a table showing building components that need to be replaced). Some areas of funding are less restrictive and allow dealing with barrier-free issues.
* The Ministry evaluates all schools in Ontario and identifies what building components are considered as urgent, high, low or medium priority for replacement.
* The board will use some discretion and weighs what is highest priority (under health and safety concerns), then identifies areas as urgent priorities.
* Money allocated to build a new school is designated by the Ministry and design is approved by the Ministry, which can also restrict what can be done.
* When a new school is being built, the Ministry provides a separate amount from their capital funding or approves the TDSB to use funding from its proceeds of disposition, acquired from the sale of surplus properties.
* The Ministry does not provide a guideline for accessible school design.
* In the TDSB design standards, in keeping with policy of inclusiveness, there is a commitment to meet or exceed the requirements of the Ontario Building Code.
* Decisions about declaring school buildings as surplus to needs are based on enrolment and the ability to support the effective and fiscally responsible operation of a school. A building’s accessibility does not impact the decision unless enrolment can sustain the school. There are extensive Board processes used in considering school closures.
* If doing a major renovation, the TDSB has to meet building code requirements for accessibility.
* The biggest challenge is trying to make the rest of the school accessible when the construction of an addition takes place – if any part of the rest of the school is renovated, TDSB has to meet all the new building code requirements for the rest of the building which would result in a significant cost to the TDSB.
* There is a $ 3.3 billion renewal needs backlog, without bringing all facilities up to full accessibility
* $5 million is allocated from the capital renewal budget in 2015/16 to deal with barrier free issues (e.g. adding door openers, ramps to facilitate building access, miscellaneous end of the year requests to address specific needs of students already in a building)
* Regarding accommodations for students when IEPs indicate issues around accessibility, the principal works with staff on those facility issues that can be addressed locally and will connect with central staff about needs. Every case looks different. Central staff works with principals, identifying what the child needs and whether accommodations can be managed in the school. They also identify options (e.g. does a science experiment have to take place in the 3rd floor lab or are there other solutions.) Staff requests for accommodations are worked through with Employee Services to identify an accommodation plan.
* TDSB has a process for giving supports. Principals are informed about accessibility requirements. If parents have an issue about how it is handled, there is a Parent Concern Protocol for addressing their concerns.

SEAC Chair David Lepofsky drew the discussion to a close, making the following comments:

* 80 accessible schools out of 550 is unacceptable and planned improvement to 146 is good. It is important that accessibility be a key factor in decisions around where money is being spent.
* TDSB should weigh accessibility when deciding which schools it will close, so that it does not close a more accessible school in favour of leaving open a less accessible one.
* There is a need for the board to develop clear guidelines on accessibility standards, beyond the building code. The Ontario Building code does not ensure that a new building is fully accessible and there is a need for a single standard for an accessible school building.
* Up to this meeting, SEAC has focussed on special education in a separate silo and we would like to bring the silos of accessibility and special education together.

**Other Business (Time Permitting)**

Chair David Lepofsky gave a brief update:

1. The Parent Outreach Working Group has been working on a draft survey, which is still too long. The group will have a conference call before the April meeting to review and further develop the draft
2. He is looking for an alternate June meeting date since his schedule does not permit his attending the planned date. Liaison Margo Ratsep undertook to investigate other available meeting dates for the June meeting.
3. He thanked Executive Superintendent Beth Butcher for her flexibility in seeking consultation through email, with SEAC on the Concussion Policy.
4. Members are to email David with ideas for future agendas.

Coordinating Superintendent Ian Allison responded to a question from ABC representative Diana Avon about the proposed new screening process for Giftedness, confirming that external assessment will still be accepted.

1. **Adjournment**

The meeting adjourned at 9:01 on motion of Paula Boutis. Chair David Lepofsky invited members to arrive 15 minutes early at meetings for to enjoy an opportunity to socialize.

Next Meeting: **Tuesday** April 5, 2016

1. Not included in the presentation but provided in the Minutes for clarity: *Under the Education Act, in the section that deals with “Duties of Principal”, there is an item entitled “access to school or class”. Subject to an appeal to the board, the principal can refuse to admit a person/student whose presence in the school or classroom would in the principal’s judgement be detrimental to the physical or mental well-being of the pupils [265. 1 (m)]. Another section of the Education Act addresses the needs of students who are expelled.* [↑](#footnote-ref-2)