

**CONNECTING CARE AND CHALLENGE:  
TAPPING OUR HUMAN POTENTIAL**

**INCLUSIVE EDUCATION:  
A REVIEW OF PROGRAMMING  
AND SERVICES IN NEW BRUNSWICK**

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## **Preface**

### **High Expectations and Many Challenges**

The challenges inherent in this broad ranging Review of inclusive education in New Brunswick are exceeded only by the Review's importance. New Brunswick has much to be proud of as a pioneer in inclusion and it has achieved impressive results in the face of many obstacles. The goals of the New Brunswick system are ambitious and the expectations high. It is a dual language system that respects both official language groups and encourages bilingualism through french immersion programs. It attempts to serve rural and urban populations with some degree of equality. It aspires, through the *Quality Learning Agenda*, to greatly improve its performance on the Programme for International Student Assessment (PISA) scores, as administered by the Organization for Economic and Cultural Development (OECD). And last but by no means least, it wants to deliver high quality inclusive education for all New Brunswick students. This is a tall order made even taller by the small population base and the limited budget available in the province.

There are many positive features in New Brunswick that also offer hope. The government has signaled through its *Quality Learning Agenda* and the commissioning of this Review, that it is committed to improving the education system in the province. Based on the extremely useful consultations described in detail in Phase II of this Review, many people care about the education of children and are committed to making the education system even better. These people include school administrators, teachers, students, parents and a wide range of citizens and community groups, who shared their thoughts and insights with us. There is a strong desire to do an even better job of delivering inclusive education. A willingness to contemplate change also emerged from this process, and this was clear in the consultations.

Change of a significant nature can be a slow process. This was a point that was emphasized by a recent visit to Finland in October, 2005 to examine their education system, which achieved the highest international results on the most recent PISA scores. The process of significant change in Finland occurred over more than a decade, but the first steps towards change were taken immediately. There is a widespread acceptance of the concept of inclusion in New Brunswick, but much less consensus as to how it can be most effectively delivered in New Brunswick schools. It is some of these aspects of the educational delivery that need to be changed to make the reality close to the ideal. A continuance of the status quo is not an acceptable response.

It should also be stated at the outset that integration of every child into a mainstream classroom is not a panacea. The benefits of inclusion in making children belong and advancing their social skills are relatively clear. The promotion of tolerance for diversity and the acceptance of difference are important results of inclusion. The academic benefits of integration for some children are not as clear. There is a growing diversity of learners and it is clear that one size does not fit all. The benefits of full-time integration in the regular classroom for medically fragile and multiply disabled children must be seriously

considered. There may also be occasions where it will be in the best interests of both the “exceptional child” and the rest of the class, to engage in a carefully controlled “pull out” of the regular class. Of course, the child who is removed must be provided with a positive learning alternative and returned to the classroom, when it can be feasibly arranged. Flexibility, not dogma, should prevail in the implementation of inclusion in New Brunswick.

While it would be an over statement to say that the New Brunswick education system is in a state of crisis, it would be fair to conclude that it is under considerable stress and at an important turning point. This stress is reflected in the high anxiety of many teachers about what some consider unrealistically high expectations on teachers to perform well, with limited resources and support. It is also a time when parents are concerned about the education of their children, and are increasingly expressing their concerns to teachers and administrators on the front lines of education. On a Canada wide level, there has been a concerning tendency for parents to step across the line between spirited advocacy and harassment of teachers. This is no more prevalent in New Brunswick than anywhere else, and most parents are reasonable advocates for their children. There are, however some parents who do cross the line. The results of these challenges are teacher burn-out, frustration and a high turn-over rate, which provide some cause for concern. Teachers are part of New Brunswick’s human potential and this potential should be maximized.

Inclusion of the diversity of learners in a regular classroom is a significant and growing challenge. It is a challenge that is worth meeting, but one that also requires some flexibility of implementation. The schools cannot do what they need to do on their own but must be part of a broader coalition of public and private partners committed to providing children with the best opportunity to receive a high quality education. This message emerged loud and clear from the consultations held during this Review. Many feel that the expectations of the New Brunswick education system are too high and they question how inclusive schools can be in a society which is not itself fully inclusive. The challenges can be met, but only by ensuring that there are adequate resources and that they are efficiently and effectively deployed.

One of the major challenges is to provide inclusive education in a way that benefits all the students in the classes. Inclusion is not just about students with disabilities or “exceptionalities”. It is an attitude and an approach that encourages all students to belong, and an approach that nurtures the self esteem of all students. It is about taking account of diversity in all its forms, and promoting genuine equality of opportunity for all students in New Brunswick. As is indicated in the legal context part of the Phase I background report which follows, this equality imperative is one that is based upon the recognition and accommodation of differences—be they linguistic, cultural, of Aboriginal origin, geographic origin, socio-economic status or levels of ability, to name but a few. Inclusion, defined broadly, not only supports the equality mandates of the Charter of Rights and the

provincial human rights code, but also will lay a solid foundation for the New Brunswick of tomorrow, which hopes to attract a growing number of immigrants to offset its declining populations in all but the Aboriginal sector.

Canada is becoming an increasingly multi-cultural society and the accommodation of the diversity of our immigrant population is a growing issue. For reasons of declining population as well as the richness that a more diverse population brings, New Brunswick wants to share in this immigration growth. An inclusive education system that truly takes account of difference in an effective way will be a major attraction for “would-be” immigrants to New Brunswick. A growth in this sector will raise issues of English as a Second Language (ESL) programs, which has already become a major issue in urban centers such as Toronto and Vancouver. Indeed, this was one aspect of the class size and class composition issues that were at the heart of the two week illegal strike of British Columbia teachers in October, 2005. This high profile strike and the challenges facing schools in respect to special education and diversity in all its forms, emphasize the timeliness of this Review.

One of the lessons drawn from the visit to Finland in October, 2005 is that their education system is focused on people, and students in particular, rather than upon systems or elaborate theories. Finland also firmly believes that high standards and results can be married with care for the well being of students. Indeed as one commentator at the October 10, 2005 PISA Conference in Helsinki put it: “(t)he well-being of students is the soil from which good education grows.” Finland appears to operate an effective integrated services model that combines both care and academic challenge. Another interesting observation is that Finland seems to focus its resources on the weakest students, thereby raising their achievement scores at the lowest levels. This is crucial to success.

Now the Finnish analogy only goes so far, as Finland is a much more homogeneous society than New Brunswick with only about two percent of their population being immigrants. However, it should be noted that the immigrant population of New Brunswick is only about three percent and it too could be described as fairly homogenous. There is, however, a greater consensus at the political levels in Finland about both the goals and modes of delivering education. In respect to handling diversity and more heterogeneous students, Finland may have lessons to learn from New Brunswick. In terms of inclusion theory and practice, Finland lags far behind New Brunswick. However, both jurisdictions agree that care for the more academically challenged students goes hand in hand with high standards and challenges for all the students. A school system should never apologize for setting high standards for all the students under its care. In that respect, the 2002 Report by Elana Scraba, *Schools Teach – Parents and Communities Support – Children Learn – Everyone Benefits*, may have been wrong in at least one respect. The kindness and caring that she observed in the New Brunswick school system is consistent with high standards of achievement

and challenge and they are not antithetical to each other. Care and challenge can and must be “connected.” The trick is to find out how to do it.

New Brunswick is a small province with a small population base, and this can facilitate the speed with which changes can be made. It should also facilitate the process of communication and connection that is vital to reaching a political consensus on important matters such as education. While this should be true, much was said during the consultations about break downs in communications at all levels. One of the unanimous views that emerged from the consultations was that the process of dialogue and debate about these important issues was very important and should be continued. Through this dialogue and communication the many stakeholders - students, parents, administrators, teachers, politicians and community groups - can be connected and work towards a shared consensus about the vision and direction of education in New Brunswick. The importance of this point is emphasized by using “connection” as the first of the “three C’s” of education—the others being care and challenge. Care and challenge should be “connected,” as stated earlier.

Another aspect of New Brunswick’s small population base is that it must make the most of the human resources that it has. People should never be regarded as disposable even in a large population, but it is certainly true in a small place, such as New Brunswick. All the children of New Brunswick have the potential to contribute to the society rather than detract from it. The challenge is to fully tap that human potential. This is true for all members of society but particularly so for the students. The real potential of a particular child is not really known until later in life and that is one reason that it is wise to avoid streaming based upon self-fulfilling prophecies about what a child can do. The theme of tapping human potential also applies to the educators, parents and general citizenry which can be vital partners in building a better education system for New Brunswick.

Some of the changes needed in New Brunswick will require a re-deployment of existing resources, both financial and human. One example of this would be the adoption of a truly integrated service delivery model which operates on the basis of serving children at all levels in the schools. This also returns to a concept that many New Brunswickers would embrace: the old concept that the school is the center of the community. In a time of changing family structures, institutions such as schools have to fill some of the void. However, schools cannot do it alone and interdepartmental cooperation and team work is vital and legally mandated in terms of delivering a quality education for all students. Parents also have an important role to play.

Other changes will involve the investment of money to provide the resources and supports needed to achieve the demanding goals set for New Brunswick education. This money is an investment in the future of New Brunswick and will pay dividends in the longer term by tapping all of New Brunswick’s human potential. Early intervention and delivering resources to meet the diverse needs



of the province's students is vital to an improved delivery of an inclusive and quality education for all. It is a significant challenge but one that New Brunswick cannot afford to ignore. It is the best investment in a prosperous future for the people of New Brunswick.

## **Acknowledgements**

The author would like to take the opportunity to thank the team of people who have contributed to this Review process and report. Without their support and assistance both the Review and this report would be less valuable and coherent.

Janet Burt-Gerrans, my researcher and administrative assistant, was a vital and valuable component of this Review. She was a major organizational support to me in this daunting task. Her insights, hard work, organizing skills and bilingual abilities added much to this Review. She was not only a major research support, but actively engaged in drafting and preparing parts of the background report and the summary of the consultation themes. She compiled the impressive summary of consultations in Appendix M and was the main architect of the literature review in Appendix E. She also assisted with the compilation of the recommendations but the writing and responsibility for them were mine alone. Her continued good humour and dedication were much appreciated. I could not have completed this Review within this time frame without the able assistance and first class support of my colleague, Janet Burt-Gerrans. She is a dedicated and outstanding project manager.

This Review also “sub-contracted” tasks and sub-areas to a variety of others. All of the people who have worked on specific tasks or aspects of the Review have contributed in significant ways.

Pierre Dumas, a retired Department of Education employee, contributed his insight, research, and assistance in a variety of ways including providing a quality check on translation into French. In particular, Monsieur Dumas significantly assisted the Review in meeting the imperatives of the dual language system in New Brunswick. He also brought his extensive knowledge and insights about how the school system in New Brunswick works. Monsieur Dumas produced the very useful work in Appendices G and H.

Dr. Michael Fox of Mount Allison University completed “A Review of Inclusive Education Programming for Pre-Service Teachers, Teaching Assistants and Student Services Administrators” included as Appendix I to this report. Dr. Fox provided creative ideas for improving the professional development of teachers and staff.

Annette Roy, a retired educator, provided facilitation services at all of our francophone consultation sessions. Madam Roy’s insight and tremendous abilities were much appreciated contributions to our meetings. The translation services were also first class and I thank them for assisting me in tapping into the richness of the francophone education sector. Pierre Dumas, Annette Roy and Janet Burt-Gerrans were also very helpful to me in this regard.

Dwain MacLean, a retired teacher, provided facilitation services at some of our larger anglophone consultation sessions. Mr. MacLean's dedication and sensitivity were much appreciated by the participants in our sessions and by both Janet and me.

Later in the Review process Cathy Thorburn, a recently retired supervisor in the New Brunswick public school system, did some very useful research for me on integrated service delivery and the fruits of her labours appear in Appendix R.

Accountants with the firm of Grant Thornton, and in particular Melanie Pond, did some work on the financial aspects of the funding model in New Brunswick and some selected comparisons. This work was vital to the recommendations on the proposed funding model for New Brunswick. Some of this work appears in Appendix S.

Dalhousie law student Sean MacDonald (to graduate in 2007), completed research and analysis of education statutes across Canada and appeal process regulations in selected provinces. Some of the results of his research appear in Appendix F. Dalhousie political science student Candace Salmon, a New Brunswick expatriate from Woodstock supported the consultation process by assisting with bookings and communication on a part time basis. Her bilingualism and organizational skills were very helpful. JoAnn Martell, my spouse and moral support throughout this Review, brought her proof reading and typing skills to the final version of the recommendations section of this report, and her skill and patience were much appreciated.

Last but not least, I would like to thank the many officials and staff at the New Brunswick Department of Education who were co-operative and helpful throughout this Review process.

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**PHASE 1:**  
**BACKGROUND RESEARCH**

## EXECUTIVE SUMMARY

Due to the short time frame for this Review, this cannot be considered an exhaustive report. There is however quite a massive volume of information and sources introduced here touching on the particulars required by the *Terms of Reference*.

In section I we present legal considerations that have an impact on education in various ways, all of which are related to inclusion and the application of equality rights in Canada. Those considerations include accommodation of students with disabilities, the student-teacher relationship, discipline, safe-schools, and a framework for analysis: the new 3 R's in education: Rights, Responsibilities and Relationships. Included are references to the state of the law based upon the most significant recent human rights tribunal decisions and court cases.

In section II we present current research on best practices in inclusive education. This includes first, an academic literature review. Second, it includes an analysis of a few of the systemic elements posing challenges for inclusion, accompanied by a sampling of initiatives designed to address these systemic barriers to inclusion.

In section III we present a review of practices and research in other Canadian jurisdictions, including legislation, inclusion/special education provincial reports, inclusive education programming for pre-service and in-service training for personnel, and school funding.

In section IV we present an overview of the New Brunswick context, including a brief historical account, a policy and curriculum status report, statistical incidences of exceptionality and other statistical issues, and some identified partnership organizations mentioned in the *Terms of Reference*. More specifics of what is going on currently in New Brunswick will be forthcoming in the summary document of the ongoing and highly beneficial consultation sessions pursuant to this review, *Inclusive Education: A Review of Programming and Services in Education*. We conclude by reinforcing the importance and timeliness of this exercise.

## PART I: INTRODUCTION

These are exciting times for those who are concerned with the promotion of inclusive schooling. Not only are there many new developments in pedagogy and educational practices, but also there have been many judicial rulings from educational tribunals, human rights boards and courts including the Supreme Court of Canada. The concept of inclusive education has emerged as a new approach to providing education services that offers solutions to many of the difficulties educators face today.

In studying inclusive education, language has become an extremely important element. Terms such as inclusion, integration, and special education are often used interchangeably. In the context of the emerging field of inclusive education, these terms really have very different meanings. Meaning and connotation of language as well as practice and implementation are important in inclusive education.

The preliminary results of *the Crucial Terms Project* propose definitions for some commonly used terms. These definitions are based on the input of educators across Canada who responded to the Crucial Terms Questionnaire and who participated in focus groups.<sup>1</sup> In asking participants for their definition of terms, the researchers also asked participants to identify whether a term was associated with a Special Education Model of education or with an Inclusive Model of education.

Terms such as “alternate placement”, “cascade or continuum of services” and “congregated class” these authors summarize, are associated with the Special Education Model. These terms refer to specialized settings and approaches to meeting the needs of learners with disabilities, apart from regular or typical classrooms. There was sharp disagreement among participants in the *Crucial Terms Project* regarding whether special or alternate settings and special or alternate curriculum are necessary to meet some learner needs. Some believe that in order to be truly inclusive, general education could and should be flexible and adaptive enough, and sufficiently supported to meet the needs of all children in a regular setting. Many people fall in between desiring the benefits of both specialized attention approaches and the social benefit of inclusive education.

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<sup>1</sup> The *Crucial Terms Project* is a recent study aimed at identifying the various uses of terminology in education across Canada. These authors propose common definitions with the goal of assisting collaboration and dialogue. Gary Bunch & Kevin Finnegan, “Finding a Way through the Maze: Crucial Terms Used in Education Provision for Canadians with Disabilities” (forthcoming, 2005). [Hereinafter *Crucial Terms Project*]

The term “collaboration” was closely associated with an inclusion model by most study participants and refers to a group of people working toward a common goal, with parity among group members (professional or not), and with a focus on much more than problem-solving.

The term “Facilitator” was used to describe a new role in education, separate and distinct from that of a Resource and Methods teacher. This term refers to a role focused on the support of inclusion at the individual and the school-wide level. The main duties involve the coordination of people and resources.

In the preliminary results of this national survey, Bunch and Finnegan also propose a definition of “inclusion” or “inclusive education”. They summarize,

Inclusion refers to educational practice based on the philosophical belief that all learners, those with and without disabilities, have the right to be educated together in age-appropriate class groups, and that all will benefit from education in the regular classrooms of community schools. Within these settings teachers, parents, and others work collaboratively using appropriate and sufficient resources to interpret and enact the regular curriculum in a flexible manner in accordance with the individual abilities and needs of all learners.<sup>2</sup>

New Brunswick, like other Canadian jurisdictions, is trying to fashion an Inclusive Education model around a pre-existing Special Education Model, with the added complication of tight fiscal constraint. This is less of a problem in some other national contexts such as India and some developing countries, such as, the Ivory Coast. Dr. Gary Bunch, of York University, who has served as a consultant in some of these other nations contrasts their situation with Canada. In some of these cases they have skipped the special education stage and gone directly to inclusion as the preferred model of education.<sup>3</sup>

It is important to clarify at the outset that we believe inclusive education to be much more of a process than a destination, but that the goal of inclusive education is the achievement of consistently better student outcomes for all students, in all areas (academically, emotionally, socially, and physically) while providing a satisfying and supportive work environment for educators and staff.

Inclusion is a way of thinking and acting that permits individuals to feel accepted, valued and secure. An inclusive community evolves constantly to respond to the needs of its members. An inclusive community concerns itself with improving the well-being of each member. Inclusion goes farther than the idea of physical location, it

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<sup>2</sup> The preliminary conclusions of the *Crucial Terms Project* have been provided by the authors, May 2005.

<sup>3</sup> Meeting with Gary Bunch & Kevin Finnegan, April 15, 2005.

is a value system based on beliefs that promote participation, belonging and interaction.<sup>4</sup>

Having said this, we recognize that the path to inclusive education is more easily charted than followed. The promise of inclusive education is tremendous but so are the challenges. There is broad agreement that the concept of inclusion is a good one. The challenge is how to do a better job of implementing real inclusion in the classrooms of New Brunswick.<sup>5</sup>

In many ways the Government of New Brunswick's statements in its *Quality Learning Agenda* under which this Review proceeds, articulate the aspirations of inclusive education and provide a very good basis from which to undertake this research. One example is the stated belief that "given appropriate opportunities and high expectations, all individuals can learn and are responsible for their continued learning in accordance with their stage of development". The *Quality Learning Agenda* also states that "each learner must be given the opportunity to excel to the best of his or her ability at all times."<sup>6</sup> One element of this agenda is the identification of achievable goals and strategies.

New Brunswick has been a leader in the field of inclusive education. Anglophone Deputy Minister of Education, John Kershaw, gave a speech entitled the "Opportunity of Inclusive Education" at the first National Summit on Inclusive Education in Ottawa, Ontario (November 2004). In this speech, Mr. Kershaw talked about the kinds of leadership that are required to promote inclusive education and in particular focused on participatory and collaborative leadership that recognizes and welcomes cooperation from a wide variety of sectors. Much of what you will read in this Background Research Review bears out these insightful comments. It is our hope that this Review will help to further advance New Brunswick's leadership position in the field of inclusive education.

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<sup>4</sup> Manitoba Education, Training and Youth, *Follow-up to the Manitoba Special Education Review: Proposals for a Policy, Accountability and Funding Framework* (September 2001).

<sup>5</sup> The analysis presented here focuses on equality and inclusion in primary and secondary schooling, as this is the most applicable for this Review. The authors note though that many of these themes are also challenges in post-secondary education (and in transitions to post-secondary education). These authors have explored this area in more depth in A.Wayne MacKay and Janet Burt-Gerrans, "Equality for Students with Disabilities: From Primary to Post Secondary Education" (Rights, Obligations and Opportunities: Disability Service Providers RoundTable, A. Wayne MacKay, Keynote Address, Acadia University, June 2003).

<sup>6</sup> Policy Statement on K-12: Quality Schools, High Results, *Quality Learning Agenda* (Fredericton: Province of New Brunswick, 2003) at 11 [Hereinafter QLA].



## PART II: LEGAL CONSIDERATIONS

### THE LIGHTHOUSE OF EQUALITY: SIGNALS THROUGH THE FOG<sup>7</sup>

There have been many changes over the last few decades in how the law, schools, and society in general approach issues touching upon disability. The authors of this Background Research Report have considered the evolution of rights discourse in greater depth in a previous article.<sup>8</sup> The most prevalent stressors on traditional ways of viewing and responding to disability needs in educational service provision are two. First is the growing rights consciousness in society. Second is the seemingly dramatic increase in the numbers of children eligible for, in need of, or in receipt of what is traditionally known as special needs programming of some kind. The increase in numbers of children is due to a host of factors including advances in scientific, biological understanding of disabilities and exceptionalities and improvements in identification and diagnosis. In addition there have been increases in the incidences of some disabilities, particularly chronic health problems.<sup>9</sup>

In this context there are many competing and conflicting perspectives and conceptualizations of how the public school system ought to go about discharging its duties to provide equitable delivery of educational services. Through the haze and confusion, the language of equality can serve as a lighthouse sending signs and signals, though not precise enough to chart the specific path.

The language of equality has two main areas of applicability when it comes to education. First, equality is about belonging and community.<sup>10</sup> Second, equality is

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<sup>7</sup> This section is based on the text co-authored by A. Wayne MacKay and Janet Burt-Gerrans which formed the basis for A. Wayne MacKay's keynote speech at the Canadian Association for Community Living's first National Summit on Inclusive Education, Ottawa, Ontario, November, 2004.

<sup>8</sup> MacKay and Burt-Gerrans, "Inclusion and Diversity in Education: Legal Accomplishments and Prospects for the Future" 13 *Education Law Journal* 77-103.

<sup>9</sup> A further examination of incidence and statistics can be found in Part V of this Background Research Report.

<sup>10</sup> This analysis flows primarily from the interpretation of the equality guarantees in the Canadian Constitution, s.15 of the *Canadian Charter of Rights and Freedoms*, being Schedule B to the *Canada Act 1982* (U.K.), 1982 [hereinafter *Charter*]. This analysis is also used in interpreting non-discrimination guarantees in human rights statutes across the country. A significant emphasis is on belonging and inclusion. Bill Pentney, in a paper prepared for the Canadian Association of Statutory Human Rights Agencies puts it plainly: "Belonging. Such an achingly simple word. It conjures up some of our deepest yearnings, and for some of us, perhaps our

about equal benefit of the law.<sup>11</sup> The benefits of a Canadian education are tremendous and include intangibles such as self-esteem and self-confidence, as well as future remuneration and employment prospects. Equality law looks at the individual as well as the structure of societal institutions.

By way of defining our own terminology and concepts, when we refer to inclusive schooling, we are not referring to any one program or policy. An inclusive school system is one that in both its design and its effect, continually strives to ensure that each student has access to and is enabled to participate in the school community. It would also allow each student to be part of the community in positive and reinforcing ways. The diversity of the student body should also be reflected in the daily operations of the school system. This type of inclusion, we refer to as social inclusion.

An inclusive education system also strives to continually ensure that each student receives appropriate benefit from the educational services toward the fulfilling of their potential. This we refer to as academic inclusion. We caution that potential is something that cannot be fully gauged until after the fact, and any student's particular potential cannot be determined by a diagnosis, label or category. Educators in an effective inclusive education system would be wary of assumptions about any particular student's potential and would endeavor to ensure that all potentials are valued and respected.

This view of inclusion is much broader than just addressing issues of disability and statutory definitions of exceptionality. Much of the focus of this Background Research Report is on disability and the education system's response to exceptional student needs, as we believe this to be the expectation. We do, in addition, highlight many links to the broader concept of inclusion and its applicability for all students.

The legal framework surrounding equality as it relates to disability and education in Canada is bounded by four main areas: our Constitution, provincial education statutes and regulations, provincial human rights acts, and judicial interpretation of the above. It has been well established that rights guarantees such as the *Charter* and human rights acts, do apply to education and educational service delivery<sup>12</sup>. We examine court cases, tribunal hearings, and judicial reviews that help establish what rights guarantees mean for daily educational practice.

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most painful memories. Equality claims begin and end with a desire for belonging..." (Oct 1996) 25 C.H.R.R. No.6 C/6-C15.

<sup>11</sup> Section 15 of the *Charter* guarantees that everyone in Canada is to be considered "equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability". Courts have also interpreted this list to be somewhat open with the concept of "analogous grounds", an example of which is sexual orientation. *Vriend v. Alberta*, [1998] 1 S.C.R. 493.

<sup>12</sup> *Ross v. New Brunswick School District No. 15* [1996] 1 S.C.R. 826; *R.v. M.(R.M.)*, [1998] 3 S.C.R. 393.

## Individual Accommodation: The Guiding Light

Judicial interpretation at the Supreme Court of Canada level focuses on the need to view the actual characteristics of the individual in the context of the claim when addressing issues of disability. A “best interests of the child” test prevails in determining placements for students with disabilities, taking into account the benefits of social inclusion for the student.<sup>13</sup> Accommodations for individuals must be undertaken up to the point of undue hardship, although the Supreme Court of Canada cautions that undue hardship means that some hardship is acceptable.<sup>14</sup>

The following is a summary of the legal test for reasonable accommodation (under human rights statutes):

1. Whether or not the standard [or procedure] was adopted for a purpose rationally connected to the performance of the function being performed;
2. Whether the particular standard is adopted in good faith belief that it is necessary to the fulfillment of the legitimate purpose or goal;
3. Where the standard is reasonably necessary to accomplish the legitimate purpose or goal, the defendant may claim it cannot accommodate persons with the characteristics of the claimant without incurring undue hardship, whether that hardship takes the form of impossibility, serious risk or excessive cost.<sup>15</sup>

It is important to note the recognition of reasonable limits in this process set out for giving effect to equality. Indeed the concept of a reasonable limit to individual rights is also emphasized in section 1 of the *Charter*. As the expectations of all parties rise with regard to individual accommodations, setting reasonable limits will be a complex and important but also very delicate task. The setting of reasonable limits though, must come in the proper context. In both the *Charter* and human rights legislation, the analysis of reasonable limits comes after an institution has examined its goals and purposes and its norms and procedures for their congruence with equality and inclusion.

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<sup>13</sup> *Eaton v. Brant (County) Board of Education* [1997] 1 S.C.R. 241 [Hereinafter *Eaton*]

<sup>14</sup> *Central Okanagan School District #23 v. Renaud* [1992] 2 S.C.R. 970 at 974.

<sup>15</sup> *British Columbia (Superintendent of Motor Vehicles) v. B.C. (Council of Human Rights)*, [1999] 3 S.C.R. 868. [Hereinafter *Grismer*]; *British Columbia (Public Service Employee Relations Commission) v. B.C.G.S.E.U.*, [1999] 3 S.C.R. 3. [Hereinafter *Meiorin*]

## Systemic Design: Newer Reflections of the Light

In interpreting equality rights, in addition to individual accommodation, the Supreme Court of Canada through a series of cases<sup>16</sup> has developed a line of reasoning that requires institutional inquiry and a focus on removing exclusionary aspects of systems and social institutions.

The Supreme Court of Canada, citing the *Abella Report* states:

“discrimination often results from the simple operation of established procedures...reinforcing the view that exclusion is the result of natural forces.”<sup>17</sup>

.....

The Supreme Court of Canada, citing Shelagh Day and Gwen Brodsky states:

“The difficulty with this paradigm [the old approach to human rights legislation] is that it does not challenge the imbalances of power, or the discourses of dominance, such as racism, ablebodyism and sexism, which result in a society being designed well for some and not for others. It allows those who consider themselves “normal” to continue to construct institutions and relations in their image, as long as others, when they challenge this construction, are accommodated.

Accommodation, conceived this way, appears to be rooted in the formal model of equality... Accommodation does not go to the heart of the equality question, to the goal of transformation, to an examination of the way institutions and relations must be changed in order to make them available, accessible, meaningful and rewarding for the many diverse groups of which our society is composed. Accommodation seems to mean that we do not change procedures or services, we simply “accommodate” those who do not quite fit. We make some concessions to those who are “different”, rather than abandoning the idea of “normal” and working for genuine inclusiveness.”<sup>18</sup>

This new approach by the Supreme Court of Canada, of examining structural barriers to equality has the added benefit of reducing the burden of individual

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<sup>16</sup> *C.N.R. v. Canada (Human Rights Commission)* [1987] 1 S.C.R. 1114; *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624; *Grismer, ibid*; *Meiorin, ibid*.

<sup>17</sup> The *Abella Report* (named for its author, now Supreme Court of Canada Justice, Rosalie Abella), as cited in *C.N.R. v. Canada (Human Rights Commission)* [1987] 1 S.C.R. 1114.

<sup>18</sup> Shelagh Day and Gwen Brodsky, as cited in *Meiorin, supra* note 15 at 26.

accommodations, where people who otherwise would face significant barriers can have their needs met within the established structure. An example that readily comes to mind, and which illustrates the point, is a building designed with only steps to the front door. With this structure anyone using a wheelchair or a power scooter cannot enter without significant individual assistance. With ramps and push button doors in the structure, the building is accessible to people with these characteristics, without any special assistance. These newer reflections of the lighthouse of equality create a dual responsibility on the part of institutional officials to both address individual accommodation needs as they arise, but also to engage in a process of institutional analysis to uncover and remedy the often hidden systemic barriers to equality and inclusion.

### **Another Beacon: UN *Convention on the Rights of the Child*<sup>19</sup>**

This Convention, to which Canada has been a signatory since 1992 (and which has been ratified by the Canadian Parliament and all provincial legislatures), has been taken very seriously by Canadian courts.<sup>20</sup> Although it can be anticipated that it will be used in interpreting domestic law and should influence policy making, as an international agreement this document does not have independent legal authority within Canada. Only laws legitimately made within Canada's Constitutional structure have legal authority within Canada. In other words, you cannot have a police officer come to a school and directly enforce an article or section of the *United Nations Convention on the Rights of the Child*. The fact that this Convention has been ratified by all law making authorities in Canada, does, however, give this particular international convention added interpretative weight.

There are many articles in this Convention touching on education, health and disability issues that have an impact on the manner in which educational services are provided (excerpts provided in Appendix B). It is clear this is not strictly an education matter and that other government departments are also engaged. The tendency of governments to fragment responsibility into discrete ministries can lead to gaps in service delivery and has been used as a shield against taking responsibility. Courts have expressed frustration at this approach and stress that government as a whole is responsible for ensuring the rights of its citizens.<sup>21</sup> This is true under both the *Convention on the Rights of the Child* and the *Charter of Rights and Freedoms*.

The further point emphasized by this Convention (and indeed in much domestic Canadian law) is the ambiguous status of children. Children are affirmed as

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<sup>19</sup> United Nations T.S. 1577/3; Ratified by Canada 1992, Can.T.S. 1992, no.3.

<sup>20</sup> *R. v. Sharpe* [2001] S.C.R. 45 at para 171 (S.C.C.); *Québec (Minsiter of Justice) v. Canada (Minister of Justice)* 175 C.C.C. (3d) 321 (Que.C.A.); *Auton (Guardian ad litem) v. British Columbia (A.G.)* [2002] B.C.J. No. 2258 (B.C.C.A).

<sup>21</sup> *D.J.N. v. Alberta (Child Welfare Appeal Panel)* [1999] Alberta Queen's Bench 559.; *Durham Children's Aid Society v. V.C.* [2004] O.J. No. 3849; *British Columbia Ministry of Education) v. Moore* [2001] B.C.J. No. 488; *Adler v. Ontario* [1996] 3 S.C.R. 609.

rights bearing individuals who do not necessarily need an intermediary in order to claim their rights. However there is a serious recognition that children, due to their immaturity, are vulnerable and in need of special protections. Striking the proper balance between protecting children and recognizing their rights as autonomous individuals is difficult. Striking this balance falls primarily to provincial governments in Canada as “children” tend to be a provincial jurisdiction by virtue of section 92(13) of the *Constitution Act 1867*, “Property and Civil Rights in the Province”.<sup>22</sup> Some notable exceptions to this are the treatment of children in federal divorce legislation, criminal justice, and health. The growing interest of the current federal government in early childhood education and in particular child care stems more from the federal spending power than from a constitutional or legal head of jurisdiction.

### **Adding to the Fog?**

Increasing the confusion over educational service delivery for students with disabilities is the call in recent years from parents and some advocacy groups for more segregated and specialized services to meet students’ needs. Educators and parents seek certainty about the rights to individual accommodation and special needs services, particularly as new techniques and advances in research become available in the private sector. Unfortunately this focus on individual accommodation has led to less emphasis on and less development of the other facet of responsibility. The other facet of responsibility involves engaging in institutional inquiry to identify systemic barriers to equality. Furthermore, the emphasis is particularly on academic inclusion and the struggle to balance this with social inclusion. The framing of claims in this manner can actually impede analysis and the discovery of methods that would facilitate both forms of inclusion. Social inclusion is seen as needing to be balanced against academic inclusion, one coming at the expense of the other. This need not be the case.

Some of the major challenges facing governments trying to implement equality (particularly as it relates to disability) are well illustrated by three recent and controversial cases. First is the challenge of assessing and then implementing new research, methodology and technology in a timely manner. In the recent case of *Auton (Guardian Ad Litem) v. British Columbia (Attorney General)*<sup>23</sup> the Supreme Court of Canada held that the Government of British Columbia had not discriminated in its refusal to fund Applied Behavioural Analysis/Intensive Behavioural Instruction (ABA/IBI) for autistic children. It considered this therapy to be a new and emerging technique in the range of non-core services provided by the British Columbia Medical Services Commission. The Court found there was no evidence that the Government had prioritized funding other new or emerging therapies ahead of those for children with autism. The complainants framed the issue slightly differently and adduced evidence to support their version of discrimination, but the Court did not accept this view. The Supreme

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<sup>22</sup> Being Schedule B to the *Canada Act, 1982*, (U.K.), 1982, c.11.

<sup>23</sup> 2004 S.C.C. 65 [Hereinafter *Auton*]

Court of Canada disagreed with the lower courts and justified this disagreement by a very narrow definition of the comparator group for the purpose of the equality analysis. The British Columbia Government failed to fund this emerging autism therapy, but it also did not fund other similar emerging therapies. Governments should be on the alert that decisions with regard to assessing and implementing new research and methodologies may have an impact on equality.

The second major challenge is how to work more cooperatively with various government departments to fulfill the whole government's responsibility to promote and ensure equality, particularly with regard to providing a "continuum of services" for children. At least one aspect of the continuum of service is the continuum over time in a child's life. In Ontario, at least 26 mandatory injunctions have been granted prohibiting the Government from stopping funding for ABA/IBI once children reach the cut off age set by the Government at 6 years old.<sup>24</sup> The first Ontario trial decision in respect to these injunctions, released March 30, 2005 decided that once the Government had undertaken to provide the service of ABA/IBI to preschool children, that cutting off service at the arbitrary age of 6, amounted to discrimination on the basis of age. Aiding the Court in coming to this finding was that the Government had become aware that autistic children entering school were not having their needs met by the education system.<sup>25</sup>

The Court distinguished this case from *Auton* by finding that once a government decides to provide ABA/IBI service it can not then claim that it is a new or emerging therapy. With regard to the responsibility of the Minister of Education, Justice Kiteley in this case found that the Minister had not considered ABA/IBI. Justice Kiteley found that a myth had been created that ABA/IBI was a therapy or treatment and that the Minister had not considered it as a teaching strategy or educational approach.<sup>26</sup> Based on this assessment, Justice Kiteley found that the government had discriminated on the basis of disability in the provision of special education programs and services. The Government of Ontario has announced its intention to appeal this decision.

Interestingly, the most recent cases involving equality and disability have centered around one condition, autism. A more complete treatment of these cases and others involving autism can be found in a recent article by Monica Williams and Robert MacMillan.<sup>27</sup> It is difficult to predict what impact this recent

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<sup>24</sup> *Kohn v. Ontario (A.G.)* [2004] O.J. No. 4112 [QL]; *Eisler v. Ontario* [2004] O.J. No. 1864 [QL]; *Bettencourt v. Ontario* [2005] O.J. No. 70 [QL].

<sup>25</sup> *Wynberg v. Ontario* [2005] O.J. No. 1228 (Ont.S.C.J.) [QL] at 20 [Hereinafter *Wynberg*].

<sup>26</sup> *Wynberg, Ibid*, at 440.

<sup>27</sup> Monica A. Williams and Robert B. Macmillan, "Special Education and the Law: From Placement to Programming" paper presented at the Canadian Association for the Practical Study of Law in Education, Regina, Saskatchewan, May 1-3, 2005) forthcoming in the *Education Law Journal*. These authors here, and in previous articles ("Litigation in Special Education (1978-1995): Part I: From Access to Inclusion" (1999-00) 10 *E.L.J.* 349; "Litigation in Special Education between 1996-1998: The Quest for Equality" (2002-03) 12 *E.L.J.* 293) provide a good summary of several other cases concerning autism in education and jurisdictional issues. These cases include: *D.J.N. v.*

intense litigation activity in the area of services for autistic children might have on the perception and practice with regard to other disabilities. The court cases have focused heavily on factors that are specific to autism. General principles such as equality when evaluating new or emerging treatments and the principle that once a government offers a service it cannot arbitrarily cut it off, can likely be interpreted more broadly than the autism context.

The third major challenge is in how to navigate a middle course between addressing individual accommodation and the responsibility to undertake systemic inquiry and thus minimize the need for individual accommodation. An example of this is the recent New Brunswick human rights complaint of *Bernadette Cudmore and Human Rights Commission v. New Brunswick (Department of Education) and School District 2*.<sup>28</sup> In this case a student diagnosed with Attention Deficit Hyperactive Disorder (ADD/ADHD) and learning disabilities was the subject of numerous individual intervention plans (under various names) for several years in a ‘regular’ classroom. His parents, unsatisfied with the accommodations the student was receiving, placed their child in a special school for students with learning disabilities and ADD/ADHD (Landmark East), where the child received more one-on-one instruction. The Department of Education previously paid for student placements at this school. After beginning to implement inclusion in schools, the Ministry stopped the practice of paying for private, specialized treatment and put the money into meeting the students’ needs in a more inclusive setting. The decision in this case, which accepts ADD/ADHD as a mental disability and a ground for discrimination under the New Brunswick Human Rights Act, finds that education officials did not discriminate against this student, because they showed evidence that they had identified him as an “exceptional student” and were providing services for him. Even though the Tribunal finds that the student was still not thriving in school, it concludes that the efforts to accommodate him were reasonable.<sup>29</sup>

A significant part of this decision is the finding by the majority that the mother of this child had failed in her duty under the New Brunswick *Education Act* to

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*Alberta (Child Welfare Appeal Panel* [1999] A.J. No. 798 (Alta. Q.B.) [QL]; *G.E. v Alberta (Child Welfare Appeal Panel)* [2003] A.J. No. 1277 (Alta.Q.B.) [QL]; *Dassonville-Trudel (Guardian ad litem of) v. Halifax Regional School Board* [2004] N.S.J. No. 241 (N.S.C.A.) [QL]; *Theroux (tutrix) v. Lester B. Pearson School Board* [1999] Q.J. No. 370 (Que.C.A.)[QL]; *Lowrey (Litigation guardian of) v. Ontario* [2003] O.J. No. 2009 (Ont.S.C.J.) [QL]; *Naccarato (Litigation guardian of) v. Ontario* [2004] O.J. NO. 3278 (Ont.S.C.J.)[QL].

<sup>28</sup> LEB File No. HR-003-01 [hereinafter *Cudmore*]; The authors note that this case is the subject of judicial review which confirmed the majority decision in *New Brunswick (Human Rights Commission) v. New Brunswick (Department of Education)* [2005] N.B.J. No. 80.

<sup>29</sup> The lone dissenter on the panel of three found that there was discrimination. This tribunal member highlighted the high proportion of students with individual plans in this student’s class and his last year of public school, among other factors. The popularity of the French Immersion program in some New Brunswick districts appears to concentrate the number of exceptional students in the English only classes. This will be explored more in the summary of the consultation process pursuant to this Review.



communicate effectively with educational officials and provide all pertinent information about the student. The Tribunal accepts evidence that factors occurring outside of school often impact on performance. This puts educational officials on notice that there may be an onus on them to solicit information about external factors to promote the best interests of the child. In addition, where a parent (or child) does disclose information about external factors affecting a child, school officials will be required to use this information to better meet the needs of the child.

This case also highlights the very difficult situation presented, where a student is working in a 'regular' classroom and all mechanisms currently available are in place yet all of the student's needs are still not met. In this context it is not surprising that parents may ask for a specialized placement, paid for out of public funds to meet their child's needs. Educators face the difficult choice between putting all available resources into meeting this individual student's needs (individual accommodation) and embarking upon greater systemic inquiry to uncover further barriers to inclusion for the individual student and others like him or her. There are many good reasons to invest scarce resources in building a better public system for all students.

Litigation battles over gaining access to public schooling have come a long way. One of the earliest cases of this genre in the Atlantic region is the case of *Elwood v. The Halifax County Bedford District School Board*.<sup>30</sup> Looking back at this case offers a good illustration of how the issues have changed. In the past, like in the *Elwood* case, much of the debate was over the location of programs and services (placement). Parents and advocates wanted access to regular school settings for children with disabilities. As regular classroom placements have become more common, advocacy has begun to centre much more on the content of programs and services even if the programs and services are outside the regular classroom.

In New Brunswick, litigation over programs and services for students with disabilities highlights many of the complexities of inclusion. The 1989 case of *Robichaud v. Conseil scolaire no. 39*<sup>31</sup> really demonstrates some of the difficulties encountered in New Brunswick trying to implement equality and inclusion. In this case the school board alleged it had tried to integrate the student in a regular classroom. The parent claimed school personnel had not tried hard enough, nor given enough of the support needed, nor had they developed an "individualized education plan".

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<sup>30</sup> This case is not reported as it was settled before trial. For a full discussion see A.W. MacKay, "The Elwood Case: Vindicating the Educational Rights of the Disabled" in M. Csapo and L. Goguen, Eds., *Special Education Across Canada: Issues and Concerns for the 90s* (Vancouver Centre for Human Development & Research, 1989) 149.

<sup>31</sup> 99 N.B.R. (2d) 341. Reported is the injunction application and appeal quashing the injunction, granted pending trial.

The similarities between this case and the more recent *Cudmore* case discussed above are interesting to note. The claim that there was insufficient support for the student in the regular class was one of the claims of the parent in the *Cudmore* case as well, although the student in the *Cudmore* case did have a special education plan in place. One significant difference in these cases is the response of education personnel to each of these two students. Since the student in the *Robichaud* case was characterized as disturbing the class, the response was to physically exclude her. Since the student in the *Cudmore* case was quiet and did not disturb the class, the response was to keep him physically in the classroom, though not apparently fully meeting his needs.<sup>32</sup> *Robichaud* was one of the very few court challenges to inclusion in New Brunswick. The school board won the case and the parents requested injunction was quashed on appeal.

Educators in New Brunswick have also successfully demonstrated to courts and tribunals on a number of occasions that they are making serious attempts to implement equality and inclusion, at least with regard to individual accommodation. As a result, New Brunswick educators have experienced a high degree of deference from their courts. The recent *Cudmore* case again, is an example of this trend at the human rights tribunal and judicial review levels. The evidence that the school was able to provide about an individualized education plan outweighed the failure to communicate by the parent in this situation. Thus the school system won the *Cudmore* case as well.

This deference and wariness about the court's role in these matters also prevails in the earlier case of *Acheson v. New Brunswick (Minister of Education)*<sup>33</sup>. In this case, the court refused to grant an injunction preventing the Minister of Education from reducing the number of teacher assistant's at the Albert Street Middle School because the court accepted that if it granted the injunction it would mean that there would not be a teaching assistant somewhere else. The court decided that education officials were better placed to make this kind of decision affecting the distribution of resources to students across the province.

While courts and tribunals are willing to wade into detailed evidence (such as in the *Cudmore* case, the longest human rights tribunal in New Brunswick history), their roles are to provide a framework for ensuring equality will have meaning in daily life. Their role is not to dictate the detailed path to the implementation of equality. Courts and tribunals are much better positioned to tell governments when they got it wrong, rather than how to get it right. While this approach may seem frustrating for those who seek certainty about the extent of rights, this is the appropriate role for the courts.

This role of the courts and the inherent uncertainty for decision makers can be particularly frustrating, when the resources available are limited yet the demand

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<sup>32</sup> This is another factor noted by the dissenting tribunal member in the board of inquiry for this case. *Cudmore*, *supra* note 28.

<sup>33</sup> (2000), 228 N.B.R. (2d) 223.

for resources seems insatiable. A recent Nova Scotia case that really highlights the role of the court in these matters is *Dassonville-Trudel (Guardian ad litem of) v. Halifax Regional School Board*.<sup>34</sup> The decision in this case centres on the operation of a financial assistance program by the Department of Community Services. Guidelines had been issued for the operation of the program that included a maximum allowable family income as part of the eligibility requirements. The family in this case had a joint income that did, at times, exceed the maximum allowable under the program. When the family income did exceed the maximum allowable, this family was denied financial assistance. The child in this case had a severe form of autism and exhibited extremely high needs. The judgment of the Court of Appeal in this case refers the decision on funding and eligibility back to the Department. The reasoning was that the guidelines were not part of the statute and that they had unduly fettered the decision making. The court finds that the decision makers ought to have taken into account all of the circumstances and the extensive submissions made by the mother. The court here did not make the decision about whether the Dassonville-Trudel family was entitled to financial assistance, services or support. The court's role is to evaluate the framework and decisions for consistency with their enabling statutes and the Constitution. The specifics of decision making though, remain squarely in the hands of those officials to whom it is delegated.

Another Nova Scotia example illustrating this dynamic is the case of *Bourque v. Nova Scotia (Minister of Education) [2001] N.S.J. No. 289 (N.S.S.C.)*. In this case a parent sought judicial review of a decision by the Minister of Education. The Minister had decided not to appoint a Provincial Special Education Appeal Board to rule on a dispute regarding the student's Individual Placement Plan. The Court quashed the Minister's decision on the basis that the Minister had exercised discretion in a manner that was inconsistent with the values underlying the Education Act and the Special Education Policy Manual, particularly the values expressed about parent participation in the planning process. The court once again, did not impose a decision. The decision is remitted back to the Minister to exercise discretion again, though in a manner that is consistent with the underlying values.

Practice has proven that establishing the precise forms of delivery and levels of service in individual cases can be a challenging prospect. Arriving at consensus in individual cases is not an easy task and resort to some kind of conflict resolution or mediation strategy may be happening in New Brunswick despite the lack of a formal process in this regard. When parents become frustrated or dissatisfied with the results of the consultations and approaches in their school or district, they sometimes turn to the New Brunswick Human Rights Commission for support. In response to the volume of parents taking this approach, the Human Rights Commission has begun mediation or conciliation prior to

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<sup>34</sup> [2004] N.S.J. No. 24 (N.S.C.A.) [QL].

formalizing a human rights complaint and investigation.<sup>35</sup> Through this process, the New Brunswick Human Rights Commission considers that a better relationship between the Commission and the Department of Education has been developed and that several conflicts have been resolved, averting the expensive human rights complaint process. The positive effects of this initiative by the New Brunswick Human Rights Commission cannot overshadow the implications of the increased use of the Commission in this regard. These implications include the use of the Commission's limited resources, among others. A further inquiry of models of dispute resolution with regard to special education and within education generally can be found in the background research, section IV in the review of education legislation across Canadian jurisdictions.

At this time, the New Brunswick Human Rights Commission is involved in more than fifteen files regarding education, most of which address some aspect of inclusion for students with disabilities.<sup>36</sup> At least one of these open files involves a student with autism, and could become New Brunswick's version of the *Wynberg* case from Ontario discussed above. This case, *Manuel*, has been referred to a Human Rights Board of Inquiry chaired by Brian Bruce. It is interesting to note that the New Brunswick Human Rights Commission is a significant player in the current disputes about inclusion, while the earlier conflicts about placement were more likely to be raised directly in the courts.

## **Social Inclusion and Safe Schools**

The need to increase genuine access to community and belonging for all students, but particularly for students with disabilities, is vital. This is an area where students with disabilities share many similarities with all students and particularly with other marginalized students (women, African Canadians, visible minorities, immigrants, gays, bi-sexuals, lesbians and trans-sexuals, and those with low socio-economic status). Issues of social inclusion, well being and belonging are relevant to all children. Belonging in the community is really a function of relationships and attitudes. Although there has been an increased understanding of this issue in recent years, many of the traditional themes and relationships that lead to violence, harassment and attacks on dignity or self-esteem still occur regularly.<sup>37</sup> It is important to remember that inclusion is a broad

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<sup>35</sup> Meeting with the New Brunswick Human Rights Commission pursuant to the Phase II consultation process of *Inclusive Education: A Review of Programming and Services in New Brunswick*, May 19, 2005.

<sup>36</sup> *Ibid.*

<sup>37</sup> Examples include: the recent incident of New Brunswick students hurling insults at disabled workers from a bus. News Release, Alanna Palmer (Chair New Brunswick Human Rights Commission) September 23, 2004 Online: <http://www.gnb.ca/cnb/news/hrc/2004e1048hr/htm>. Also recently CBC Maritime Noon (radio show) broadcasted a story about a New Brunswick autistic teen trying to run to Ottawa, who paid a group of peers to drive him. The peers took the teen's money, leaving him stranded at a gas station. Although two recent incidents in which plots to bring guns to school at a Saint John High School and little more than a month later in

concept embracing a particular philosophy of learning that is applicable for all students.

### **Managing Violence in Schools: How Big a Problem is it?**

In recent years bullying and other forms of violence in schools has resulted in some shocking media headlines, including school shootings (in the United States and to a more limited degree in Canada), brutal beatings and attacks, and suicides.<sup>38</sup> There is no suggestion here that inclusion promotes school violence but only that school violence is a problem faced by all students. The consequences for children experiencing this are indeed serious and potentially life threatening. Is there an epidemic of violence sweeping today's young people? Some say yes, some say no. Recent incidences of "swarmings" by youth in Halifax, Nova Scotia and random physical violence by these young people underscores the depth of the problem. What is clear is that statistics in Canada show no increase in very serious incidents such as murder.<sup>39</sup> However, there does appear to be some increase in less serious violent offences such as assault. In addition, less serious violence occurs with much more frequency (sexual assaults 33 times more frequent than homicides, major assaults 133 times more frequent, common assaults 261 times more frequent)<sup>40</sup>. Studies also show an increase in weapons used during bullying, an increase in the proportion of youth violence perpetrated by girls, and that girls can be just as aggressive and physically violent as their male counterparts.<sup>41</sup> This point is emphasized by

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Miramichi, New Brunswick were prevented, they demonstrate that violent themes are present in New Brunswick, as in other places. On April 12, 2005, a similar threat was investigated at Sackville High School in Nova Scotia.

<sup>38</sup> In Canada, the community of Tabor Alberta experienced an incident where one person was killed and another wounded by a teen who brought a gun to school. This incident happened eight days after the massacre at Columbine High School in Littleton, Colorado (the subject of award winning documentary: *Bowling for Columbine* by director Michael Moore).

(<http://www.cbc.ca/news/background/tabor/yourletters.html>) The most recent of the tragic shooting deaths at US schools occurred in February 2005 in Red Lake, Minnesota. Other shocking Canadian incidents include the beating death of Rena Virk *R.v.Ellard* [2003] B.C.C.A. 68 and *R.v.Glowatski* [1999] B.C.J. No. 1278 and several publicized suicides where bullying was indicated as the reason –resulting sometimes in criminal charges being laid such as *R.v.D.H* [2002] B.C.J. No. 2454; *R.v.D.W* [2002] B.C.J. No. 627 (suicide of Dawn-Marie Wesley); Also see news reports on the death of Hamod Nstoh, Caroline Alphonso, "Bullies Push Their Victims to Suicide" *Globe and mail*, Monday November 27, 2000 and the death of Emmet Fralick, Jeffrey Simpson, "Girl faces bullying charges in suicide; Halifax teen shot himself, left note blaming bullies" *The Chronicle-Herald, Metro* July 23, 2002, A-1.

<sup>39</sup> Eric Roher *An Educator's Guide to Violence in Schools* (Aurora ON: Canada law Book Inc., 1997) at 2-6. W.R. Dolmage, "Lies, Damned Lies and Statistics: The Media's Treatment of Youth Violence" (2000-2001) 10 *Education Law Journal* 1.

<sup>40</sup> Statistics Canada, CANSIM, "Cases in Youth Court"; table 252-0030, catalogue no: 63-002-XIE. Online: <http://www.statcan.ca/English/Pgdb/legal25a.htm>.

<sup>41</sup> *Roher, supra*, note 38 at 22.

the guilty verdict against Kelly Ellard for the beating death of Rena Virk, announced on April 13, 2005.<sup>42</sup>

### **The Safe School Environment: a Legal Concept**

Students' experience of violence in contemporary society is profound and supporting evidence can be found in children's play and creative endeavors.<sup>43</sup> The responsibility to keep children safe while at school is onerous indeed when educators are faced with all of the challenges presented by violence in addition to meeting the educational needs of students. It is perhaps not intuitive to conceive of issues of violence as being related to educational equality in a way that is very similar to accommodating students with disabilities. The similarity becomes evident though, when we view the issues in respect to safe schools as being related to human dignity, inclusion and belonging. The goals of safe schools are very similar to the goals of inclusive schools. Safe schools are schools where social belonging for all students is encouraged, where every student is provided with a learning environment that is inclusive of them, where tolerance and respect are fostered, and where there are effective mechanisms in place to deal with problems as they arise. The challenges are great but the rewards of safe and inclusive schools will be even greater.

### **Duty to Work Proactively for Equality, Inclusion and Safe Schools**

A relatively new, but expanding concept in interpreting educators' duties is the concept of a duty to proactively address the issues and factors that have a

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<sup>42</sup> *R.v.Ellard*, *supra* note 38.

<sup>43</sup> In a forthcoming article for the *McGill Education Journal* co-authored by A.Wayne MacKay and Janet Burt-Gerrans, "Student Freedom of Expression: Violent Content, Censorship and the Safe School Balance", we examine in more depth examples of violence coming out in children's play (pretend shooting someone) and an example of a student suspended twice in a school year for this. There are examples of violence emerging in children's creative writing and we look at research highlighting censorship of a young student fixated on violent video games which surfaces in his writing: Linda Wason-Elam, "Video Games: Playing on a Violent Playground", *Systemic Violence in Education: promise broken* Juanita Ross Epp and Ailsa Watkinson, eds. (Albany: State University of New York Press, 1997). We also look at a student arrested for writing and reading out to his drama class a story about a bullied student who seeks revenge by planting bombs in school. Although it was shown that this teen was a victim of bullying, no evidence was found that he had planned such revenge and all charges were eventually dropped. The teen spent a month in jail (over Christmas and his 16<sup>th</sup> birthday) and was never allowed to return to his school. This teen and his younger brother (who suffered harassment after the incident and brought a knife to school for protection) were initially placed on home instruction. Other school arrangements were made after their claim in civil court succeeded. *E.B.J. (Litigation Guardian of) v. Upper Canada District School Board* [2001] O.J. No. 4174.(Ont. Superior Court). This is not to suggest that threats of violence in schools should not be taken seriously. The recent incidents in Miramichi and Saint John, New Brunswick underscore the difficult balance of protecting rights and preventing violence. Educators' must make schools safe for all children.

negative impact on the quality of the school environment. This concept is intimately connected with the duty to address equality systemically as well as through individual accommodation. This duty stems from a duty to maintain a positive school environment. There is a growing recognition that one of the primary functions of education in Canadian society is to develop civic virtue and responsible citizenship, and to educate in an environment free of bias, prejudice and intolerance.<sup>44</sup> Furthermore, teachers, by their words and their conduct, are the primary media through which values, beliefs, and knowledge are transmitted.<sup>45</sup> This duty has increasingly been recognized by tribunals and courts.<sup>46</sup> Even where school officials have shown evidence of efforts to address the complaint at issue, it may not be sufficient. In order to discharge this duty teachers and school administrators must address impediments to the safe and positive learning environment and be “ever vigilant of anything that might interfere with this duty.”<sup>47</sup> Dignity, self-worth, physical and psychological empowerment, and social inclusion for all members of the community are the heart of the matter.<sup>48</sup>

Increasingly, educators recognize that being proactive extends beyond the boundaries of the school and implicates early prevention and the building of resilience, even at the pre-school age. This kind of proactive approach can help avoid costly problems and behaviours later. Indeed some research indicates that inclusive child care at the pre-school level can assist children to be prepared to enter an inclusive education setting and reduce educational delay.<sup>49</sup>

## **Rights, Responsibilities & Relationships: the New 3 R’s in Education**

### **Premises of the New 3 R’s in Education<sup>50</sup>**

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<sup>44</sup> *Ross, supra* note 12 at para 42; *Trinity Western University v. British Columbia College of Teachers* [2001] 1 S.C.R. 772.

<sup>45</sup> Allison Reyes as cited by the Supreme Court of Canada in *Ross, supra* note 12 at para 42-43.

<sup>46</sup> *Kafé et Commission des Droits de la personne du Québec c. Commission scolaire Deux-Montagnes* (1993), 19 C.H.R.R. D/1 (Qué.Tribunal); *Jubran v. North Vancouver District No. 44* [2002] B.C.H.R.T.D. No. 10; The decision of the British Columbia Court of Appeal approving of the Tribunal decision in *Jubran* was released on April 6, 2005. In this case a school board’s liability for discriminatory harassment by students toward another student was affirmed. School personnel had responded to the situation with detentions, meetings with parents and suspensions for individual harassers, but had failed to curb the harassment experienced by Mr. Jubran. The court accepted the tribunal’s finding of fact that there were other, more effective measures that could have been taken and that at the time, school personnel had not been provided with funds “to deal with harassment issues and homophobia”. [2005] B.C.J. No. 733 [QL].

<sup>47</sup> *Jubran, Kafé. ibid.* Quote from *Ross supra*, note 12 at para 51.

<sup>48</sup> *Law v. Canada (Minister of Employment and Immigration)* [1999] 1 S.C.R. 497.

<sup>49</sup> Sharon Hope Irwin, Donna S. Lero, Kathleen Brophy, “Highlights from Inclusion: The Next Generation of Child Care in Canada” (Wreck Cove: Breton Books, The Special Link: The National Centre for Child Care Inclusion, 2004).

<sup>50</sup> The concept of the New 3 R’s in education and some of the analysis in this section draw in large part on an unfinished text: *The Three R’s in Schools: Rights, Responsibilities and Relationships; Teaching Citizenship by Example: Students’ Rights in the School Context* by A.Wayne MacKay and Kimberley J. Lewis, edited by Janet Burt-Gerrans. Excerpts from the

We identified in an earlier section two important trends in the Supreme Court of Canada's interpretation of equality guarantees in Canada. The first emphasizes the need to put serious effort into identifying systemic factors such as policies, practices, and procedures that pose barriers to equality. The second trend favours a proactive approach toward addressing barriers to equality. These trends signal the need for a new framework that will ensure that these goals are met. Here we outline a proposed framework that involves an analysis of "Rights, Responsibilities and Relationships" as a method of putting into effect these two important trends in the Supreme Court of Canada decisions. With this framework we analyze various legal structures and systems in education with a view to uncovering some of the systemic barriers to equality and inclusion.

The first premise of the proposed framework is that the central function of public schools is the inculcation of society's values. Schools are meant to develop civic virtue and responsible citizenship, and to educate in an environment free of bias, prejudice and intolerance. The *Charter of Rights and Freedoms* entrenches a number of values that are central to Canadian society, such as equality, freedom of expression and other fundamental freedoms, due process, procedural fairness and other legal rights (particularly when engaged with the criminal justice process). These rights are guaranteed, with the caveat that they are not absolute but must have reasonable and predictable limits. Section 1 of the *Charter* establishes the necessity of balancing rights against the responsibility of respecting the rights of others –including those of the larger society.

The second premise of the framework is that values are best taught by example. When it comes to teaching children, actions speak louder than words. Students learn about the fundamental values of Canadian society by virtue of how they themselves experience the school. This means that schools should demonstrate the capacity to reflect the values sought to be transmitted by our democratic society.

The third premise is that rights are not absolute but must be balanced against the rights of other individuals and the larger collective. This is the point emphasized by section 1 of the *Charter*. This is where responsibilities as the natural corollary of rights emerge. Limits on rights need not be harsh or inflexible, rather they should be fairly conceived, clearly articulated, and evenly applied. Limits should be based upon respect for the rights of others rather than on simple authority.

The fourth premise is that the problems faced by educators today have multiple factors and are complex in nature. The solutions will need to be multi-faceted and aimed at root problems. Too simplistic a solution may simply discourage good will toward an inclusive education system. The framework of Rights, Responsibilities and Relationships may assist in discovering the direction in which those solutions lie.

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unfinished text appeared in Wayne MacKay's Education Law class materials at Dalhousie Law School, 2000/2001.



## **The Student-Teacher Relationship: Position of Trust and Authority**

While *in loco parentis* is largely an outdated conception of teacher authority, it still has lingering *de facto* impact in the teacher's duties and roles. For most purposes, the teacher is considered a statutory agent of the state. Several different formulations of statutory duties exist across the country.<sup>51</sup> Judicial interpretation of the student-teacher relationship has established that teachers are in a position of trust and authority toward students and that no evidence is needed to establish that this is the nature of the relationship.<sup>52</sup> This fiduciary relationship implies that teachers have a responsibility to know and promote the best interests of students in their care. The promotion of equality is part of pursuing the child's best interests.

## **Students' Freedom of Expression and the Position of Trust and Authority**

For the position of trust and authority to function as intended, students (and parents) must have confidence that their teachers do have the students' best interests in mind. Children who are disengaged from their school, class or assignment or who are dealing with some kind of underlying issue that impedes their concentration or learning may well lose confidence in their ability to learn. Students rarely articulate their needs in so many words, particularly if their views are not sought on the issue. Students do express themselves in many ways. The right to freedom of expression in Canada is construed to include the widest range of expression including hate propaganda and speech with violent content (although not expression with a violent form).<sup>53</sup> By failing to take account of student expression in positive and responsive ways, by not making the connection between student expression and the existence of underlying problems, the message is sent that if there is a problem it resides in the student. There are many systemic factors. It is usually too simple to just blame the student, the parent or the teacher.

One of the first examples of a Court recognizing students' freedom of expression in a school context was the case of Chris Lutes who defiantly sang "Let's Talk About Sex" to a school official, after the song had been banned at his school. Chris Lutes suffered a suspension for the incident.<sup>54</sup> Here the Court held that the song was inoffensive and carried a powerful message about sex for teens, that the school officials had no good reason to ban the song and that suspending this student for singing it violated his right to freedom of expression.

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<sup>51</sup> More specifics of statutory analysis are introduced in Part IV of this Background Research Report.

<sup>52</sup> *R.v.Audet* [1996] 2 S.C.R. 171; Justice LaForest, "Off-Duty Conduct and the Fiduciary Obligations of Teachers" (1997), 8 *Education Law Journal* 119.

<sup>53</sup> *R.v.Zundel* [1992] 1 S.C.R. 731; *R.v.Keegstra* [1990] 3 S.C.R. 697.

<sup>54</sup> *Lutes v. Board of Education of Prairie View School Division no. 74* (1993), 101 Sask.R. 232 (Sask.Q.B.).

We canvassed in the previous section (Safe Schools) several examples of violence emerging in student expression, in play and creative writing. The most recent examples of serious threats of violence in Saint John and Miramichi, New Brunswick and the tragic violent incident in Red Lake, Minnesota remind us that the threats are real. In this context, it is hard not to be concerned when children play act violent themes and dramas, or when children write about violent themes in creative writing opportunities. Children may express violence for many reasons. The solutions are far from clear. The educator must balance freedom of expression which does include violent content, (though not violent form) with the need to maintain a safe learning environment.

Perhaps an even more difficult issue arises with the freedom of expression of some students with disabilities, particularly those who have difficulty using an established mode of communication, especially during a time of crisis (from the student's point of view). The liberal construction of the freedom of expression in Canada could include extreme behaviours, such as tantrums, outbursts, screaming, flailing of arms, etc., particularly if they are intended by the student to convey some message (be it that the room is too hot, too cold, too noisy, or too boring). Once again, it is important to remember that expression which is violent in form is not protected. A student may be in pain or can't cope in the environment in which they are placed.<sup>55</sup> Measures should be taken, however, to protect teachers, staff and students from violent forms of expression.

Not viewing such behaviour as possibly important communication can lead to negative results. An Ontario teacher charged with assaulting a student relied on section 43 of the *Criminal Code of Canada* as a defense to assault charges, claiming he used physical force for correction (this section is canvassed in more depth in the following section on discipline). The teacher was initially acquitted but the acquittal was reversed on appeal. Witnesses saw the teacher punch the student in the stomach because the student was making loud noises during the reading of a story to the class. With only the court record to provide the details, we cannot be entirely sure what the student may have been trying to communicate. The record shows that the student (who communicated using sounds) was dressed in outdoor winter clothing and there were only a few minutes left before the school bell, when the teacher decided to read the story. This raises the very real possibility that this student was trying to communicate discomfort with the situation.<sup>56</sup>

Expression conveyed in a violent form is not protected speech and school staff should not be the victims of violence any more than students; the right to freedom of expression is not absolute. Indeed for the staff personnel who are expected to respond when a student's behaviour or expression takes a violent form, issues of occupational safety are raised and the employer's attendant duty

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<sup>55</sup> Amy Harmon, "How About not 'curing' us, some Autistics are Pleading" *New York Times* (December 20, 2004).

<sup>56</sup> *R.v. Galliani* [2004] O.J. No. 2978 (C.A.).

of care to provide a safe working environment. Very few court cases have actually addressed this issue. One case, *Kendal v. St. Paul's Roman Catholic Separate School Division No. 20*<sup>57</sup> presents the situation of a student with Autism Spectrum Disorder who was known to have aggressive and violent tendencies that could be triggered very easily. In responding to an outburst by this student, a team of personnel had him pinned to the floor attempting to calm him down. This was their normal procedure for the student. A teacher (Kendal) was struck by the student during this incident and suffered injury to her head (although at trial the evidence showed that there was no long term injury suffered). The teacher sued her school board in negligence and breach of contract for failing to provide a safe work environment.

In evaluating this claim the judge first found that the plaintiff had not established a duty of care other than what the school had already done. The plaintiff had failed to prove that the school had not done something it ought to have done or that it ought to have done something differently. Secondly, the judge found that the goal or value of the initiative itself must be weighed against the risk in determining if the risk is unreasonable. In this case, the judge found that the risk posed by the student's attendance at school was not outweighed by the value of the instruction program to the student. A significant part of the program was to improve the student's social interaction skills. Evidence was presented that the program was effective to some degree as the student's behaviour had improved. The judge found that the school had taken the risk into account and had taken sufficient measures to minimize the risk. The measures taken by the school included that the student had a full time teacher assistant and health and safety concerns with regard to this student had been discussed with the student's parents and with school personnel generally. The judge states that the issue of a "quiet room" available for students in crisis to calm down without the need to be restrained had been raised but there was not enough evidence to determine whether that was a vital part of a safe work environment.

Authors Nolan, Trépanier and Ellerker have noted the occupational health and safety issue and have published an analysis of this situation with a particular focus on the applicability of Ontario's occupational health and safety laws as well as civil and criminal liability.<sup>58</sup> These authors conclude that in Ontario, occupational health and safety provisions regarding the right to refuse unsafe working conditions do not directly apply to teachers and teacher assistants in schools, based on the wording and exemptions in the Ontario legislation. They do note however, that several charges by Ontario occupational health and safety inspectors have been laid against school boards under another section of the legislation that requires employers to provide safe working conditions. These authors propose that school boards do need to take these safety issues very

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<sup>57</sup> [2003] S.J. No. 330 (QB) [QL]; Affirmed by the Court of Appeal [2004] S.J. N. 361 [QL].

<sup>58</sup> Brian P. Nolan, Jennifer E. Trépanier, Brian Ellerker, "When Special Needs Education and Safety Collide: Occupational Health and Safety Implications of the Education of Special Needs Pupils in Ontario" (2005) 14(3) *Education & Law Journal* 235.

seriously. In particular these authors propose that school boards consider mandatory safety clothing and equipment in some instances and mandatory sharing of information with workers where there is a risk of violent behaviour that is known to officials. In addition these authors advocate for well developed emergency and crisis management protocols that include appropriate equipment, training, and facilities to safely respond to behaviour that puts the community and workers at risk.

In addition, these authors highlight another recent and important case addressing safety when it comes to students with violent or threatening behaviour, particularly if the behaviour is associated with an intellectual disability. The case of *Bonnah (Litigation Guardian of) v. Ottawa-Carleton District School Board*<sup>59</sup> is an interesting situation where an eleven year old student was placed, because of his developmental disabilities, in a regular grade two class (his age peers were in grade seven). The student had some tendencies to act out aggressively and there arose a concern about safety since the student was much larger than the other students in the class.

The principal and others recommended that the student be moved back to the special class he had attended prior to being placed in the grade two class room. The parents refused consent and began an appeal under Ontario's special education appeal mechanism. The Special Education Tribunal in this case eventually ordered the board to place this student in a class with his age peers, supported by special considerations for his academic program. While waiting for the appeal mechanism to run its course, the principal attempted to have the student moved out of the classroom pending the outcome of the appeal, in order to ensure the safety of the class. The principal made an "administrative" decision under the safe schools provisions that grant the principal the power to exclude anyone from a classroom or from the school if they pose a safety risk. The parents sought judicial review of this decision in the courts.

The court held that the safe school provisions grant the principal authority to exclude a person whose presence is detrimental to the safety or well-being of the school community, and that this included an exceptional pupil. Although the court was careful to say that a decision abusing this authority by using it in the absence of a genuine safety concern or to circumvent an exceptional pupil's right to remain in a placement pending appeal, would be subject to judicial review. In this case the court upheld the principal's decision.

Care will be needed in the approach to expression that disturbs other students in their learning at school or that has a violent form. Systemically, inclusive education seeks ways to ensure safe spaces for students' free expression and would ensure due respect to the message conveyed, while also protecting the collective interest of all the people in the learning community. The interests of staff who are directly implicated in responding to students who display violence

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<sup>59</sup> 64 O.R. (3d) 454.

or harassment are of particular importance. Whether the student is trying to express some kind of communication or whether violence is motivated by anger or frustration, the personnel who are directly responsible for responding, are in no small way responsible for the safety of the school community. They do bear the weight of the risk. These personnel also bear the injury when it occurs. Physical assault and sexual harassment should not be an acceptable part of any person's job, particularly if the risks are foreseeable and more effective strategies are available. The education system should support this work by appropriately acknowledging who performs these tasks, by ensuring appropriate and sufficient training for personnel performing this function, and by establishing clear and effective crisis management protocols.

Although restraint was accepted as an appropriate crisis management response in *Kendal*, evidence of other more effective strategies may reverse this finding in a future case. Restraint of a student in crisis is a particularly risky proposition, particularly from the point of view of those doing the restraining. Injury to both the student and the personnel are foreseeable. The issue of a "quiet room" available for students to regain composure in a crisis without the need for restraint was raised in *Kendal* but the issue was not resolved. If resources allow, such a room would appear to offer a safer alternative response.

### **Managing Behaviour: Discipline, the New 3 R's, and Inclusive Education**

With behaviour problems appearing to be a very pressing concern for teachers and school administrators,<sup>60</sup> it is important to canvass the relationships and responses to misbehaviour. These relationships and responses are a very important systemic element in schools. We examine all kinds of behaviour: the extreme (violent, or otherwise criminal), the not so extreme misbehaviour, defiance, and behaviour otherwise contrary to school rules.<sup>61</sup>

### **The Intersection of the Criminal Law and the School Context**

The role of disciplinarian is a complex one. It is played by teachers and other school officials (and later by the school board or Minister in the case where a statutory avenue of appeal exists). Teachers, principals and school boards act as media and transmitters of values when they take on the role of disciplinarian. This role is complex and can vary in different situations, particularly where the criminal law is involved. Because of the nature of criminal law consequences, specific rights for accused and convicted persons have evolved. The traditional fiduciary relationship between teacher and student is often brought into conflict

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<sup>60</sup> More is forthcoming in the summary of the ongoing and highly beneficial consultation sessions pursuant to this Review.

<sup>61</sup> These authors have previously examined this issue in depth in A. Wayne MacKay and Janet Burt-Gerrans, "Towards a Safe and Effective Learning Environment: The Delicate Balance of Rights and Order in Schools", Roderick C. Flynn, ed., *In Support of Lifelong Learning: Proceedings of the Thirteenth Annual Conference of the Canadian Association for the Practical Study of Law in Education* (Toronto: Informco Inc., 2004) 206-227.

with the more adversarial relationship between the criminal justice arm of the government and a young person accused of, or convicted of committing a crime.

The role of school officials in respect to discipline is a complicated but important one to be clarified. For most legal purposes the test as to who is a person in authority is a subjective one and this can vary from one situation to another. The fiduciary relationship perpetuates the assumption that the teacher and student are on the same side and does not take into account the adversarial nature of the criminal justice process. Critical to understanding this shift in the role and relationship is the concept of psychological detention. With psychological detention, there exists the reasonable belief that there is no choice about whether to comply with the request of the person in authority.<sup>62</sup> Clarity on this point is of extreme importance: the hazards are great for a youth who confides in an educator in the belief that the educator is safe and on their side. False confessions under the pressure of the person in authority are also serious hazards to be avoided. Once a school official begins furthering the goals of the criminal arm of the government, that official is no longer acting as the fiduciary of the student. At that point the student should be made aware of this and should be afforded the statutorily and constitutionally mandated protections of the adversarial criminal process. This can be done by bringing the police into the situation.

Students' rights in the criminal context stem from two key areas of law. First, the *Charter of Rights and Freedoms* does apply to children, and does apply in schools, although in some cases in an abbreviated way.<sup>63</sup> Most of the legal rights are grouped in sections 7-14, including the right to life, liberty and security of person (and the right not to be deprived thereof except in accordance with the principles of fundamental justice), protection from unreasonable search and seizure, freedom from arbitrary arrest or detention, the right to be given reasons for detention and to instruct counsel, the right to the specifics of the offence, the right to be presumed innocent, and freedom from cruel and unusual treatment or punishment. However, the standards are different if school officials are involved rather than the police. The student's interests are better protected with the involvement of the police.

The second source of student rights is the *Youth Criminal Justice Act*<sup>64</sup> (YCJA). This Act came into force April 1, 2003 and replaces the previous *Young Offenders Act*. This Act sets out a separate criminal justice system for young people and recognizes young people as rights bearing individuals entitled to special protections due to their age and vulnerability. It sets out many rights and protections for youth including abbreviated rules of evidence and modified rules of admissibility with regard to statements made by youth to persons in authority.

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<sup>62</sup> Don Stuart, Annotation *R.v.J.W.* (1996), 2 C.R. (5<sup>th</sup>) 233 (Ont.C.A.).

<sup>63</sup> *R.v.M.R.M.*, *supra* note 12.

<sup>64</sup> S.C., 2002, c-1.

This recognizes that young people might be subtly coerced by the relationship at play.<sup>65</sup>

The preamble of the *YCJA* sets out some very important principles about responding to criminal behaviour by young people, including the following passage:

WHEREAS members of society share a responsibility to address the developmental challenges and the needs of young persons and to guide them into adulthood.

WHEREAS communities, families, parents and others concerned with the development of young persons should, through multi-disciplinary approaches, take reasonable steps to prevent youth crime by addressing its underlying causes, to respond to the needs of young persons, and to provide guidance and support to those at risk of committing crimes.

Canada's new *Youth Criminal Justice Act* sets a high standard for the protection of youth once they come into conflict with the law.<sup>66</sup> It sets out principles about the relationship between an offender and those in positions of authority as well as between an offender and the justice system. The kinds of disciplinary measures appropriate for youthful offenders are also set out. The challenge in schools, as in many other settings, is striking the correct balance between the rights of all and the need for order. Laws dealing with youth crime have been much criticized for being too lenient. This is particularly true in light of the growing concern about "swarmings" by young people. It is unclear though whether the criticisms take into account that the social systems anticipated by the *YCJA* in many cases do not exist in practice. Proactive policies can only be properly implemented if the resources are provided to allow for effective implementation. This is true in both the criminal justice system and schools.

### **School Consequences for Criminal Behaviour**

Another kind of legal question arises where a student suffers school consequences for behaviour that is also subject to the criminal law. This can occur in situations where the matter is dealt with "in house" and is not turned over to police, or school consequences can be in addition to criminal sanctions. The Supreme Court of Canada has had limited opportunity to address this issue. It has ruled in one case that the practice of staff at a Youth Court distributing the Youth Court docket to the local school boards violated the rights to non-disclosure of the identity of young offenders.<sup>67</sup> In coming to this decision the

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<sup>65</sup> Excerpts of further protections for youth in the *YCJA* are provided in Appendix C.

<sup>66</sup> *R.v.M.(B)* [2003] Saskatchewan Judgements No. 377 [QL].

<sup>67</sup> *F.N.(Re)* [2000] 1 S.C.R. 880.

court specifically drew the distinction between school purposes and the purposes of the administration of justice.

This begs the question about situations where school consequences are applied to criminal behaviour. This is the case when school rules embody criminal offences (such as assaults, bullying, uttering threats, thefts, or drug possessions) and school discipline takes place rather than calling the police, or in addition to calling the police. Should the school's approach in its disciplinary action be consistent with the relevant Canadian Criminal law? Should schools hand out sanctions in addition to what a student will face through the criminal process? It appears that they have the legal authority to do so but it should be done with caution.

The *YCJA*'s provisions in regard to sentencing indicate (in particular) that sentences must be least restrictive and most likely to rehabilitate and reintegrate the youth. They also must promote a sense of responsibility in the young person and an acknowledgement of the harm done to the victim and the community. There is an opportunity to evaluate whether suspensions and expulsions utilized in cases such as these, and in particular used alone, meet this standard for criminal sentencing. While school discipline is separate from the criminal process, the two systems should not operate in total isolation.

### **School Discipline for Non-Criminal Misbehaviour**

The history of corporal punishment in Canada is illustrative of important shifts in the cultural understanding of discipline. These shifts are in many ways paralleled by the shifts in the understanding of the place for students' rights and responsibilities in the school context. Historically discipline was delivered physically. The use of corporal punishment to train and teach children has been viewed as both necessary and virtuous since Roman times and enjoyed widespread approval, including among judges.<sup>68</sup>

Section 43 of the *Criminal Code of Canada* provides parents and teachers a defense to assault charges, where they can justify using force by way of correction toward a pupil or child. The most recent case of the Supreme Court of Canada on this section significantly narrowed the interpretation of what is "reasonable for correction". The Court established guidelines on how the section 43 defense is to be applied. Excerpts of these guidelines appear in Appendix D. The Supreme Court signals a serious shift in the understanding of discipline pursuant to section 43 of the Criminal Code. The interpretation of what is reasonable in order to benefit from this section of the Criminal Code is justified by the Court's acceptance of volumes of social science evidence about the

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<sup>68</sup> Anne McGillivray, "He'll learn it on his body: Disciplining childhood in Canadian law", *The International Journal of Children's Rights* (1997) 5: 193-242.



ineffectiveness of force used in the training and correction of children.<sup>69</sup> With this narrowed approach to interpreting the scope of section 43, the majority of the Court found that this defense to assault charges where physical force was used against a child, does not violate children's dignity under section 15 of the *Charter*.

Teachers as well as parents have traditionally enjoyed deference from courts, particularly with regard to issues of order and discipline. The Supreme Court upheld the constitutionality of section 43 for both parents and teachers, and concluded that it did not violate equality, security of the person, or constitute cruel and unusual punishment. There are some examples where traditional deference to educators is eroding when it comes to rights that hold a constitutional dimension.<sup>70</sup> However, courts are still willing to give parents and teachers considerable leeway in how they deal with children.

Shifts in views about discipline are also reflected in what appears to be a trend toward medicalizing behaviour problems. Evidence of this trend includes the tremendous increase in the production of methylphenidate (ritalin). Drug manufacturers have recorded a 500% increase in the drug's production over a five year period prior to 2000.<sup>71</sup> This drug, the most commonly prescribed for Attention Deficit Disorder/Attention Deficit Hyperactive Disorder (ADD/ADHD), has also caused concerns in New Brunswick. After receiving a number of complaints about its prescription, the New Brunswick Ombudsman recommended that a legislative committee look into its use in the province. There are, of course, conflicting views on these matters and Ritalin is seen as a positive thing for many children, their parents and their teachers. The debate has not been resolved.

Further complicating the process of effectively responding students with behaviour difficulties is the lack of consensus in the international scientific community regarding the incidence, symptoms, or any other aspect of ADD/ADHD.<sup>72</sup> In some ways ADD/ADHD has become an umbrella category for behaviour problems. Indeed, a Nova Scotia clinic specializing in testing and

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<sup>69</sup> *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)* [2004] S.C.J. No. 6 (S.C.C.).

<sup>70</sup> *Concerned Parents for Children with Learning Disabilities Inc. v. Saskatchewan (Minister of Education)* [1998] S.J. No. 566 (Q.B.) [QL].

<sup>71</sup> In searching for underlying reasons for misbehaviour many turn to a medical model. Some believe this to be fueling the dramatic increases in the identification of Attention Deficit Hyperactive Disorder ADD/ADHD in children. Troy A. Adams, "The status of school discipline and violence" *Annals of the American Academy of Political & Social Science* v. 567 140-156. The New Brunswick Ombudsman, Bernard Richard has renewed his concern about the over-prescription of Ritalin and other similar drugs in response to higher levels of identification of ADD/ADHD in New Brunswick as recently as June 14, 2005. Chris Morris, "N.B. Ombudsman fears Ritalin being over prescribed", *Globe and Mail*, A10.

<sup>72</sup> Gordon Tait, "The ADHD debate and the philosophy of truth", Roger Slee, ed., 9(1) *International Journal of Inclusive Education* (Jan-Mar 2005) 17-38.

diagnosing ADD/ADHD reveals that at least 50% of children referred to them do not have ADD/ADHD.<sup>73</sup>

Behaviour problems tend to be complex. Many factors, either individually or in combination, may produce similar kinds of behaviours or symptoms. Environmental sensitivity, pesticides and other low level or constant exposure toxins, poor nutrition, post traumatic stress, sexual or physical abuse, family alcoholism or drug abuse, lack of sleep, even constipation can manifest in symptoms like lack of concentration and general misbehaviour. School personnel have a difficult task and should proceed cautiously when responding to disruptive behaviour or intervening on behalf of the need for an ordered classroom. There clearly is a need to address the disruptive behaviours, but there is also a need to explore the root causes and triggering factors as well. This exploration may be beyond the capacity of the teacher, indicating the need for experts and other resources to be available. There is also a need to have crisis preparedness plans and training, particularly with regard to the most common and expected misbehaviours.

Learning disabilities also pose challenges as we begin to understand that some students learn differently: Some students thrive better under different physical/structural environments and teaching styles or approaches. Misbehaviour can be an indication of a host of underlying problems, including the pervasive problem of student boredom and disengagement. Other recurring issues such as racism, sexism, homophobia or harassment (both in school and in the wider community) may also be at play. Additionally, the lack of physical activity generally among young people is of growing concern and potentially implicated in the solutions to misbehaviour. An understanding of the many factors affecting behaviour is critical to formulating appropriate responses for individual students and to the system as a whole.

Beyond the connection with underlying problems, educators are acting as media and transmitters of values when they engage in school based discipline.<sup>74</sup> Even though the YCJA has no direct applicability to the issue of in-school discipline, the principles contained in it represent much research and consensus on formulating effective disciplinary responses. School rules do need to be enforced. They also need to be fair and predictable and responses to transgression of school rules should emphasize the reason for the rule. Reasons should be rooted in the operation of rights and responsibilities, not strictly based on adult authority. Enabling the student to learn and grasp the reason for the rule and highlighting the interaction of rights and responsibilities in the learning community is an important educational process. Consequences should also be least restrictive, focus on rehabilitation and take place in the community wherever possible. This

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<sup>73</sup> CBC Information Morning -Halifax (April 4 & 5, 2005). Collection of plain language summaries of several recent neuroscience and physiological research on Attention Deficit can be found at: [www.braintraining.com/attention.htm](http://www.braintraining.com/attention.htm)

<sup>74</sup> Allyson Reyes cited by Supreme Court of Canada in *Ross*, *supra* note 12 at para 43.

approach to discipline demonstrates the values and ideals of the framework of “Rights, Responsibilities and Relationships” and provides an appropriate foundation for balancing the rights and needs of all students.

## **Conclusion**

When it comes to the law there is often a balance to be struck. Courts are often asked to strike a balance between rights and reasonable limits. Courts need to balance their constitutional role as protectors of rights against their legitimate concerns about unduly invading the policy role traditionally left to legislators.

Educators are called on to strike many similarly difficult balancing acts on a daily basis. Balancing the competing rights of students can be difficult. A balance needs to be struck, for example when one student creates a disruption or needs intense amounts of energy from the teacher. That student’s rights may come into conflict with the rights to a safe and effective learning environment for all the other students. Indeed a teacher’s or staff’s right to a safe work environment may also come into play. Educators also balance various roles, expectations and relationships. Many of those roles and expectations have changed in recent years.

Students must also carry out a balancing act. They balance the expectations of adults, peers, and cultural pressures with their personal, physical, emotional and other development. For the vast majority of students fun is also part of the balancing act.

We have emphasized the court’s signs and signals that systemic equality is a serious legal imperative and that a proactive approach is necessary. When it comes to these daily balancing acts, the point for policy makers is to consider the apparatus. Where is it placed? Is it on level ground? How big are the balancing trays? Are they beyond capacity? Are there extra weights hidden on one side? Is it well calibrated? The lighthouse of equality provides some guidance, but does not solve all the problems. That must be done in collaboration with educators.

## **PART III: BEST PRACTICES IN INCLUSIVE EDUCATION**

The methodology used in addressing this component of the Background Research Report includes a twofold approach. First, we undertook a selective literature review in the field of inclusive education. Second, we undertook an analysis of a few of the systemic features of the education system which pose challenges for inclusion, and provided a sampling of concrete initiatives that begin to address systemic barriers to inclusion.

### **Academic Literature Review**

The complete results of the literature review can be found in an annotated bibliography in Appendix E. This review was highly selective based on the following criteria. First we strictly narrowed the review to literature in the field of inclusive education, rather than focusing on literature in the fields of special needs programming or accommodations. Much of the analysis called for in the Terms of Reference and the discussion surrounding this Review make it clear that the expectation is that this Review will deal specifically with issues of disability and accommodation. The broader concept of inclusive education offers much to the analysis of the issue of meeting individual needs but provides for the further analysis of educational systems and structures that promote inclusion. Furthermore, the title of this Review directs us to the “Inclusive Education” field. This is an important distinction, not merely a semantic play on words, as inclusive education has implications for all aspects of educational service delivery and is applicable to all students.

Recently the Ontario Human Rights Commission waded into this emerging field when it released Guidelines on Accessible Education where the law is outlined (which is incidentally very consistent with our outline of legal considerations in the previous section). These guidelines also offer numerous practical examples and suggestions for implementation.

The literature reviewed in this section also offers a vast array and depth of suggestions, initiatives and approaches both in response to specific symptoms or patterns of behaviour, as well as for approaching education and systemic reform to promote a more inclusive school system. This literature review is supplemented by another body of research, provided to this Review by Pierre Dumas and which presents findings that are very consistent with the present literature review. Mr. Dumas’s findings are summarized in a later section with the full text provided in Appendices G and H. The following is a summary of the

literature found in Appendix E. This summary is organized around the points of examination found on page 2 of the *Terms of Reference*, provided in Appendix A.

Generally speaking the results of the literature review show that the optimal knowledge and skill sets for teachers and other school personnel include cooperation, collaboration, flexibility, adaptability, creativity, broad knowledge of child development, knowledge and use of various pedagogy and evaluation methods, reflective practice (to reflect on their own performance and various practices and procedures in schools and the attendant impacts on inclusion, and assisting students in reflective practice), and knowledge of the assets and opportunities within their communities. Often this assumed knowledge and skill is not present in the educational staff, and the opportunities to acquire these skills and knowledge are limited.

The strategies used to provide school personnel with the required knowledge and skill sets are quite varied. Generally speaking, the transition to a school system with personnel that possess the above mentioned skills and knowledge will require a strategic plan, patient communication with all personnel, and implementation that takes account of the strengths and attributes of each person and the broader school community.

Accountability measures and practices for monitoring individual progress and the effectiveness of educational programming are also quite varied. The approach to these issues relies heavily on the skills and knowledge outlined above. Best practices in this area rely on ensuring that the goals and methodology for evaluation are clearly articulated and clearly correspond with one another. Best practices also endeavor to ensure that all evaluations are in fact necessary to the educational purposes of the school. Furthermore, best practices in this area examine the reasons for evaluations and ensure a balance between evaluation based on standard assessment and other kinds of more individualized evaluations, self-evaluation, and evaluation directed specifically at improving student success. There is a need to identify the goals and purposes of each evaluation tool used and to design evaluation tools that effectively measure inclusion as well as performance.

The issue of rural and small schools is also raised in the *Terms of Reference*. Rural is defined by the Canadian School Board Association as communities with fewer than 10,000 residents, outside of commuting range of a larger centre and where less than 50% of employed residents commute to a larger urban centre for work.<sup>75</sup> Some of the issues cited as significant challenges in rural areas include the lack of available and qualified professionals, the long distances between schools and between schools and homes. School closures, multi-age groupings, low enrolments, high teacher turnover, and poor attendance are also listed as

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<sup>75</sup> "Rural Schools Centres of Community Performance Partnerships". Prepared by the Canadian School Board Association for the Council of Ministers of Education of Canada (CMEC) January 2005.

challenges in rural schools. Access to extra-curricular activities in rural areas currently depends on the ability of parents to provide after-hours transportation, something that is even more challenging in rural areas. Solutions suggested in this literature include distance learning and the use of technology to bridge distance gaps (particularly with accessing specialists), more inter-disciplinary approaches and well developed partnerships between schools and communities. While rural schools face many challenges, they also have strengths to draw on, such as more tightly knit communities and other unique community attributes.

Solutions to classroom composition issues are as complex as the issue itself. Some solutions rest on reduced class sizes. Others take a more complex view asking questions about who takes responsibility for students with exceptionalities (the general teacher, the teacher assistant, or the resource teacher) and suggest varying the roles played by these people. Some suggest a more comprehensive analysis of scheduling, class set up and pedagogical practices, to better meet the needs of all children who are in a classroom. Some authors propose that exceptionalities should appear in a classroom in the same proportion as they appear in society.

With regard to the levels of service and the organization of non-educational services and the resources required to support the learning of students with exceptional needs, all recognize that health, emotional, psychological and other basic needs do have an impact on the learning process. These basic needs must be adequately addressed in order for children to effectively participate in the learning environment. Most also suggest partnerships and cooperation among various governmental agencies responsible for ensuring the well-being of children and families. Partnerships and service integration can take different forms and are addressed in more detail in a later section. Generally this refers to cooperation in service delivery at all levels including provincial, regional, and local levels of both governmental and non-governmental actors.

The role of the public education system in relation to pre-school children who are at risk of entering school with educational delays is also complex. This particular criteria set out in the *Terms of Reference*, assumes that there is a standard level at which children should enter school. A standardized norm of this nature may need to be examined. Most sources on this issue though identify pre-school as an age where significant learning happens. Inclusive practices and preventative measures in preschool can help support smoother transitions to school and support all children reaching their potential. In addition, implementation of inclusive practices and preventative measures can help reduce the intensity of support required by some children later on. The role of public education in this regard is not entirely clear as pre-school is not always in the same Constitutional sphere of operation as education. The Federal Government through the exercise of the spending power can become involved in matters such as National daycare programs. Any efforts by the Department of Education here will need to be coordinated with federal officials, other provincial departments, private service

providers, and families. Also, provincial education acts specify a targeted role toward children of school age. Although school age varies slightly across the country, it generally means between the age of 5 and 18 years (up to 21 years for some students with disabilities in some jurisdictions –New Brunswick being one).

The next criteria set out in the *Terms of Reference*, directs us to identify measures that prevent or reduce learning delays. The literature provides volumes of ideas, suggestions and structural analysis with regard to ensuring an optimal learning situation for all students. These strategies have the goal of ensuring that each child can reach her or his potential (whatever that might be) and that no child “falls through the cracks.” This encompasses the concept of “differentiated instruction” which, on the basis of the ongoing consultation process, appears to be fairly well known among New Brunswick educators. Many of the suggestions proposed in this literature go much farther than differentiated instruction in their identification of systemic challenges, and offer practical suggestions for better supporting inclusion (both social and academic).

Transition planning is a serious issue for all students. This is an important way to recognize and respect all students. Ensuring that every student (given their individual circumstance) understands the many options open to him or her and that they are encouraged to have dreams and aspirations for their future, is important. Following this, students need assistance in formulating an action plan to make their dreams a reality. This is all the more important for students with significant disabilities and challenges. Most of the literature on this point touches on the recognition of each transition time (pre-school to elementary school, elementary to secondary and secondary to post-secondary school, work or community). Other literature also recognizes that changing schools, teachers and expectations are also transition times for students. Most writers suggest intentional and collaborative approaches to transition planning that highlight the strengths of the student and are realistic about the challenges. Good transition plans also assist youth in recognizing and drawing on assets and resources available in the community.

A further challenge identified in this literature review is that great improvements in policy in recent years have advanced inclusive education. Discord between policy statements and what happens in practice is an impediment to realizing inclusion more broadly. Many writers highlight, in particular, that the change to an inclusive education system involves much more than writing policies. Implementation requires addressing the difficult issues of changing attitudes, skills, knowledge, resources and systemic function. As one commentator notes: “[t]he intent is there, as it has been for many years. The challenge is that there seems to be a paralysis in regards to action.”<sup>76</sup>

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<sup>76</sup> Vianne Timmons (University of Prince Edward Island), “Disability and Social Policy in Canada: A focus on Inclusive Initiatives”, forthcoming text (2005).

Finally, a significant issue needing attention is the interchangeable use of terms and language. Often this practice equates terms that do not have the same meaning, particularly across jurisdictions and educational contexts. In an effort to address this issue, educational researchers at York University in collaboration with a number of other partners, have initiated a study into the use of language pertaining to special education and inclusive education. The preliminary findings of this study are referred to earlier, in the introduction to this Background Research. This study aims to shed light on the use of language and assist in developing common understandings of the critical terminology that can support better collaboration and inclusion.<sup>77</sup>

During the course of this study on terminology, researchers have identified in particular that crucial terms such as inclusion, full inclusion, special education, and integration are terms often used in interchangeable and confusing ways. They have also found that the “confusing use of terms used to describe services under the special education model and under the newer inclusive model of education has contributed to ...a deep rift between parts of the educational community with regard to how best to serve the educational interests of Canadians with disabilities.”<sup>78</sup> This and other material by the same author can be found in the Appendix E literature review.

### **Systemic Features with Challenges for Inclusion**

In order to highlight the systemic nature of the inquiry needed to advance equality in Canada, we undertake an analysis of a few systemic features which pose challenges for inclusion. We identify four: health and wellness, curriculum and educational structure, discipline and safe schools, and the use of technology. These are not the only systemic elements of the educational system which pose challenges for inclusion and their presentation here is not intended to indicate any particular priority to these elements. For example the widespread underfunding of education is a systemic problem that has a negative impact on all aspects of learning, including how inclusive it is.

We use these four challenges to illustrate the kind of systemic inquiry that is necessary. This should not be taken as an exhaustive list of the possible avenues for action. Nor should this be taken as hinting at the direction or content of the final recommendations for this Review. We remain convinced that many solutions and systemic barriers have yet to be identified. The recommendations of this Review have not been formulated, nor could they be at this point, as all of the evidence, and particularly the contextual New Brunswick evidence is not yet completely gathered. More will follow in the summary of the ongoing consultation sessions pursuant to this Review.

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<sup>77</sup> Gary Bunch & Kevin Finnegan, “Finding A Way Through the Maze: Crucial Terms Used in Education Provision for Canadians With Disabilities”, (2005).

<sup>78</sup> *Ibid*, “Executive Summary”.



Authors from McMaster University make several interesting recommendations about increasing effectiveness and cost efficiency, not only within the education system but across social systems.<sup>79</sup> In this large scale review, the results of over 1000 programs, articles or reviews of the effectiveness of services for school-aged children are analyzed. Although these authors note that there tends to be a lack of an economic perspective in the literature in this area, they are able to conclude that:

The most effective programs aim to achieve multiple age-appropriate cognitive, interpersonal, social, physical competencies which protect children exposed to risks by integrating a combination of universal and targeted individual and system focused services which are “on-site” versus “on-call”, “reach-out” versus “on-demand” into the daily circumstances of the child through some strategic alliances between school/child care, family, community implemented and sustained in a local context.

These authors also present an integration of services model, something we will pick up on again in the next section on health and wellness. As a framework these authors set out what they call an “integration model” encompassing horizontal integration,<sup>80</sup> vertical integration,<sup>81</sup> and diagonal integration.<sup>82</sup> They propose an integrated service system that is designed to promote competencies and reduce risks. This system draws on various strengths and attributes within communities to meet students’ needs by drawing together, “sewing the seams”, of communities’ social fabric. This sets an appropriate context for the following analysis.

This particular study from McMaster University adopts an even broader systemic point of view on how effectiveness (and to some degree fiscal efficiency) are increased when social systems work together to promote competence, build resilience, and reduce risks in communities. It also highlights the potential of collaboration in achieving common objectives. The strategy is to recognize social systems and institutions for what they are: human constructs that could be constructed in numerous alternate ways.

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<sup>79</sup> Gina Browne, Crolyn Byrne, Jackie Roberts, Amiram Gafni, Basu Majumdar, June Kertyzia, “Sewing the Seams”, (System-Linked Research Unit, McMaster University, April 2001).

<sup>80</sup> Horizontal integration refers to a network of organizations within one sector (education) that provides or arranges to provide a coordinated continuum of services (prevention, early intervention, support, remediation) to a defined population, and the network of organizations are clinically and fiscally accountable for the outcomes.

<sup>81</sup> Vertical integration refers to the joining together of “disparate” and differentiated social systems (health, education, social, recreation) organizational elements to achieve a unity of purpose.

<sup>82</sup> Diagonal integration refers to the pooling of resources (human, material from publicly or/non governmental sources) to serve as the incentive for horizontal and vertical integration in publicly funded systems.

The impact of these social systems will vary depending on their construction. In undertaking inclusive design work, thought must go into assessing how the system could operate differently to produce the desired results. In the school setting the desired results are to promote increasingly better student outcomes for all students in all areas (academic, social, emotional, etc.) while at the same time providing a supportive and satisfying work environment for educational personnel. This would be a good model of inclusive schooling.

## Health and Wellness

The health and wellness of students and indeed of teachers, staff and administrators are intimately connected to learning, performance, and self-esteem. The high incidence of chronic illness in statistics about disability (covered in more detail in section V) also indicates the importance of the health element in the school system. Health and wellness as a systemic element of the school system has several broad components. First, it means responding to the presented medical and health needs of exceptional students because this is a precondition to those students' learning and participating. This falls in the area of individual accommodation.

The more systemic approach accepts that the culture and operation of schools are not neutral on health and wellness issues. What is the message sent to students about health and wellness, its importance, and its impact on functioning? This is an area of concern for the scope of government service provision given the explicitness of some of the rights set out in the *UN Convention on the Rights of the Child*. For example article 24 sets out a right to the highest standards of health and to have available nutritious foods and clean drinking water. In addition, states party to the Convention, agree to promote preventative health and protection from the dangers of environmental pollution and to ensure educational services for children and parents on these issues.<sup>83</sup>

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<sup>83</sup> *UN Convention on the Rights of the Child*, supra note 19 at article 24. A tremendous amount of new research exists in the areas of environmental pollution and preventive health in particular. A very few sources on this perspective include: *The Indoor Air Quality (IAQ) in Canadian Schools Summary Report*, The Indoor Air Quality (IAQ) in Canadian Schools Project, Atlantic Health Promotion Research Centre. Prepared for Population Health Fund, Health Canada; Judith Rajhathy, *Free to Fly* (Halifax, New World Publishing, 1999), E.A. Guillette, et. Al., "An Anthropological Approach to the Evaluation of Preschool Children Exposed to Pesticides in Mexico" (1998) 106(6) *Environmental Health Perspectives*; Charles W. Schmidt, "Poisoning Young Minds" (1999) 107(6) *Environmental Health Perspectives*; [www.DavidSuzuki.org](http://www.DavidSuzuki.org); "Youth Net: peers reaching out" 7(2) *Health Promotion Atlantic* (2001); "Promoting healthy body image in teens", 8(1) *Health Promotion Atlantic* (2002); Lister-Sharp, D., et al. "Health promoting schools and health promotion in schools: two systematic reviews", 3(22) *Health Technology Assessment*, 1999; Healthy Eating and Active Living (HEAL): an online, searchable database of "healthy eating and active living policy and initiatives; Ian Janssen, et.al., "Obese children are more vulnerable to bullying behaviour" (Canadian Population Health Initiative Survey) *Pediatrics* (May 2004).

Health and wellness considerations are fragmented into discreet curriculum areas or not addressed at all. At the same time, very narrow versions of physical health (competitive sports or high intensity physical activity), in which a small proportion of students excel, tend to be supported in both curricular and extra-curricular activities. The kind of food available at school and the kinds of treats or promotions offered by school officials as student motivators are also implicated. Indeed, as with other value transmissions, teachers' actions carry weight in this regard as well. The message to students is conflicting. We want students to be healthy but not all aspects of the school support this message or make healthy options and lifestyles accessible to all students. Current research indicates that nutrition, sleep patterns, and exercise<sup>84</sup> do have an impact on students when it comes to concentration, organization of thought processes and learning. The creation of a culture that promotes health and wellness for all students (and staff) is thus vital to an inclusive education system.

Clearly considerations for health and wellness will be more extensive for some children. Children presenting as medically fragile or whose disability presents special needs with a health or wellness dimension will require significant special or individual accommodation. These services can be of a nature that school personnel are not equipped or trained to provide. The Department of Education Policy 704 "Health Support Services", currently addresses the kind of approach taken to health related support for students. The provisions of this policy address various issues from emergency services to essential routine services. One of the primary thrusts of this Policy though, in keeping with the parental responsibilities set out in the *Education Act*, requires parents to minimize school involvement in meeting the health/medical needs of the child, drawing a sharp boundary around "school hours" and what can appropriately take place during school.

This Policy also recognizes that service provision with a health or medical dimension must be provided by appropriately trained personnel. With regard to how to achieve this, some see effectiveness in integrated service delivery models that flow from partnerships between the departments of education and health. Others see greater effectiveness from having education equipped with the specially trained personnel to provide these services out of their own budget. The latter view arises particularly in cases where the services are not adequately resourced. In this context it is perceived that cases in schools tend to receive a lower priority than other cases. Notwithstanding this practical implementation challenge, the integrated partnership model has a lot of common sense appeal.

We have uncovered a couple of highly regarded integrated services models in practice in other jurisdictions. School<sup>PLUS</sup> is currently taking shape in

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<sup>84</sup> An inclusive definition of exercise recognizes and promotes non-traditional activities such as yoga, martial arts, dance, walking, gardening, etc. that can be inclusive of all regardless of physical ability or interest area, as well as more traditional versions of exercise, such as recreational and competitive sport.

Saskatchewan and the CAYAC model operates in Nova Scotia and British Columbia. The concept of integrated service delivery refers to cooperation and collaboration on the part of various governmental ministries and other community partners to ensure the efficient and effective provision of services. Various models offer varying degrees of integration from the management and planning coordination level to the physical location and delivery of services level. Some involve only government ministries working together, others involve a broader group of partners.

The CAYAC model (Children and Youth Action Committee) for example is currently being implemented in Nova Scotia. With a shared mandate for the well being of children and youth, senior officials from the following departments work together: the Nova Scotia Provincial Government Departments of Community Services, Education, Health and Justice, along with the Office of Health Promotion, Nova Scotia Sport and Recreation Division. These partners coordinate program planning, policy development and resource allocation to achieve the best possible results. CAYAC maintains several provincial subcommittees, each of which works on a specific targeted priority.<sup>85</sup> This program addresses more than providing health related services to students. It also involves proactive and prevention approaches in some areas.

The School<sup>PLUS</sup> model distinguishes its approach from a “add on” strategy of service integration.<sup>86</sup>

By ‘add-on’ we mean the current approach where school is structured pretty much as it always has been, but continuously adds services and responsibilities. These add-ons threaten to distort and compromise the mission of the school, while at the same time providing only a much less than optimal, not very integrated approach to the delivery of the other human services that are needed for children and youth.

Schools as we know them were never designed to meet the needs of the whole child. As our province moves into a critical juncture of its history, however, and when full cognizance is taken of the diverse needs of children and youth, it becomes clear that a radically new approach must be taken to meeting their needs. School<sup>PLUS</sup> is not, therefore, school as we know it today with more added on; School<sup>PLUS</sup> is, instead, intended to be an altogether new organizational environment for meeting the needs of children and youth.

School<sup>PLUS</sup>, once fully developed, will be a matrix organization that *will draw all of its resources from existing governmental and non-governmental agencies, but it will coordinate and integrate those*

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<sup>85</sup> Online: <http://eiiswest.nsnet.org/cyiwgcayac.html>.

<sup>86</sup> Dr. M. Tymchak, Chair Task Force and Public Dialogue on the Role of the School, *School<sup>Plus</sup> A Vision for Children and Youth* (Final Report to the Minister of Education, Government of Saskatchewan, February 28, 2001).

*resources in relation to the needs of children and youth.* This kind of articulation is just not possible in the current administrative structure where discrete ‘stove pipes’ are the conduits for service.<sup>87</sup>

Integrated service delivery is another term that clearly has differing definitions when it is used. It is another term that sounds proactive and inclusive. Indeed New Brunswick has an integrated service delivery model of some kind already on paper with the Support Services to Education Agreement (SSE). The content and effectiveness of any particular integrated service model once it is implemented will need to be continually evaluated. The success, no doubt hinges on many of the same skills and attitudes identified as being necessary for teachers working in an inclusive system. Skills of cooperation, creativity, and team work and knowledge of the community strengths and resources are undoubtedly invaluable for those who will implement an integrated service delivery model in any localized setting.

## **Curriculum and Educational Structure**

The curriculum and educational structure are also important systemic elements to examine in assessing how to infuse the school system with our community’s values and take a proactive approach to inclusion. A truly systemic inquiry would endeavour to evaluate every procedure, practice, norm and ritual operating in schools and classes. Part of the difficulty is in identifying what are the procedures and norms that need to be examined for their impact on inclusion. The most ‘hidden’ of these will be those that are so taken for granted and accepted as normal, that the impact on inclusion escapes notice. It will take time to truly identify, assess and formulate alternatives to all of the norms that pose barriers for inclusion. This is especially true for those norms that are currently the foundations for educational service delivery.

There are several discreet aspects to this structural element. We address three here. First, there is consideration for how material is taught. Second, there is consideration for how evaluation happens. Third, there is consideration for the content of the material taught.

With regard to the first consideration, how material is taught, one of the most far reaching of initiatives included in this section draws on a new branch of mathematics, “chaos theory”. As applied by John Mighton, this theory supports a complex understanding of learning, and challenges the myth that children are born with innate ability or not. This approach accepts that children learn in different ways and at different rates. Drawing on experience gathered through his creation of a math tutoring program in Toronto, JUMP<sup>88</sup> (and writing his own

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<sup>87</sup> *ibid*, at 59.

<sup>88</sup> The JUMP program in Toronto, Ontario grew in four years from 1 tutor and a hand full of students to 200 tutors and 1500 students. Tutors are volunteers including high school students,

text book for teaching math), mathematician and award winning playwright, John Mighton, proposes several key concepts to achieving math success for every child.<sup>89</sup> Of significant interest is key concept number 2, math must be taught in a series of simple steps. In his book, Mighton explains this key concept in reference to writing his own text book for teaching math. He found that too often topics are introduced without being broken down into individual parts. Each step, he explains, needs to be simple and directly connected to the next.

The tremendous success and achievement of the students in the JUMP program are impressive. Every student in JUMP passes tests achieving 80% or higher, before moving on to their next unit. Very few students have had to take a test twice.

Mighton has also through his math program gained experience putting JUMP into practice in regular math classrooms –invited by teachers who were impressed with the results of students in the JUMP tutorial program. In describing the experience with implementing JUMP in regular classrooms, Mighton talks about the gap between the strongest and the weakest students upon entering the classroom –a gap that is familiar to many teachers. The gap in knowledge, ability and motivation Mighton says is directly related to the texts, resources and approach currently in use.

A teacher working with the texts and resources now available for elementary students can expect at most one-third of their class to complete tests and assignments independently without making errors...I am absolutely certain the gap I have described is an artifact of our system of education –an illusion that can be dispelled more quickly and with fewer resources than even the most optimistic educator might expect.<sup>90</sup>

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university students, actors, writers, business people, trades people, and retired professionals. Mighton claims that they are able to maintain the quality of the program with this level of growth due to his highly successful manual used by all the tutors. In his manual “the steps are laid out in a way anyone could follow”. Mighton is proud of the successes of his program where students are all expected to pass the same tests (with a mark of 80% or higher), and very few students have to write a test twice. John Mighton, *The Myth of Ability* (Toronto: House of Anansi Press, 2003) at 49.

<sup>89</sup> Those key concepts include: 1. The teaching method must fit the child, 2. Math must be taught in a series of simple steps, 3. Know the student, 4. Add challenges slowly, 5. Repeat and Practice, 6. Be generous with praise –as summarized by Jennifer Hatt, “PRAISE + PATIENCE = MATH SUCCESS”, *Our Children; Atlantic Canada’s Family Magazine*. This magazine contains the “OFFICIAL SHOW GUIDE FOR WE LOVE OUR CHILDREN –ATLANTIC CANADA’S FAMILY EXPO”. John Mighton was a keynote speaker at this event.

<sup>90</sup> *The Myth of Ability*, *supra* note 88 at 37.

Indeed, by the fifth week of his first teaching assignment in a regular grade three class<sup>91</sup>, Mighton describes a situation where every student had scored over 90% on a grade 6-7 fractions test.

Public-school teachers in five other classes, including one special-education class, have duplicated these results...regular teachers, working from the JUMP manual and worksheets...In most of the classes the teacher was assisted twice a week by one or two JUMP tutors, and several students received occasional tutoring at recess...All of the teachers took more than five weeks to complete the fractions unit (the average time was about seven weeks); I believe this was because they had only just learned the method. In every class the students completed the fraction test with a final mark of A. Most scored over 90%.<sup>92</sup>

At least one commentator has suggested that Mighton's approach could be extended to other areas of curriculum development and delivery.<sup>93</sup> A significant number of other sources on the consideration of how material is taught can be found in Appendix E and in the materials provided by Pierre Dumas in Appendix H.

Although John Mighton does use a standardized form of evaluation to assess skill level in math, there are other implications with regard to evaluations used within the education system. Many criticisms of traditional and standardized tests as well as other assessments and aptitude measures have been raised.<sup>94</sup>

One interesting initiative we have uncovered in this area is "Rethinking Classroom Assessment with Purpose in Mind"<sup>95</sup> This initiative, in its formative stages, aims to develop and use appropriate measurement tools and strike a balance in assessment tools. This initiative draws a distinction between assessment as learning (encouraging critical thinking, self-assessment, and reflection skills), assessment for learning (using assessments to assist students in their learning and improving their academic and other skills) and assessment of learning (tools that assess student success at learning and achievement, and the system's effectiveness in teaching students). This work is a significant contribution to critically assessing the role of evaluation in schools and classrooms.

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<sup>91</sup> The first experimental class was a grade three class in Toronto, Ontario containing "25 eight-year-olds, in an inner-city school where many spoke English as a second language. Most of the children in the class didn't know their times tables, nor could they add or subtract readily in their heads. Several had been diagnosed as slow learners. Others clearly had trouble concentrating in a room full of children." *The Myth of Ability* at 37.

<sup>92</sup> *The Myth of Ability*, *supra* note 88 at 38.

<sup>93</sup> Satu Repo, "Learning Math without tears" 13(1)*Our Schools Our Selves* (Fall 2003) 24-26.

<sup>94</sup> A. Wayne MacKay & Pamela Rubin, "Psychological Testing and Human Rights in Education and Employment" (Ontario Law Reform Commission, 1996).

<sup>95</sup> Western and Northern Canadian Protocol for collaboration in basic education, draft October 2004

The development of a “student rubric” indicator for student evaluation has emerged in some jurisdictions and was noted in the *Comptroller’s Report* (a report mentioned in the *Terms of Reference* and addressed in depth in later sections). These initiatives appear to take a slightly different form in each different application. The general approach is to assign numerical values to a variety of different student outcome indicators in order to then be able to report and manipulate the numbers that result. In many cases this approach is offered as a strategy to negotiate the challenge of demonstrating measurable outcomes on an individual education plan. We believe it need not be interpreted this narrowly and that this approach could hold value for evaluating any number of qualitative aspects of all student performance and system wide as well.

Finally, the content of curriculum, text books, and resources should be examined for their impact on inclusion. This can be a significant issue for many marginalized groups. Assessing how different populations and communities are portrayed in text books and library materials is an important exercise. This involves first identifying material that portrays a negative image of a person with a disability, a First Nations person or another minority or marginalized group. This also involves identifying people who are present in the community but who are absent in the story lines, materials and resources used by students in school. How often do disabled people (either physically or mentally disabled) appear in school texts and materials? The answer appears to be –not very often.

This second element of content is slightly more subtle, but the results of the analysis are important. Having diversity genuinely represented in materials provides a benefit for members of marginalized groups by validating their existence and their experience. It also provides a benefit for members of the dominant group by helping them to understand and conceptualize the complexities of diversity, relationships in the community, and democratic society. Curriculum programs have also been designed to teach specifically about rights and responsibilities, tailored for varying age levels.<sup>96</sup> Several of the resources listed in Appendix E also address the issue of curriculum content.

## **Discipline and Safe Schools**

As stated in the section on legal considerations, discipline is a significant systemic element in education. Teachers and other school officials act as media and transmitters of values when they discipline. We present a sampling of initiatives around both rule making and rule enforcement. By examining what values and messages the current procedures and practices do send, we can evaluate them for their consistency with the values and messages an inclusive education system strives to promote.

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<sup>96</sup> R. Brian Howe & Katherine Covell, “Teaching Children’s Rights: Considerations and Strategies” (1999) 9(1) *Education & Law Journal* 97.



When it comes to discipline and safe schools there are many difficult systemic elements to consider. Widely divergent considerations can be addressed here including, evaluating what message is sent to students generally when discipline is handed out, and crisis preparedness. It is important to think about how the education system (and the educators who operate the system), respond to behaviour that deviates from the norm of expected behaviour. We should also evaluate the norms of expected behaviour themselves for their impact on inclusion, and their necessity to the delivery of educational services.

The imperatives of safe schools addressed in an earlier section, can be an onerous burden on educational officials. These imperatives do not however, cancel the need to examine this element of the educational structure for its consistency with the vision and goals of inclusive education. School rules do need to be enforced but they should be fairly conceived and evenly applied. School rules should be based on sound reasoning rooted in the interplay of rights and responsibilities. Reasons for rules should always be articulated to students and some rules may be open to student input. When discipline is handed out, it should emphasize the reason for the rule and provide an opportunity for the student to learn the harm done by their actions, thereby increasing all students' understanding of the necessity of the rules, and the fairness of their enforcement.

In New Brunswick, Policy 703 the Positive Learning Environment (particularly in its Appendices A and B of that document) proposes an approach to discipline and the promotion of the positive learning environment that is very much in accord with our research on best practices in this area. This policy also demonstrates the link between a positive and inclusive school environment and a safe one, where incidences of violence are reduced. Interestingly, there is funding provided for promoting a positive learning environment that can assist the implementation of this policy in New Brunswick.

## **Technology**

The use of technology in schools is itself a broad and layered issue. Technology and more specifically computer technology is an ever more prevalent feature of our culture and times. Technology can be a tremendous help in accommodating some disabled students through technological devices that assist them in some way. Computers are also an important part of education for all students, as they prepare for lives in the technological world. New Brunswick has certainly identified the importance of technological advance as evidenced by the currently piloted lap top computer project. The next step though, is to evaluate how technological advances are managed and their impact on inclusion.

Technology is a systemic element of the educational system, in that it is a tool available to educators. How this tool is used will have an impact on inclusion. Major obstacles identified in the use of technology include the insufficient number

of computers, lack of teacher preparation time, lack of teacher computer skills and lack of training opportunities for teachers.<sup>97</sup> Despite these obstacles, technology represents a significant opportunity to improve inclusion as the content of the work performed on a computer can easily be individualized for any student. Some software programs do quite a good job of being both engaging and informative for the intended audience. While it would be concerning if computers were considered a substitute for a teacher, there is room for technology to significantly complement what a teacher does and provide one more avenue or approach to learning.

Of course, technology is not without its challenges. Students who have access to computers and technology at home will likely be at a significant advantage compared to students who do not have access at home, marking a serious division along socio-economic lines. There is no question that access at home offers far superior training on computer technology than signing up for an hour at the public library or periodic use at school. Furthermore, the culture surrounding technology can have a detrimental effect on some, particularly girls and women. Significantly, advances have been made by software developers in the area of making software that appeals to girls. A culture that assumes that computers and technology have something to offer every student may not be widespread, but such a culture would greatly assist inclusion.

Further barriers to inclusion posed by the use of technology include considerations for how software, web sites and other applications are set up. Many strategies exist that can make applications more accessible to a broader audience, such as voice prompts (for those who are visually impaired or who cannot read). Ensuring that the design and set up of an application or website is clear and that all buttons or links do the appropriate action can assist those with spatial conception difficulties and other learning difficulties.<sup>98</sup>

Students are using computers more and more and some even out pace their teachers in terms of skills and ability to manipulate technological devices. This can also be a concerning issue for educators, particularly where access to the world wide web and personal email addresses means that children will have access to material educators may want to limit (such as pornography, violent games, and bomb making). Some students may use the technology to engage in activity that has a negative impact on the school environment. These include harassing emails and web sites that demoralize or ridicule members of the educational community (both students and teachers). Web sites can be powerful tools for destroying the self-esteem of unpopular and non-conforming students. This “cyber-bullying” has as negative an impact on the school environment as the more traditional forms of bullying we mentioned in a previous section. Eric Roher

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<sup>97</sup> Canadian Education Statistics Council, *Education Indicators in Canada: Report of the Pan-Canadian Education Indicators Program 1999* (Ottawa, Toronto, 2000) at 72.

<sup>98</sup> Jallayna Palmer, *Universal Instructional Design Project* (Guelph University, Guelph, Ontario) (2002) Online: <http://www.ise.uoguelph.ca/uid/>

explores the challenges of the world wide web and some of the attendant problems of striking the balance between schools providing a forum for the free exchange of ideas and maintaining a safe school environment.<sup>99</sup> Like many new inventions since the industrial revolution, computer technology has both benefits and drawbacks. Educators who approach this issue proactively will use computers to aid in instruction and student learning but will be wary of unstructured student use and will be vigilant of anything that interferes with the safe school environment.

Computers, like televisions, have also become a significant source of violent content causing concern about the desensitization to violence and the normalization of aggression in human relations. Video games in many forms, including on-line games such as “Sissy Fight”<sup>100</sup>, attract large numbers of young people, both boys and girls. It is well known that many video games reward brutality and promote aggression, retaliation, glorification of violence and the sexual objectification of women.

Some have raised concerns that some children who become absorbed by their video game play may not develop the skills needed to relate with the humans they come into contact with. In addition, the fast pace of video games, with high visual and auditory stimulation, may impact on students’ ability or willingness to function in environments, such as schools, that do not utilize such tactics to engage students’ attention. Although video game play is not an official part of any school curriculum, it is present in contemporary schools, and its impacts are just beginning to be recognized. Proactive schools will attempt to identify the impacts on learning produced by these popular forms of student recreation. In addition proactive schools will formulate effective strategies for dealing with this element of life in the twenty-first century. The challenge is to embrace the positive aspects of technology while limiting the negative consequences.

These four systemic features do pose significant challenges to inclusion, but these challenges are not insurmountable. A concerted effort and creative thought put toward systemic design will help lessen the challenges these systemic features pose. We have listed a few initiatives that go in this direction in the Appendix E. Undoubtedly there are many more initiatives that could be included here and others which have yet to be imagined. In this section we have provided a sampling of systemic analysis to assist the thought process in this regard. The task here is potentially enormous and as the process toward inclusive education unfolds, many more systemic features that pose challenges to inclusion will be identified.

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<sup>99</sup> Eric Roher, “Problems.com: The Internet and Schools” (2002) 12(1) *Education Law Journal* 53.

<sup>100</sup> [www.sissy-fight.com](http://www.sissy-fight.com)

## **PART IV: REVIEW OF PRACTICES AND RESEARCH FROM OTHER JURISDICTIONS IN CANADA**

### **Legislation**

Under the division of powers in the Canadian Constitution (*Constitution Act 1867*, section 93), education is strictly a provincial jurisdiction. For that reason there are thirteen different educational regimes across Canada. There are of course many similarities but also some significant local variations. Appendix F contains a chart comparing education legislation across Canada and is current up to May 2005. Although it is lengthy, it provides a significant overview of the legislative climate in each Canadian jurisdiction comparing support service guarantees and scope, appeal mechanisms, the rights and duties of principals, teachers, parents and students, as well as general governance and accountability features.

With regard to support service guarantees and scope, the mechanisms vary tremendously across the country. Some establish a statutory presumption that students with disabilities will be educated in regular classrooms (Québec, Northwest Territories, New Brunswick, Nova Scotia). None provide this statutory presumption without it being accompanied by a limitation clause similar to that in New Brunswick's s.12(3) "having due regard to the educational needs of all pupils". Jurisdictions that don't offer a statutory presumption of integration into a regular classroom also have a varied approach. Some have a statutory guarantee of a special education program or special education services, or an Individual Education Plan (British Columbia, Ontario, Yukon, Saskatchewan). Others simply do not address the issue directly in their statute, either leaving it to the Minister's prerogative in policy or guidelines (Newfoundland/Labrador, Prince Edward Island) or not addressing it at all within the statute (Manitoba).

With regard to terminology, most use terms such as pupil or student with special needs, or special education program (Alberta, British Columbia, Newfoundland and Labrador, Nova Scotia, Prince Edward Island). Some use the term disability, disabled or handicap (Québec, Saskatchewan). Only two jurisdictions use the term exceptional (New Brunswick, Ontario). One jurisdiction, the Northwest Territories, which provides the most comprehensive inclusion statement and statutory right to services, does not assign any label other than student. The Northwest Territories provision states in section 7(1) that "every student is entitled to have access to the education program in a regular instructional setting". This is followed in section 7(2) with the statement that "an education body must provide a student with the support services necessary to give effect to subsection (1)".

With regard to parent involvement, most jurisdictions that set out a procedure for special education services or individual education plans of some kind also require parent input into the formation of the plan to some degree. The most comprehensive of parent input requirements is found in the Northwest Territories where parents must be involved in any decision including the “development, content, implementation, evaluation and alteration of the individual education plan.” A smaller number of jurisdictions also specifically require student input where it is feasible.

Appeal processes to the decisions under special education procedures are similarly varied across the jurisdictions. A few jurisdictions have a specific Special Needs or Special Education Tribunal (Alberta, Ontario, Yukon –these tend to be strictly limited to appealing decisions specifically outlined in the authorizing provisions). Other jurisdictions have more general appeal mechanisms open to appeals of any decision significantly affecting the health and wellbeing of the student (British Columbia, Northwest Territories, and Prince Edward Island). Québec offers a similar general appeal procedure to any student affected by a decision of the council of commissioners, the executive committee or governing board, or of an officer or employee of the school board. Saskatchewan also offers a general appeal procedure established by each board of education “where a difference or conflict arises in the relationship of a pupil to the school.” Worth noting is that the general appeal procedure in the Northwest Territories requires two levels of mediation through the principal and then the District Education Authority before proceeding to the appeal committee. Several jurisdictions offer another appeal mechanism or a hearing in certain cases of suspension or expulsion. (Alberta, New Brunswick, Newfoundland/Labrador, Nova Scotia, Prince Edward Island, Yukon, Ontario). There may, of course, be appeal structures not referred to in the statutes but based on Policy. For example, there appears to be such a policy based structure in Nova Scotia dealing with the provision of support services.

For further details on any of these points of comparison and specific pinpoint citations of the statutory sections, please refer to the comparison chart included as Appendix F, which is current up to May 2005.

Generally legislative structures across the country share mandatory attendance as a similarity and all tend to set out the responsibilities of parents and students in some form (the precise wording and expectations does vary across the country). These considerations set out the kind of partnerships educators would like to see in schools and establish the framework for the delivery of education. This statutory norm is that children attend regularly and arrive at school ready to learn, ready to put in the effort necessary to participate in classes and to learn all day. While it is important to set out the kind of expectations the education system has for parents, and students, it is also important to remember that many will not fit the norm and will not meet the statutory expectations without interventions.

Setting out expectations of parents and students in this manner can become problematic if educational structures operate in reliance on the assumption that parents and children can all fulfill their statutory responsibilities. A student or parent may not fit the norm where they have an exceptionality that impedes their performance or participation, or where other external factors are at play. Many normal operations and procedures of schools are organized around the assumption that students come from a two parent family where one parent stays at home taking care of the household needs. Many expectations that parents will volunteer for school events, will help fundraise, will help students with homework, etc. tend to break down when a parent for one reason or another does not fit the norm. There may also be a change in the societal norm of parents or others being willing to volunteer their services. When a student does not fit the norm and this begins to impact on their learning, or on other children's learning, the need arises for "special arrangements" and possibly statutory sections such as s.12 in the New Brunswick *Education Act*, defining services for students who don't fit the norm.<sup>101</sup>

Are these statutorily created assumptions and the structures that flow from them necessary to the delivery of educational services? Are these assumptions reasonable and reflective of current realities? These are the systemic questions that must be asked, if we are to advance inclusion. It would be nice if all students arrived at school ready to learn, sufficiently fed, properly rested and free of other challenges or factors restricting student performance and achievement. It would be nice if all homes had committed parents ensuring their children eat nutritious food, and who could bake for the bake sale, raise funds, volunteer in the library or for the hot breakfast program, and help with the math homework in their evening spare time. Unfortunately, it is often not the case. Most parents work. Many work several jobs to make ends meet. Sometimes there is only one parent. Sometimes parents have disabilities. It is not always fair to situate the problem within the individual student or parent. This analysis may fail to address any impact that the assumptions and operations of the educational system may have.

This does not mean that the education system cannot set out expected or ideal responsibilities for students and parents. It does mean that the reasonableness of these expectations should be examined for their necessity to the school's operations and their consistency with the objectives of inclusive education. Provisions in education statutes should reflect and anticipate that many students will need interventions of varying natures, for varying periods of time. Most students will need an intervention of some kind over the course of their public school career. Statutory responsibilities should be broad enough to apply to all and should come in the form of mechanisms that are able to meet the needs in proactive ways.

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<sup>101</sup> *Education Act*, S.N.B. 1997, c.66, s.2; 2000, c.52, s.13.

It is clear from our numerous consultation sessions so far in this Review that the New Brunswick *Education Act* is not necessarily a direct reflection of daily practices. Most teachers do not proceed on the assumption that all children will arrive in ideal condition. This only further highlights the inconsistency between statutory provisions and the values and visions of inclusive education. The statute does have an impact on the framework within which education happens and the resources available to teachers in performing their jobs.

## **Inclusion / Special Education Reports Across the Country**

Due to the very short time frame allotted for this Review, AWM Legal Consulting contracted former Department of Education employee, Pierre Dumas, to research and summarize practices in New Brunswick and other Canadian jurisdictions. The criteria for this examination were set by A. Wayne MacKay and are a reflection of the requirements in the Terms of Reference. Pierre Dumas's research examines another large volume of sources, primarily provincial reports on the issue of special needs programming or inclusive education. This research is organized into a summary table of reports and an analysis document. The full text of both documents is provided in Appendices G and H. Significantly, the results of Mr. Dumas' review in identifying best practices are very consistent with the best practices identified in Part III of the Background Research Report, even though the two were conducted independently and draw on substantially different bodies of research.

A summary of the forty page analysis document follows. In the interests of brevity and ease of access to the content, we have utilized a point form approach pertaining to the 14 criteria areas that follow. Again, what follows is a summary of the research gathered by Pierre Dumas. Any conclusions or recommendations come from this research and are not the conclusions or recommendations of this Review.

### **1. Skills and knowledge needed for teachers, teachers' assistants, and other school personnel to ensure inclusion.**

- School principal: plays a fundamental role in services for students with exceptionalities. Without the necessary skills and attitudes among principals inclusion will not be successful.
- Leadership at the school level provides direction, energy, coherence and coordination to actions.
- Adaptability is a key characteristic in inclusive schools: the ability to respond to challenges and problems.
- Key skills, attitudes and culture necessary includes: collaboration, team work, ability to actively engage parents as partners in education, seek to continually improve student participation and engagement, sharing authority (decision making and responsibility), excellent creative problem

solving in team environment, must utilize community resources and strengths to enrich learning while at the same time viewing the school as a community resource as well.

- Generally across the country there is a lack of effort to equip new teachers in their formative training with the skills and experience to operate effectively in inclusive settings.
- The role of special education teachers have changed dramatically since the beginning of inclusion initiatives and now include an expanded role in consultation with general education teachers in addition to working with students.
- The majority of provincial studies recommend that the role of teachers' assistants needs to be clarified and that teachers' assistants are often expected to do things they have received no training in.
- In response to the problem of transience among teachers' assistant's, British Columbia adopted Bill 28 "Public Education Flexibility and Choice Act" which allows the Minister to make regulations that guarantee a teacher's assistant will be assigned to a student for a particular year and will not be displaced due to a seniority clause.

## **2. Strategies utilized by other provinces in training school personnel in the skills and knowledge necessary for inclusion (pre-service and in-service).**

The most common method of offering in-service training or professional development:

- Training sessions, conferences, demonstrations, simulations, workshops, seminars, observations,
- Sponsorship
- Study groups
- Action-research
- Mentor model

Different strategies for offering professional development:

- Distance learning (on-line)
- Local level mentorships
- Flexible hours
- Off-campus courses, evening courses

## **3. Measures of program effectiveness and progress evaluation of students.**

- Manitoba proposes making student intervention plans and school/district plans become the base for evaluating efficiency and effectiveness.
- Several provinces are working on developing indicators that are elements of the system of accountability.
- Effective systems use information gathered to address the health of the education system.



- The Western and Northern Canadian protocol (a consortium of western/northern provinces and territories) is working on research on indicators of scholastic adaptation.
- Ontario 2003 defines standards as a clear reference point to explain what is expected and how it will be evaluated. They propose standards in the following areas: evaluation, program planning, intervention programs, levels of service, teaching standards, parent processes, personnel qualifications.
- Nova Scotia's report also has interesting recommendations: e.g., that school boards control student intervention plans to guarantee that expectations are developed and implemented in an appropriate and measurable way, etc.

#### **4. Options for rural and small schools.**

- British Columbia working group 2003 report "Enhancing Rural Learning" recommends investing in professional development for personnel in rural settings, working with partners to build a network of rural educators and administrators, encouraging local partnerships, creating solutions that reduce operating costs, sharing services among districts and regions for small communities, reviewing rural school funding, using technology to enrich learning opportunities for rural students and teachers, developing creative partnerships and solutions.
- Saskatchewan recommends shared services policy and guidelines: partnerships with school boards and community organizations (hospitals, regional boards, etc.) to provide a wider continuum of services in rural locales.

#### **5. Solutions to the problems of class composition.**

- British Columbia adopted Bill 28 which removes the right to determine class composition from collective bargaining.
- New Brunswick in (QLA) commits to maintaining reduced class size during the first years of school and commits to helping districts experiment with diverse time and schedule models
- Research shows that this issue in particular is as important if not more important than class climate or environment for student learning.

#### **6. Levels of Service and organization of resources for the provision of non-educational services necessary to learning for students with exceptionalities.**

- All of the studies across the country recognize that schools alone cannot respond to all of the needs presented by children in school. All studies found it essential that the actions of interveners from various other

organizations and institutions (health, social etc.) be coordinated and harmonized for the best interest of children.

- Most studies recommend that the minister of education work with other ministers to guarantee to students who have exceptional needs, access to a continuum of services beginning in infancy, through primary and continuing to the end of secondary studies, including transition to post-secondary studies or work. Many see the student's intervention plan as a possible mechanism for coordinated and integrated service delivery.
- Every province has programs for allowing inter-ministerial collaboration in service delivery. Saskatchewan has the most elaborate of such programs, called **School<sup>plus</sup> / l'École<sup>plus</sup>**. This program offers a new vision of schools as centres of learning, services and community for children, youth and families. The most important collaboration emphasized by this report is in pre-school, cultural diversity, health, social, emotional and behavioural issues.
- Quebec recognizes that school is an entry point for the diverse services of health, social services, community organizations, and youth employment strategies.

#### **7. The role of public education toward pre-school children at risk of entering school with educational delays.**

- Most recommendations recognize that early intervention can help avoid costly interventions later on.
- Most recommendations recognize the advantages of early identification and intervention for students with exceptional needs.
- The Saskatchewan program includes as part of the quality learning plan several initiatives directed at developing standards in pre-school teaching, and putting in place transition programs for students entering school.

#### **8. Transition planning for students with exceptional needs.**

- Transition planning happens when a student passes from one scholastic level to another, or when changing from one school to another. Transition planning should be part of any student intervention plan.
- Among the transitions to be considered are from pre-school into elementary, elementary into secondary, secondary into and post-secondary. This can mean further education, to meet requirements for work, or for other community activity.
- Poor transition planning tends to highlight gaps in service. Most studies across the country recommend a coordinated system between different ministries to ensure effective continuum of service and transition planning.

## **9. Survey of various practices across Canada with a view to identifying best practices and major challenges.**

- One of the primary challenges is the increase in behaviour problems in Canadian classrooms, often linked with social or emotional problems in certain students. Schools are often poorly equipped to handle these situations.
- New Brunswick Minister of Education a few years ago adopted a policy on ...”milieu propice à l’apprentissage” (positive learning environment). With this policy schools must annually prepare a plan to ensure the positive learning environment. Training was given in areas such as quality schools, non-violent crisis intervention, and strategies for responding to the needs of students with behaviour problems.
- Other provinces have developed common policies with other ministries to deal with students’ social, emotional and behavioural needs. These should be part of integrated service delivery and should be accompanied by more training.
- In Alberta’s report “Every Child Learns, Every Child Succeeds”, schools become service centres for children and families. This does not necessarily mean that all services are directed by schools or school boards but that schools are considered a single point of entry for the gamut of essential services for children.
- In Québec, school is a point of entry for diversified services in health, social services, community organizations and youth employment strategies. Here principals play a key role in integrating and coordinating these services. Eg., *Deux résearu, un objectif: le développement des jeunes*.(2003) This policy expects complimentary operations among health, social, and educational services.
- The role of parents is also a significant challenge for educators. Most studies across the country recommend developing a guide for parents with information on policies and procedures to access services, appeal decisions, about student intervention plans, transition planning, and ways to collaborate with schools and service providers. Following its Review, Alberta revised its document for parents, now titled *The Learning Team* is a good reference in this area.

## **10. Research on curriculum and pedagogical innovation.**

- School personnel should be at the leading edge of information and recent theories in the learning process. They should be conscious of the role motivation and confidence play in quality learning, as well as the role of the teacher in the motivation and building of confidence in students.
- A culture of collaboration must develop with all intervenors in schools. Collaboration permits the creation of an environment that is conducive to quality learning.

- Teachers should create their own model of pedagogy using various theories: humanist, behaviourist, cognitive, and constructivist, choosing pedagogical approaches that make sense in the particular context. Pedagogical approaches define interactions among students, the learning activities and the teachers. Two vital concepts should guide these choices: pedagogical coherence and differentiated instruction.
- Pedagogical approaches should also take account of the goals of education and inculcate the values of inter-dependence and sharing, social and intellectual autonomy, and respect for self and others. This is an educational philosophy that all interveners in school should be conscious of.
- Differentiated instruction relies on the notion that all children can learn, but will do so in their own way, and that each child presents strengths and challenges that the same time. A teacher using differentiated instruction seeks to evaluate the products of learning as well as each student's process of learning. This in conjunction with various pedagogical approaches permits the conditions for a rich and stimulating learning environment. In addition there will still be some children presenting specific strengths or cognitive challenges who require further modification.
- Saskatchewan "Caring and Respectful Schools" (2004) encourages the concept of sensitive curriculum and instruction. This is based on consideration for the learning environment (the class and class climate), scholastic and curriculum material, instruction, the quality of the relationships among teachers, students, parents, and the community, and the values and needs of the community.
- Terms such as accommodation, modification, and individualization are often defined very differently across the country and often mis-interpreted by professionals across the province. E.g., the term "adaptation" in Nova Scotia is equivalent to "accommodation" in New Brunswick
- Truly effective evaluation happens continuously and often indicates the need for diverse pedagogical approaches. Using diverse pedagogical approaches often eliminates the need for formal evaluations of learning difficulties.

## **11. Other relevant research, models and initiatives in the rest of Canada.**

- Alberta Learning. *Assessment and Identification of Students with Special Needs –Grades 1-12* (2004). Educational decisions rest on the results of evaluation that identifies the functioning of a student in different areas, using a variety of measures. All evaluation results are recorded in the student's file
- Inclusion definitions: (Manitoba), here inclusion is a way of thinking and acting that permits individuals to feel accepted, valued and secure. An inclusive community evolves constantly to respond to the needs of its members. An inclusive community concerns itself with improving the well-being of each member. Inclusion goes farther the idea of

physical location, it is a value system based on beliefs that promote participation, belonging and interaction.

- Policies in special education should not be too numerous nor too complex (like Ontario's policies). To be effective, policies should offer structure for action that allows for personalized decisions and creativity. For example Manitoba (2001) proposes a policy that includes the following elements:
  - Regulations for the preparation of student intervention plans that precedes parental involvement, has processes for annual evaluation, and conflict resolution.
  - Criteria for minimum service for students with exceptionalities and their parents.
  - Clear directives on controversial questions such as disciplinary procedures for students with disabilities.
- On the issue of level of service, Saskatchewan has a policy on personnel qualifications and professional development that requires the minister to provide assistance and support to school boards to ensure that personnel are appropriately qualified and that there is ongoing professional development.

## **12. Summary analysis of all other research, identifies the following challenges:**

- The need for clear definitions of inclusion and language utilized in special education. Vague policies lead to different interpretations across provinces. Definitions vary by province as well. For example élève ayant des besoins particuliers élève ayant des besoins spéciaux (special needs), students with diverse needs, exceptional student, etc.
- The term « élève ayant des besoins particuliers » (Students with particular needs) is used in Manitoba Education, Training and Youth (2001). This term is more inclusive because it refers to any need at all, this includes gifted, at risk, learning difficulty or other.
- Also, terms such as accommodation, adaptation, modification, individualization, programme d'adaptation scolaire, special education plan, plan d'intervention, personal program plan can be vague and subject to varying interpretation.
- Other terms subject to varying definition: Continuum of services also a term needing definition, Reddition des Comptes (Accountability Process)

## **13. Pre-service Training offered at francophone Universities .**

For organizational purposes, findings related to this criterion are presented in the following section on Inclusive Education Programming for Pre-Service and In-Service Training of Personnel.

#### **14. Research on funding models for special education across the country.**

For organizational purposes, findings related to this criterion are presented in the later section on School Funding.

##### **Inclusive Education Programming for Pre-Service and In-Service Training of Personnel**

Also due to the very short time frame allotted for this Review, AWM Legal Consulting contracted Dr. Michael Fox of Mount Allison University to conduct a country-wide review of pre-service and in-service training in inclusive education for teachers, teaching assistants and student services administrators. The criteria for this review were set by A. Wayne MacKay and reflect the requirements of the Terms of Reference. The full text of this review, with the exception of Dr. Fox's recommendations, is provided in Appendix I. Dr. Fox's conclusions and recommendations from his report will be considered as part of the basis for recommendations in the Final Report. His suggested recommendations will be appended to that Report. No final conclusions have been reached at this point.

The Fox report is a comprehensive review of the issues surrounding the training of current classroom teachers and the next generation of teachers so they may flourish in inclusive settings. "Across the country teachers have concerns about their ability to identify, assess, program for, and teach students with exceptionalities or students with behavioural issues. There have also been concerns about the roles and responsibilities of the "team" members in the delivery of inclusive education."<sup>102</sup> Attitudes and levels of preparedness of all personnel are also prevalent concerns.

In New Brunswick, the *Quality Learning Agenda* (2003) sets a high standard for providing inclusive educational services and commits teachers to "pursuing other flexible learning options as necessary to ensure the educational needs of all students." There are, however, no clear mechanisms for ensuring that current or future teachers have the training to meet this commitment. The Fox report provides a summary of what is available in New Brunswick's English post-secondary institutions and highlights inclusive education programs and opportunities in other parts of the region, and beyond. Some opportunities for different styles of program delivery are also explored.

Generally, at the Bachelor's level, a handful of required and optional courses provide instruction in inclusive practices or practices pertaining to exceptional learners. Even less is available at the Masters level, although the University of New Brunswick offers a Masters Degree with a specialty in exceptional learners. With regard to the status of in-service training, "the vast majority of training for

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<sup>102</sup> Dr. Michael Fox, "A Review of Inclusive Education Programming for Pre-Service and In-Service Teachers, Teaching Assistants and Student Service Administrators" at 1.

inclusive education has been developed within individual schools, school districts, the New Brunswick Teachers' Federation, and the Department of Education".<sup>103</sup> Guidelines and standards have been developed by the New Brunswick Department of Education, in cooperation with teachers and resource and methods teachers. Also, the New Brunswick Teachers' Federation offers a few optional courses for member training.

The official requirement for employment as a Teacher Assistant (TA) is graduation from high school. While many TA's have substantially more training and experience than this, there is no credential or certification requirement. Most TA's have little training or experience in dealing with specific disabilities or behaviour problems and teachers often have little preparation or training in how to effectively work with a TA. "There are no pre-service or in-service courses devoted to this critical relationship"<sup>104</sup>. There are a few opportunities in New Brunswick through the community college system for training in Early Childhood Education and Oulton's College does offer a Teacher Assistant Certificate Program.

The Fox report finds that research and practices on inclusive education are well ahead of the curriculum at most faculties of education across North America. In a 2004 survey of 54 member institutions for the Canadian Association of Deans of Education, all universities paid some level of attention to the role of inclusion in schools. Programs range from eight to 24 months. A further complication is that there is no consistent, national definition or approach to inclusive education and institutions tend to reflect the policies and legislation within their home province. Most tend to deal with inclusion in a manner similar to the New Brunswick institutions, in that there is a specific course or courses that deal with inclusive education or teaching exceptional learners that have been added to the established teacher education program.<sup>105</sup>

On-line training presents some opportunities for the development of the skills necessary to implement inclusion. Many of the people for Dr. Fox's research indicated that on-line training would be a good way to train and update the skills of teacher assistants. For teachers, those interviewed felt that "a clear need for face-to-face interaction for at least part of any program to train teachers in inclusive education" was necessary.<sup>106</sup>

A number of facilities have been set up across the country to study inclusive education. They include the Centre for Inclusive Education at the University of Western Ontario, and a partnership between York University Faculty of

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<sup>103</sup> *Ibid*, at 7.

<sup>104</sup> *Ibid*, at 8.

<sup>105</sup> *Ibid.*, Fox cites Vianne Timmons, *Preservice Training/Teacher Professional Development*. Paper presented at the National Summit on Inclusive Education, Ottawa, Ontario, November 2004 at 9-10.

<sup>106</sup> *Ibid.*, at 11.

Education and the Marsha Forest Centre/Inclusion Press in Toronto. The Ontario Institute for Studies in Education at the University of Toronto maintains one of the largest graduate programs on exceptionalities, school psychology and inclusive education.

A frequent refrain in both this report from Dr. Fox and in the ongoing consultation sessions pursuant to this Review is the need for more training for teachers to better prepare them to teach in an inclusive educational system. In this regard skill development as well as attitudes and commitment to the philosophy of inclusion, are all challenges to be addressed. This review shows that New Brunswick universities provide a very basic approach to assisting teachers to be prepared for teaching in an inclusive setting. The following summarizes the serious problems identified by Dr. Fox and provides the context for his recommendations to be provided in appendix to the Final Report.

First, nearly all of the undergraduate teacher preparation happens on campuses in Fredericton (and one small program in Moncton) and no inclusive education courses or programs are offered online. Large rural areas and smaller centres of the province are not served well by these programs. Second, graduate level courses are very limited and again only available in Fredericton. Third, the educational training for Teaching Assistants within the province of New Brunswick is very limited and few or no credentials are required to perform this important function. Fourth, the New Brunswick Community College system provides little training in Inclusive Education at any of their locations across the province. Fifth, courses for professional development offered by the New Brunswick Teachers' Federation are not recognized by the universities as part of a degree program. This is a deterrent to people engaging in these voluntary courses. Sixth, there is little credentialing required of teachers, resource and methods staff, administrators or student service personnel in the standardization of skills and knowledge required for working with exceptional students, the value of inclusiveness and differentiated instructional techniques. Finally, while there are many examples of good relationships between individual members of faculty at New Brunswick Universities and individual teachers and consultants in schools and the Department of Education, there is a significant gap between the needs articulated by in-service teachers and students service professionals and the ability – or desire- of our public universities and faculties of education in meeting those needs.

With regard to French language pre-service training for personnel, Pierre Dumas, in his previously mentioned report, sets out the degrees offered and highlights relevant mandatory courses at French language post-secondary institutions in Canada. Pierre Dumas' survey includes: Université de Moncton (Faculté des sciences de l'éducation), Université de Sherbrooke (Faculté d'éducation), Université du Québec (Sciences de l'éducation), Université Laval (Faculté des sciences de l'éducation), Université de Montréal (Faculté des sciences de l'éducation). Generally speaking his findings are very similar to Dr. Fox's findings



on this subject. Pierre Dumas shows that in most programs there are a handful of required specialty courses addressing some issues pertinent to teaching in an inclusive setting such as “adaptation scolaire”, “psychopédagogie” and “élèves en difficulté”. Some offer specialized degrees at the bachelors and masters levels in “adaptation scolaire”.

## **School Funding**

Pierre Dumas’ findings on school funding in the research report mentioned in a previous section are as follows in next three paragraphs:

There are two methods of financing across the country, financing by enrollment, and financing by category. The first provides funding based on the total enrollment in a school district. The principal advantages are the administrative simplicity and the freedom for local governance in allocating funds. The disadvantages are that this mode of financing does not take into account particularities of certain students or a given region. The second funding method permits allocation of sums that respond to specific needs of students or districts. The disadvantages are that it requires a more precise identification and more complex administrative work to operate. The second also limits local administration and allocation of resources.

In New Brunswick the first method is used. The actual current budget in New Brunswick (according to Pierre Dumas) stems from the fusion in 1987 of auxiliary class operations, financing for the “Comprehensive Plan for Services to Students with Learning Disabilities” and financing for different programs offered by districts at that time. This initial budget was not established as a function of the needs, but as a function of money available in 1987 upon merging special education and general education in New Brunswick.

Some jurisdictions appear to be heading toward a combined model that looks at financing based on enrollment supplemented by financing based on need; need can originate with the student, the school, the district or the region, and can take account of the needs of individuals, programs for at risk students, prevention and early intervention.

Independently of Pierre Dumas we have researched several sources on school funding and have also received a number of submissions on this issue through the consultation process. An interesting review of “special education” with some focus on inclusion, prepared for the Atlantic Provinces Education Foundation by Eldon Rogerson includes a section on funding. He finds that many jurisdictions including those in the United States have recently reviewed how they fund special education. Eldon Rogerson identifies a trend toward funding models that are as “incentive-free as possible” for high cost special education placements. He outlines the following funding models:

*Cost-based funding system:* Under this type of funding system, the amount of aid a district/board receives for a student with special needs is directly related to the cost of providing services for the student. Since all categorical funding formulas have an underlying cost rationale, many school finance experts and policy makers have preferred systems that differentiate funding amounts on actual differences in the cost of services. However, cost-based systems are now sometimes seen as problematic because they create fiscal incentives for higher cost placements that are often provided in separate classrooms or facilities

*Resource-based or pupil-weight systems:* Areas with public funding differentials favouring placement in separate classrooms, schools or facilities tend to be those with resource-based or pupil-weight systems that vary based on the primary setting in which students receive services.

*Pupil-weights:* Two or more categories of student-based funding for special education, expressed as a multiple of regular classroom aid are used in this model. Any pupil-weight system will create an incentive to identify students as needing special education services. Allocations will create an incentive to identify students as needing special education services. Allocation based on type of student placement tends to afford the least flexibility to local decision makers.

*Resource-based funding:* This system is based on allocations of special education resources (e.g. teachers or classroom units). Classroom units are derived from prescribed staff to student ratios by type of exceptionality or types of placement.

*Census or block-based funding:* In this model, departments allocate funds to boards on the basis of the total number of students in the board.<sup>107</sup>

A recent study prepared for the Western and Northern Canadian Protocol reviewed education funding practices across Canada, with a focus on funding students with special needs. A survey was sent to all thirteen jurisdictions in Canada. The following is the authors' summary of the survey results:

About half of the jurisdictions have grant systems in which revenues are pooled from local and provincial/territorial sources and re-distributed on a

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<sup>107</sup> Eldon Rogerson, "A Review of Special Education" (Atlantic Provinces Education Foundation, 2001).

formula basis to local school districts, with the senior government providing 100% of funds

All but two of the responding jurisdictions include some of their funding for special needs in the base allocation. Beyond that, various permutations and combinations of approaches are used.

Six of the jurisdictions use flat grant/straight sum approach in combination with other approaches to funding. Two jurisdictions utilize a unit approach for some portion of their grant structure for special education.

Most jurisdictions use some form of individual student identification for some portion of their special education grants

Definitions of what constitutes Early Childhood Education vary across the country. The most comprehensive education-based Early Childhood program for students with special needs is in Alberta. Saskatchewan supports some students with designated disabilities in programs beginning at age 3. Ontario has a comprehensive Jr. Kindergarten program, which includes students with special needs. Several other provinces/territories support some Early Childhood services through other department/ministries of government. Non-education-based early childhood services were not part of this analysis.

The authors also summarize the most commonly described challenges for special education funding and future directions.

Challenge: the increasing numbers of students, particularly those with high needs

Challenge: issues of equity, both across various student needs and across school districts/divisions. These are exacerbated by recent court decisions regarding autism/autism spectrum disorders.

Challenge: accountability issues. These involve not only outcome measures but also input and process components of a comprehensive accountability system.

Future directions: a predominant theme across most jurisdictions is increased flexibility for local jurisdictions accompanied by enhanced mechanisms for accountability for student outcomes and adherence to provincial/territorial standards for programs and services.<sup>108</sup>

This pan-Canadian review offers a very interesting comparative analysis of funding and the many complicated attendant issues and presents several easy to read tables. It is very interesting to note the perception of increased numbers of students with special needs raised here. These authors report that the most frequently mentioned areas of increase are Autism and Autism Spectrum

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<sup>108</sup> McBride, Shirley, "Executive summary", *Funding Students with Special Needs: A Review of Pan-Canadian Practices*, Submitted by McBride Management Ltd. to the Western and Northern Canadian Protocol (November 2004) [Hereinafter *McBride Review*].

Disorder, multiple disabilities, behaviour disorders, and children with physical handicap/chronic health impairment.<sup>109</sup>

Despite its value as a comparative tool, this review offers very little detail on the New Brunswick situation. The cost study done by the New Brunswick Office of the Comptroller<sup>110</sup> provides an in depth breakdown of total costs in each New Brunswick District. The authors based their findings on payroll information, surveys of districts and caution of the difficulty with local differences in application of education services.<sup>111</sup>

The conclusions and recommendations of the *Comptroller's Report* touch the following two significant issues. First, the *Comptroller's Report* identifies that New Brunswick is one of the only provinces in Canada with no separate mechanism for funding the needs of students with the most severe disabilities. Second, the *Comptroller's Report* identifies that levels of service and definitions vary from district to district and that districts indicate increasing pressure from parents and advocacy groups to increase the level of services offered. The *Comptroller's Report* recommends provincially set norms for service levels and definitions. This Report argues that such provincial norms will make it easier for districts to respond to parental and advocacy group pressures, will promote a consistent level of service across the province, and will increase transparency and accountability in the system.

A few other resources on this issue have surfaced including *Funding Special Education*. Although this collection of essays has a primarily American perspective, it addresses many issues around funding special education.<sup>112</sup>

The issue of “choice” or a voucher system for funding education has also been raised through written submissions during our consultations to date. A voucher system is one where a government either collects taxes, then distributes a voucher that can be cashed in at a school of the parent’s choice, or alternatively provides tax credits or other tax incentives for people who pay for private education. Many believe this type of system would offer great benefits to the education system including greater democratic participation.<sup>113</sup> In addition, proponents of this view believe that in failing to provide for a voucher system, the Government of New Brunswick is in violation of international agreements supporting a parent’s right to choose the kind of education their child will receive.

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<sup>109</sup> *McBride Review, ibid.*, at 30.

<sup>110</sup> Audit and Consulting Services, “Cost Study of Exceptional Students” (New Brunswick: Office of the Comptroller, 2004). [Hereinafter *Comptroller's Report*]

<sup>111</sup> *Comptroller's Report, ibid.*

<sup>112</sup> Thomas B. Parrish, et. al., *Funding Special Education* (Thousand Oaks, CA: Corwin Press, Inc., 1999).

<sup>113</sup> “DEC 18 Discussion Paper Increasing Democratic Involvement Through Choice in Education”, written submission to AWM Legal Consulting Inc.

As a counter-balancing point of view on the issue of a voucher system or “choice” is expressed in an article by Jerry Paquette, “Public Funding for “Private” Education: Enhanced Choice at What Price in Equity?” The author provides an in-depth analysis of research on the use of vouchers and raises some questions from an equality point of view.<sup>114</sup> There will be more discussion of the funding model in both the Summary Report of the consultation process and the Final Report pursuant to this Review.

A related funding issue and a significant mandate for this study is the funding and organization of other services considered necessary for a student to learn in school. Some examples of other services are the services of speech-language pathologists, nurses, physiotherapists, doctors, and others. Currently in New Brunswick as outlined in the following section, the Support Services to Education Agreement sets out partnerships with various government departments to provide support services to education. At least one benefit to this approach is that having these services funded and organized externally to education, makes them eligible for federal funding support. It is our understanding that this was part of the consideration at the time of formulating this Agreement. One other option in the funding and organization of these services includes having them funded and organized directly through the Ministry of Education.

By way of concluding our research on school funding and as an introduction to the next section, “the New Brunswick Context”, we outline here the current funding approaches in both the francophone and the anglophone sectors in New Brunswick. Generally speaking, the approaches to funding across the two sectors are similar, but not identical. Both sectors use a line budget style which sets out the funding formula in the various different areas of school operation including personnel, materials, maintenance, and district office. These budgets often utilize a dollar amount per student for arriving at the amount of funding disbursed to the district in each category (census based funding). For example, both the francophone and anglophone sectors fund \$8 per student (based on the number of students registered in the previous September) for library materials.<sup>115</sup> Other line budgets provide for one personnel post per x number of students. The ratio using this format varies by personnel position and line category. For example, library assistants are allocated in this manner at one full time equivalent for every 1000 students in the anglophone sector and 1 for every 498 students in the Francophone sector.<sup>116</sup> Some line budgets allocate based on the number of approved instructional professionals. For example budget number 5739 for stationary, office supplies and forms in the anglophone sector provides \$55 per instructor. The same budget category in the francophone sector is calculated at \$3.15 per student. Several line budgets in the anglophone sector have an

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<sup>114</sup> (2002) 12 *Education Law Journal* 133-195.

<sup>115</sup> Department of Education/Ministère de l'Éducation, “Funding Norms and Guidelines/Directives Budgétaires” (May 6, 2005), at budget line 5091.

<sup>116</sup> *Ibid.*, at budget line 3431. A complete list of personnel norms and class sizes is provided in Appendix J.

interesting allocation approach where 50% of the budget is allocated evenly between districts with the remainder based on enrollment –for example French as a Second Language Cultural Activities (3431).

Both the francophone and anglophone budgets have a separate category for the salaries of five technology support persons per district. In the Anglophone sector three are information technology, a WinSchool Specialist and a QLA Technician. The francophone sector does not specify the positions, funding is simply allocated at five Full Time Equivalent information technology positions per district.

It appears that funding for special needs programming is allocated quite differently across the two language sectors. The Anglophone sector has a line budget 71300 – Special Needs, where funding is provided at \$445 per student (this being the total number of students) with the proviso that these funds are to be spent only on the special needs programs. This fund includes all staffing costs associated with special needs service provision (including salaries, benefits, replacement costs, travel and T.A.'s) as well as specialized equipment or other supports. A new budget line in 2004-2005 in the Anglophone sector is the First Nations Education (3431) allocating \$445 per First Nations student.

The francophone sector does not have a global special needs budget line. The francophone sector has several line budgets that are applicable. Teacher Assistants have a separate line (3431) and are allocated at one Teacher Assistant per 163 students for 198 days. Further support for “l’adaptation scolaire” is provided at line 4509 at a rate of \$36.08 per student. Several other budget lines allocate funding for different aspects of special needs such as a line budget 3431 providing funding for exceptional students in kindergarten (les maternelles) based on the number of kindergarten classes in the previous September. There are additional line budgets for school improvement (3431), enrichment (3431), corrective teaching (3431), cafeteria equipment and nutrition (3431), “École plus accueillante et à l’écoute” (3431), “Environment propice à l’apprentissage” (3449), “Avenir Jeunesse” (3451).

The Anglophone sector mentions some of these same budget line categories under “supplementary education programs” but indicates that funding for these programs has been included in the budget. It is unclear if this means under the global “special needs” budget line.

Interestingly the following budget lines appear on the francophone but not the Anglophone budget: 73118 (École plus accueillante et à l’écoute –Welcoming and Listening school environment) and 73111 (school improvement fund). The following budget lines appear on the Anglophone budget but not the francophone budget: 73101 (tutor support), 73102 (learning disabled), 73107 (co-curricular trips), 73108 (extra-curricular trips) and 73116 (math mentors).

A related issue is the expected or targeted staff to student ratio. A concise statement setting out the expected or targeted ratios for different types of personnel and for different levels of education for the 2005-06 year in New Brunswick, is reproduced in Appendix J.

## **PART V: THE NEW BRUNSWICK CONTEXT**

### **Historical Outlook and Overview of Current Practices**

In order to provide an accurate picture of New Brunswick education, given the short time frame and extensive expectations for this Review, AWM Legal Consulting Inc. contracted former Ministry of Education employee Pierre Dumas, for the preparation of two documents, “The Current Status of Education in New Brunswick” and “Historical Outlook”. These documents provide the context for understanding the situation in New Brunswick, including the important dual language system. The full text of these documents is provided in Appendices K and L. These documents provide invaluable insights into the process and current practices in New Brunswick. We provide a summary here.

With regard to the historical outlook on education in New Brunswick, Pierre Dumas traces the legislative history of education in New Brunswick, primarily focusing on the initial separation of education systems for regular students and for students with disabilities. Significant changes during the 1970’s included calls for educational equality that began to have an impact on legislation, and the recognition of learning disabilities began to have an impact on services provided to students.

The closure of the Dr. William F. Roberts Hospital School in St. John (and other institutions and separate schools) during the late 1970’s and 1980’s sealed the commitment to having all students educated in their community schools. The Government did recognize that teachers could not be expected to meet all of the needs of students. In an effort to attract federal funding assistance, partnerships outside of education were pursued. The Support Services to Education Agreement was intended to create effective partnerships amongst various government departments, capitalizing on the costs saved by closing the hospital-school, and making it eligible for federal funding. This brought the services of speech language pathologists, social workers and psychologists, and other professionals into schools. Pierre Dumas pinpoints a governmental reorganization in 1997 where inter-disciplinary teams were dissolved and these professionals were transferred to the extra-mural program, resulting in the mode of delivery currently used today.

The recognition in the Support Services to Education Agreement, that teachers and other educators do not have the appropriate skills, training, or time to provide the many support services needed by children, makes this agreement an important component in the partnership approach to meeting student needs. The



Support Services to Education Agreement has come to be applied in a manner that leaves educators with little input into the allocation of resources. This situation leaves educators feeling that when resources are under pressure, it is education that suffers the lack of services. Some suggest that these support services would be more effective if they were delivered through the Department of Education. There is also the suggestion that these support personnel should be housed in schools, closer to the students they are intended to serve, regardless of which departmental budget the resources stem from.

Through the 1980's and 1990's the government worked continuously on trying to streamline the processes of integration, including publishing in both linguistic sectors, guidelines for integration. In 1986, the legislature finally repealed the law on special education and brought under the auspices of one *Education Act* educational requirements for all students.

In 1987 the francophone sector removed itself from Atlantic Provinces Special Education Authority (APSEA) and established the administration and coordination of services for students with visual or hearing impairments in the Ministry's "services pédagogiques" and assigned the hiring and supervision responsibilities for these personnel to the districts.

The Downey-Landry report in 1992 called for improved resources and the development of an effective protocol for different Ministries to work together in responding to student needs, including the needs of students with serious behaviour problems. In responding to this report a new budget line was added to district budgets, "budget de l'excellence" to allow districts to develop new initiatives in meeting student needs and educational adaptation. Both linguistic sectors also responded over the following decade with policy statements and guidelines for teachers to implement these recommendations and to begin new research in pedagogy.

Finally, Pierre Dumas summarizes the current direction with mention of the *Quality Schools High Results* strategy released in 2002. Many of the problems faced today have been raised in the past twenty years. Initiatives are already begun to enroll students earlier and to begin working with students during the preschool years, to evaluate students before they enter school, and to further collaborate with the Ministry of Family and Community Services for preschool services. Initiatives that support prevention work are also under way, particularly in the area of literacy. Negotiations with universities responsible for the pre-service training of teachers and other personnel have begun to ensure that personnel obtain the knowledge and skills necessary to function in an inclusive environment. Other initiatives in the area of gifted children, the continuum of services, and the financing of services are also proceeding.

With regard to the current status of the education system in New Brunswick, Pierre Dumas highlights the dual language system created by s. 4 of the

Education Act. This section creates two separate education systems operating simultaneously and side by side. Mr. Dumas highlights the governance structure which establishes the District Education Councils and the distinct roles of these elected representatives to make decisions and set policy on a number of issues, within the basic norms and directives from the Ministry. He sets out the sections of the Act where the responsibilities of the Minister, the DEC and the Superintendent can be found.

Pierre Dumas then sets out the particular educational structures and some key policy documents for each sector including, the very useful comparison table reproduced in Appendix L. Mr. Dumas compares points such as numbers of students and various categories of personnel, pedagogical regimes and curriculum summaries, diploma requirements, provincial evaluations, national and international evaluations, programming norms for students identified as exceptional, services for students with vision or hearing impairment, students with exceptionalities, categories of exceptionality, financing, policies and guidelines regarding inclusion including supporting documentation, and post-secondary programs in teacher training in New Brunswick. More of the New Brunswick context is also emerging from the informative consultations pursuant to this Review.

This Review, *Inclusive Education: A Review of Programming and Services in New Brunswick* comes in the context of the *Quality Learning Agenda* and is an illustration of the Government's commitment to this agenda. Another part of the New Brunswick context, and the context for the current Review, are the many studies previously undertaken in New Brunswick, and their recommendations. Pierre Dumas also outlines several of these studies in his report to this Review.

The study *Education Tomorrow: Report of the Minister's Committee on Educational Planning*<sup>117</sup> is identified as one of the determining factors in New Brunswick's shift toward including students with disabilities in regular classrooms. Of the recommendations from this report, many have been implemented. There are however, some notable recommendations made by this report, in areas where the educational system still struggles. The preparation of curriculum guides for adapting the curriculum to the needs of children, the adoption of specific and thorough methods of identifying student learning difficulties, the availability of supervisory staff to provide consultative and coordinating services, and the establishment of inter-provincial services for low-incidence handicaps. This last recommendation was implemented in a limited way with the establishment of the Atlantic Provinces Special Education Authority (APSEA) which provides services for students who are visually or hearing impaired.

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<sup>117</sup> MacLeod, G.E.M. & Pinet, A. *Education Tomorrow: Report of the Minister's Committee on Educational Planning* (Fredericton, NB Department of Education, October 1973).

The *Report of a Study Concerning the Auxiliary Classes Act of New Brunswick*<sup>118</sup> recommended the analysis and reform of legislation existing at the time. These authors recommended amending the *Schools Act* to ensure the provision of integrated and comprehensive educational services to all children with unique learning needs in New Brunswick. Indeed within a few years of these recommendations, significant legislative changes were implemented, bringing all students under the purview of one *Education Act*.

Shortly after the implementation of new legislation a report was commissioned to examine the issue of funding for special education in the new integrated educational system. This study, *Special Education: Recommended Funding Procedures –The Final Report*<sup>119</sup> recommended the development of guidelines for individual education plans and school-based strategic teams. They also recommend the development of inter-departmental teams involving the departments of health and social services at a regional level to meet the needs of students. Specifically with regard to financing, this report finds that it is more effective to describe services in terms of needs and the resources necessary, avoiding jargon and categorization. These authors saw the census model of funding as adequate, equitable, and allowing for flexibility at the district level.

The Commission on Excellence in Education produced a report<sup>120</sup> focusing recommendations on increasing resources in a variety of targeted ways. These recommendations include, recommendations for additional resources in areas such as guidance and counseling, resource and methods teaching, child psychology, and speech pathology, directed toward elementary school students. This study also contains a recommendation for additional resources for enrichment activities for gifted and talented students. According to Pierre Dumas, these recommendations have been implemented and the government has, over time increased funding in these areas. A very significant recommendation under this study is the recommendation that an inter-departmental committee be struck, with representation from Education, Health and Community Services, and the Solicitor General to detail the responsibilities and resources needed from each of these departments in dealing with seriously disruptive behaviour. According to Pierre Dumas, this recommendation led to some initiatives in Education (School Improvement Fund, More Responsive Schools and Positive Learning Environment) as well as the signing of an inter-departmental agreement *Children and Youth with Severe Behaviour Disorders* in 1994. According to Pierre Dumas, this last inter-departmental agreement, has not implemented the kind of services or resources the Department of Education sees as necessary in this regard.

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<sup>118</sup> Correia, Claire L. & Goguen, Léonard J. *Report of a Study Concerning the Auxiliary Classes Act of New Brunswick* (July 1982).

<sup>119</sup> BrattonPosno Associates, *Special Education: Recommended Funding Procedures –The Final Report* (January 1988).

<sup>120</sup> Commission on Excellence in Education. *Schools for a New Century –Report of the Commission on Excellence in Education* (May 1992).

Finally, a summary of previous studies in New Brunswick would not be complete without mention of *Schools Teach –Parents & Communities Support –Children Learn – Everyone Benefits*.<sup>121</sup> This report, also known as the *Scraba Report* was commissioned in response to the poor results by New Brunswick’s students on the Programme for International Student Assessment (PISA) 2000 tests. The recommendations of this report rest on a cursory comparison of the Alberta and New Brunswick educational systems. The handful of one-on-one and small group interviews consistently showed that Alberta’s success was attributed to three main factors. Those factors are, the Alberta educational system’s strong alignment of curriculum and evaluation, a strong culture that values learning and has high expectations, and high standards focused on excellence in teaching and learning for all students supported by the public and parents. The New Brunswick system in contrast was described as a “closed system with low expectations and no defined standards reeling after years of constant change on all fronts... The system as a whole is not coherent, and there is no systemic culture of or support for learning.”<sup>122</sup>

The *Scraba Report* recommends that the Minister develop a culture of learning and achievement. The report calls for the Minister to communicate effectively and involve the community; to plan for change and stabilize the system; to develop accountability in the education system, and address structural and systemic problems over time. It is notable that much of the language of this report’s recommendations is reflected in the *Quality Learning Agenda* which appears to be in response to these recommendations. Many of the findings of the interviews conducted by the *Scraba Report* are similar to the themes emerging from the consultation process of the current Review, *Inclusive Education: A Review of Programming and Services in New Brunswick*. For example, the impact of the French immersion program as it currently operates (within the Anglophone school system) seems to result in disproportionately high numbers of exceptional students in the English Core Program. The views of participants in the interviews conducted for the *Scraba Report* portray that inclusion in New Brunswick has come to mean all children in the same class all the time. One comment indicates that “Kindness gets confused with having expectations. Low expectations are accepted in the climate of being caring.”<sup>123</sup>

Some of the emphasized points in the *Scraba Report* provide good insight into how the New Brunswick education system might be improved such as the emphasis on the need for high expectations of all students, the importance of leadership, particularly in critical roles such as the school principal, and the focus on accountability, openness and transparency. There are some important limitations to the *Scraba Report* though. For example, the analysis in the *Scraba*

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<sup>121</sup> Elana J. Scraba, *Schools Teach –Parents & Communities Support –Children Learn –Everyone Benefits* (April 2002) [Hereinafter *Scraba Report*].

<sup>122</sup> *Scraba Report, ibid.*, at 2.

<sup>123</sup> *Scraba Report, ibid.*, at 22.

*Report* only addresses the Anglophone sector of education in New Brunswick, with no analysis of the unique dual language system. The report provides very little basis for the relevancy of a comparison exercise, comparing Alberta to New Brunswick. There are indeed many significant differences between these two provinces, size and wealth being two that most readily come to mind, although Alberta does share the urban rural mix of New Brunswick. The only real basis provided for the comparison was Alberta's superior performance on the PISA test. In addition, the consultation component of this report appears to be very limited in scope (based on 20 interviews in Alberta). Furthermore, the recommendations do not appear to be rooted in further evidence or research beyond the results of the consultations.

### **Statistical Context**

A small number of useful statistics exists with regard to student profiles or incidence of exceptionality with a New Brunswick application. Even fewer useful statistics exist when it comes to evaluating the state of inclusion in schools.

First, we present several statistical sources that help draw a portrait or snap-shot of the student population in New Brunswick. The "Cost Study of Exceptional Students" report completed by the New Brunswick Office of the Comptroller in June 2004<sup>124</sup> offers some recently gathered data. This report indicates a total enrolment of 36,025 students in the francophone sector and 84,575 students in the Anglophone sector.

The *Summary Statistics: School Year 2003-2004* indicates similar enrollment numbers. Within the Anglophone sector the *Summary Statistics* indicates that 22,145 students or approximately 26% of students are enrolled in French Immersion classes. On a district by district basis, the highest enrollment in French Immersion classes, are first Moncton, followed by Rothesay, Fredericton and then Saint John. The remaining districts have similar low enrollments in French Immersion. Invariably, this snap shot shows higher enrollment in French Immersion at the earlier grades across every district. This would indicate either an increasing popularity in the French Immersion program over time, or poor retention of students in French Immersion. Longitudinal data would be necessary to draw any conclusion on this issue.<sup>125</sup>

By way of sharpening the portrait of the student population, we have also been provided with figures from fifteen First Nations communities across New

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<sup>124</sup> *Comptroller's Report, supra* note 110.

<sup>125</sup> Policy and Planning, *Summary Statistics: School Year 2003-2004* (New Brunswick Department of Education, March 2004) at 16-17. [Hereinafter *Summary Statistics*]

Brunswick.<sup>126</sup> These figures reveal 1482 First Nation students attended provincially operated schools in September 2004 with tuition agreements for each one, totaling a significant influx of dollars directly to the provincial education system from the presence of these students. The majority of First Nations students are in the Anglophone sector. In addition, First Nations communities have access to support funds for “high cost special needs students” from the Government of Canada. Approximately half of the applications for this funding were in response to specific students attending provincially operated schools. From their point of view, this additional funding resulted in an additional \$663,000 contributed directly to districts to support Special Needs First Nations Students.<sup>127</sup>

First Nations communities have a particular perspective and interest in education in addition to echoing some similar themes with regard to students with special needs. More detail on this particular perspective is provided in the summary of consultation sessions in Appendix M. Education for these communities has been a long evolution from federally operated schools on reserves to provincially provided education negotiated by the federal government. More recently individual Bands have assumed control over the operation of the schools on reserves and have become involved in directly negotiating tuition agreements with the New Brunswick Department of Education for First Nations students who attend provincial schools.

The *Summary Statistics* also provides a snap shot of school personnel indicating total education staff (including regular teachers, school administrators, library, guidance counselors, resource teachers, school psychologists, supervisors, directors of education and superintendents) to be 5,230.8 in the Anglophone sector and 2,266.8 in the francophone sector. Of these, the majority are regular teachers (79% in Anglophone sector and 80% in francophone sector). Resource Teachers and other special needs staff make up 10% in the Anglophone sector and 9% in the francophone sector. School Psychologists (hired by the districts) make up .34% in the Anglophone sector and 1.7% in the francophone sector. Guidance Counselors make up 2.4% in the Anglophone sector and 1.1% in the francophone sector. Finally, there are a total 4 district employed coordinator/consultants in the entire province making up .08% in the Anglophone sector (0 in the francophone sector). There are a total of 2 district employed social workers in the entire province making up .09% in the francophone sector (0 in the anglophone sector). Teacher Assistants are classified as non-educational support staff. As of September 30, 2003 there were 764.7 Teacher Assistant's in the anglophone sector and 329.1 in the francophone sector. In

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<sup>126</sup> New Brunswick First Nations Education Initiative Committee, “A First Nations Perspective: A Position Paper” prepared for *Inclusive Education: A Review of Programming and Services in New Brunswick* (June 2005).

<sup>127</sup> *Ibid.*

addition there were on that date 15.6 Classroom Attendants in the Anglophone sector and 2.9 in the francophone sector.<sup>128</sup>

With regard to support personnel provided through other government departments, the *Comptroller's Report* does attempt to quantify the number of positions available across the province. It is not clear though what percentage of these positions is dedicated to addressing children's needs as they arise in school. There are various points of referral for several of these services.

From the Department of Mental Health Services there were in 2002-2003, 14 Psychologists, 5 Psychometrists, 16 Social Workers, 11 Counselors and 10 listed as 'other'. From the Department of Family and Community Services under the Support Services to Education Agreement (SSE) in 2002-03 there were, 6 Clinical Psychologists, 1 Human Services Counselor, 1 Psychometrist, 3 Social Worker Supervisors, and 32.5 Social Workers.

From the Department of Health and Wellness Extra-Mural Program, the *Comptroller's Report* shows that there were at that time Physiotherapists, Occupational Therapists, Speech Language Pathologists, Social Workers, Respiratory Therapists, Clinical Dieticians, and Nurses working in the Extra-Mural program. The Comptroller was unable to identify a number of positions available to students in school from this program as they were simply provided with the number of minutes spent by the various health professionals by patient type and by health region (which did not correspond with the education districts). The Comptroller's office calculated estimated costs based on the number of minutes spent on patients of student age.<sup>129</sup>

The *Summary Statistics* document does not provide statistics on the incidence of exceptional students among the student population. The *Comptroller's Report* provides that the percentage of the student population identified as exceptional ranges between 13.6% and 26.2% in the Anglophone districts and between 24.2% and 37.7% in the francophone districts. The major difference between the francophone and anglophone districts appears to be explained by the inclusion in the francophone sector, of the 23% of students who require daily intervention from their classroom teacher but who have not been referred to a resource teacher, students whom they classify as at risk. The anglophone districts did not have a similar classification and thereby had a narrower interpretation of exceptionalities and lower overall incidence numbers. A survey completed by the New Brunswick Teachers Association (anglophone sector only) found incidences of 30% to 35%. This survey included students with behavioural problems, as well as students on "Accommodated", "Modified", and "Individual" learning plans.<sup>130</sup>

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<sup>128</sup> *Ibid*, at 27-28.

<sup>129</sup> *Comptroller's Report*, *supra* note 110 at 13-16.

<sup>130</sup> "NBTA Survey on Inclusionary Practices" (2005) submitted at a consultation session pursuant to this Review, May 19, 2005.

The *Comptroller's Report* cautions that differences in definitions of exceptionality across districts could account for some differences in incidences of exceptionality. The *Comptroller's Report* does not represent a longitudinal study. It is a snapshot in time. Therefore no larger trends in incidences can be drawn from these statistics. In addition, we have been cautioned by some people during the consultation sessions, that the cost analysis in this document should be treated carefully as it does not take into account that some districts allow their special needs budget to go into deficit while others shuffle funds from other budget areas rather than allow the special needs budget to go into deficit.

On balance, the Comptroller's report is a valuable contribution to this review process and this Review is required to take it into consideration by the *Terms of Reference*. Some significant findings in this report include that when districts percentage share of the total Exceptional Student budget is compared with districts percentage share of the total Exceptional Student population, there are discrepancies. Some districts have a greater share of the total Exceptional Student budget than they do of the Exceptional Student enrollment. Despite this factor though, actual expenditures for Exceptional Students exceed the amount budgeted in every district, in both linguistic sectors, across the province.<sup>131</sup>

We also review statistical sources from Statistics Canada. First, is the "Participation and Activity Limitation Survey" (PALS) which uses the World Health Organization's framework for disability defines disability as the relationship between body structures and functions, daily activities and social participation. For the purpose of PALS, persons with disabilities "are those who reported difficulties with daily living activities, or who indicated that a physical or mental condition or a health problem reduced the kind or amount of activities they could do." The report is based on interviews with adults and children in households in the various provinces. Residents of institutions were excluded. Furthermore, the last data collection from Statistics Canada on disability in Canada was in 1991. Since this last survey, the structure and sample of questions were changed significantly, making it impossible to compare data over time.

Of children with a disability between the ages of 5-14 the survey indicated that 13.3% had a hearing impairment, 9.4% had a visual impairment, 43.3% had a speech impairment, 13.7% had a mobility impairment, 20.3% had a dexterity impairment, 29.8% had a developmental impairment, 64.9% had a learning disability, 31.8% had a psychological impairment and 65.3% had a chronic illness. This tells us that the most common disabilities in Canadian children are chronic illness, learning disabilities and speech impairments, followed by psychological impairments, developmental impairments and dexterity impairments. Finally, the least common disabilities are mobility impairments, hearing and visual impairments. The total national percentage of children aged

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<sup>131</sup> *Comptroller's Report*, *supra* note 110 at 26-29.



0-14 years classified as having a disability in this survey is between 2.5% and 4%.<sup>132</sup>

The wide discrepancy in the statistical incidence of students with disabilities nationally and those identified as exceptional in New Brunswick school districts has no obvious explanation. It is possible to attribute this discrepancy again to definition. A person could answer no to the question by Statistics Canada regarding whether a mental or health problem reduced the kind or amount of activity a person could do, while at the same time a New Brunswick school district might notice an educational delay and make a determination on exceptional student status.

In addition the incidence data tends to be “snap shot” in nature and does not provide a longitudinal portrait or trend. In a previous section we mentioned, a review document by Eldon Rogerson. In this document, this author shows statistics with a distribution of disabilities and proportion of overall population from the U.S. Department of Education that is very consistent with the Statistics Canada numbers. This researcher indicates that while accurate information for Canada was not available, information from the United States shows steady increases over the past 25-30 years in numbers of students receiving special education. This researcher also cites “numerous reviews” that have repeatedly reiterated that, during the last decade, special education enrolments have grown steadily, while the general school population is in decline. In addition, we highlighted in an earlier section, the participants’ perception of increased numbers of students with exceptionalities in the *McBride Review*. We draw attention to this research because it coincides with the anecdotal evidence brought by participants thus far, in the ongoing consultation process pursuant to this Review.

Admittedly this is a difficult issue to judge, as no reliable long term data using consistent definitions over time were uncovered in the course of this research. This issue is further complicated if we consider trying to rely on individual education plans or intervention plans (which are essentially documentation of instances of individual accommodation) as an indicator of exceptionality incidence levels.

Indeed this issue is highlighted by two research initiatives in the francophone sector which, when taken together, illustrate the complexity of using statistics as indicators. Different methods and statistics can be gathered and used to evaluate different aspects of inclusion and planning for students with exceptionalities. Effort to clearly identify the number of exceptional students in the student population and the use of uniform definitions in order to be able to compare those incidence levels is only one small aspect of the use of statistics and indicators for the planning and promotion of inclusive education.

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<sup>132</sup> Lucie Cossette, Édith Duclos, “A Profile of Disability in Canada, 2001”, Participation and Activity Limitation Survey, 2001, Statistics Canada, catalogue no. 89-577-XIE at table 3.

The first of these two research initiatives within the francophone sector we refer to, the *Portrait*<sup>133</sup>, focuses on students identified as exceptional and currently receiving some kind of adapted instruction or service. The authors of this study note that an approach focusing on students currently receiving special education services may not reflect all of the students in the school traditionally associated with special education. These authors give the real example of a 7 year old student with Down Syndrome, fully included in a grade one class and not receiving any specialized services at the time of the portrait, is not reflected in their statistics or their study.<sup>134</sup> This highlights the intuitive conclusion that the better an education system gets at inclusion, the fewer and less intense will be the instances of individual accommodation and that documentation of individual accommodation measures (Special Education Plans or Intervention Plans) will not be an accurate indication of incidences of exceptionality, nor of outcomes. Another obvious example of this phenomenon is that a student with a significant physical handicap may never have a need for individual accommodation, a plan or intervention, if the school is already physically accessible.

The common perception that incidences of exceptionality have increased in the population over time is better addressed in studies looking at the entire student population and not simply at those with a documented intervention plan. The second study completed in the francophone sector that we refer to here addresses this aspect more clearly, although it too is a “snap shot” in time. This second study the “Inventory”<sup>135</sup>, sent a team of researchers to inventory every student enrolled in classes during the 2001-2002 school year. The researchers recorded and categorized using set criteria all students showing a difficulty of some kind at the moment of the inventory. This inventory showed a total number of students in difficulty at 32.1%, of which 23% were “at risk”, 2% had serious behaviour difficulties and 7.1% had a deficiency or handicap of some kind. With very clearly defined categories, these figures show more consistency with the numbers reported in the PALS survey by Statistics Canada and that the anecdotal reporting of increased incidence of students with exceptionalities could be related to this broad “at risk” category of students. In this study the at risk category included students with learning difficulties, behaviour or adaptation difficulties, and students whose teachers intervene daily but would probably not refer the student to resource personnel. This group of students has traditionally been in regular classes, but increased awareness and sensitivity to student difficulty sheds new light on a growing proportion of “regular students” as being in need of services, accommodation, or attention in order to include them and support them in reaching their potential.

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<sup>133</sup> Raymond Vienneau, Léonard Goguen, Angela Aucoin, Brigitte Allard, “Portrait de L’inclusion des Élèves Exceptionnels Francophones au Nouveau-Brunswick » (Université de Moncton, 15 juin 2000). [Hereinafter *Portrait*]

<sup>134</sup> *Portrait, ibid*, at 4.

<sup>135</sup> “Rapport de l’inventaire en adaptation scolaire”, Secteur francophone, Année scolaire 2001-2002 (Direction des services pédagogiques, Octobre 2003). [Hereinafter *Inventory*]

While the first study, the “Portrait”, provides less insight on the issue of incidence levels, it focuses primarily on evaluating the quality of inclusion for students identified as exceptional under the *Education Act* and who are the subject of an intervention plan or individualized instruction. This number was a very small number of the total school population. At the primary level it was 1.6% and at the secondary level 3.4%. Thus, this narrowed definition reduces the proportional incidence to be very consistent with the PALS survey by Statistics Canada. Narrowing this definition to individual accommodation plans, allowed these researchers to focus on the quality of inclusion for this category of students. Here, authors highlight the doubling of incidence in this category from primary to secondary school.<sup>136</sup> The data gathered to answer the quality of inclusion question included placement figures showing that 22.4% of the students they looked at were in regular classes full-time, 53.8% were in regular classes part time, and 9.1% spent all of their time in a resource class or other special setting. In addition, these researchers gathered data on services offered directly to exceptional students in this category as well as resources and support for classroom teachers.

In their evaluation of this data, these authors conclude that the level of services offered directly to exceptional students by resource teachers is far superior in terms of the quantity and variety compared to the support offered to classroom teachers. These researchers conclude that human resources and support for classroom teachers are concentrated in teacher assistants inside the classroom and that for a significant number of exceptional students the only adult responsible for delivering their educational program is the teacher assistant. Support for classroom teachers is almost exclusively provided by resource teachers in the form of planning assistance outside the classroom. These authors note a lack of other forms of support such as administrative support and the reduction of other teacher responsibilities.<sup>137</sup>

The *Portrait's* authors note that assistance and support inside the classroom at the high school level is very minimal (compared to that in primary school) and suggest that this may be related to the doubling of students on individualized intervention plans at the secondary level.<sup>138</sup> Furthermore, these authors notice a significant difference in approach at the primary and secondary levels. They note that at the primary level the focus on basic skill acquisition facilitates the full inclusion of a greater diversity of students without resort to individualized plans. They note that the pedagogical approach at the high school level (despite progress) remains centred on the teacher, making responding to student differences a more significant challenge at the secondary level.

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<sup>136</sup> *Portrait, supra* note 133 at 5.

<sup>137</sup> *Portrait, supra* note 133 at 16.

<sup>138</sup> *Portrait, supra* note 133 at 11.

Statistics Canada also provides statistics with other contextual information. Demographic and population projection numbers, confirm that with birth rates below replacement level, and a low immigrant population, the overall population of New Brunswick is on the decline. Furthermore, the projected impact of the aging “baby boomer” population (those born in the two decades after World War II) is a serious concern. Using a medium-growth scenario it is anticipated that seniors will far outnumber children aged 14 and under within 10 to 15 years, a phenomenon never before recorded. They predict that the working-age population is likely to start declining within two decades, with obvious ramifications on governments’ tax base through income tax and worker shortages. Researchers hold that “immigration levels contribute heavily to the projected population growth at the national level, as the fertility rate is always assumed to be below the replacement level, a situation observed since the 1970s.” New Brunswick experiences one of the lowest rates of immigrant population in the Country. This is a primary factor in the projected decline in New Brunswick’s actual population, as well as an anticipated drop in the proportion of the national population living in New Brunswick.<sup>139</sup>

The issues surrounding the collection and use of statistics are similar in many ways to the other systemic analyses in this Background Research Report. A thoughtful process around the collection of statistics is necessary, including an inquiry into what kinds of statistics might help support inclusion. This also goes to the heart of the accountability and indicators of success questions asked of this Review. At this point we do view some gaps in the kinds of data available and the applicability to the issue of evaluating the success of inclusion. One area that has been identified as an interesting indicator is the level of stress leave taken by teachers and other educators. We have not uncovered official statistical data on this. However, an informal inquiry with the New Brunswick Teachers’ Association indicates that referrals for counseling due to work\_stress are on the increase. The NBTA reports 86 new cases in the case loads of two counselors during the 2004-2005 school year alone.<sup>140</sup>

The *Comptroller’s Report* also finds gaps in the collection of data, with which to evaluate the effectiveness of service delivery. The *Comptroller’s Report* outlines that currently the Department of Education tracks the number and percent exempted from provincial examinations but does not track the reason for the exemption (exemption rates being around 3%-5%). The Department of Education grants accommodations to students writing the exams, but does not compile information related to accommodations. Exceptional students are not tracked as a separate cohort and their performance on provincial exams cannot be used to assess the effectiveness of programming for these students. The *Comptroller’s Report* identifies that Alberta, British Columbia, Ontario, Newfoundland/Labrador,

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<sup>139</sup> *The Daily*, “Population Projections” (March 2001) Online: <http://www.statcan.ca/Daily/English/010313/d010313a.htm> (date accessed March 28, 2005)

<sup>140</sup> Submission, Melinda Cook, Director of Finance and Administration, New Brunswick Teachers’ Association, May 31, 2005.

and Quebec, can all analyze the results of their provincial exams in this manner.<sup>141</sup>

Using standardized performance indicators to evaluate the effectiveness of programming for students with exceptionalities is growing in acceptance and may offer an opportunity to verify what factors are effective. A March 2004 presentation by Statistics Canada to the Canadian Education Statistics Council used the results of PISA tests to compare the achievement gap between disabled and non-disabled students. A recent study conducted in Massachusetts concludes that school districts which “posted higher-than-expected achievement for special education students on the state English and math exams shared common practices.”<sup>142</sup>

Many recognize the challenges of using statistics and indicators in the current climate which demands clear performance indicators and assessments of accountability. The educational Policy Reform Research Institute identifies that

A continual challenge when designing educational indicator systems is defining indicators that are: *valid*, meaning that they accurately measure the characteristic of interest; *reliable*, meaning that they will yield the same values under comparable data collection measures; and *informative*, meaning that the characteristic being measured is related to a specific outcome such as student performance.<sup>143</sup>

An interesting initiative into developing statistics that might help evaluate inclusion is reported by the Organization for Economic Co-Operation and Development (OECD) in 2004. In this study, researchers surveyed the views of 15-year-olds on their engagement in school, their sense of belonging and participation.

This study presents findings by country. In Canada on average 20% of students polled had a low sense of belonging. On average 25% of students polled had low participation. The summary analysis of all the data revealed “on average, nearly a quarter of 15-year-olds express negative views about their sense of

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<sup>141</sup> *Comptroller's Report*, *supra* note 110 at 21

<sup>142</sup> John Gehring, “Some Mass. Cities Show Success with Spec. Ed. Students” 24(15); “A Study of MCAS Achievement and Promising Practices in Urban Special Education” <[http://www.donahue.umassp.edu/docs/?item\\_id=12701](http://www.donahue.umassp.edu/docs/?item_id=12701)> The promising practices are summarized as: “Overall, the analysis found that the districts that performed better for special education students than their demographic peers align their curricula with the state’s academic frameworks; emphasize the inclusion of special education students in regular classes; use student-assessment data to inform decision making; maintain a disciplined social environment; and have strong leadership teams.”

<sup>143</sup> The Institute for the Study of Exceptional Children and Youth, “Creating Performance Goals and Indicators in Special Education” (January 2002) Online: [www.eprri.org](http://www.eprri.org).

belonging at school, and an average of one in five reported recently missing school, arriving late or skipping classes”<sup>144</sup>.

At the level of individual students, the relationship between student participation and sense of belonging is weak, suggesting that there are many students who lack a sense of belonging but still attend school regularly, and vice versa.

By contrast, at the school level students’ sense of belonging and their participation tend to go hand in hand and are closely related to school performance, suggesting that schools with high levels of engagement also tend to have high levels of academic performance.

The analysis reveals, in particular, that a considerable portion of students with comparatively high academic performance still report a low sense of belonging.<sup>145</sup>

A few interesting initiatives have also come from the partnership between the Council of Ministers of Education Canada (CMEC) and Statistics Canada forming the Canadian Education Statistics Council. One such initiative is a high school leavers survey (2003), identifying the circumstances and profiles of those who left high school before graduation. Incidences of disability were not specifically addressed in the context of this particular study. It is interesting to note that not all high school leavers reported poor performance: 48% reported a B average or better. Levels of participation in school-based extracurricular activities and indicators of school engagement were shown to be lower for high school leavers. Although the New Brunswick Department of Education’s *Summary Statistics* mentioned above does report numbers of students who ‘drop out’, there is no indication of why these students chose to leave school.

Of particular note in the high school leavers survey published by the Canadian Education Statistics Council is that “while only a small portion (3%) of all 18 to 20 year olds indicated they had dependent children, this proportion rose to 28% for female leavers. The rate was much lower for female graduates (3%), male leavers (5%) and male graduates (less than 1%)”.<sup>146</sup> Inclusion for women (particularly once they become mothers) remains a significant challenge for education.

In examining these results, we recognize that the partnership between CMEC and the Canadian Education Statistics Council offers a tremendous opportunity to develop and generate statistics that could help support inclusion with national

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<sup>144</sup> OECD, *Education at a Glance: OECD Indicators 2004* (Paris, France: OECD, 2004) A8 at 117

<sup>145</sup> *Ibid.*

<sup>146</sup> *Education Indicators in Canada: Report of the Pan-Canadian Education Indicators Program 2003* (Ottawa, Toronto: Canadian Education Statistics Council, 2003) at 103.

(and even international) impact. Furthermore, the infrastructure and initiative to gather statistics and use them to guide policy and decision making is already established in New Brunswick. This represents one more avenue for discovering how systems, norms, and procedures can be used to facilitate and support inclusion in New Brunswick.

### **Other Provincial Partners**

In the course of this review, we also assessed the Council of Atlantic Ministers of Education and Training (CAMET) and the Atlantic Provinces Special Education Authority (APSEA).

CAMET is an organization dedicated to collaboration for improving education services across the Atlantic Provinces. The organization outlines on its website that:

Over the past ten years, projects of CAMET have focused on joint development of curriculum, procurement of school buses, the development of learning resources, and a wide variety of products and services to improve education in the Atlantic region. As these projects near completion, the time is opportune to refocus the direction of CAMET in order to better meet the needs of the k-12 students in Atlantic Canada<sup>147</sup>

This organization appears to be a good partnership for sharing information and ideas and generating solutions to challenges that are common across the Atlantic Provinces. CAMET may be a fruitful forum for collaboration around some of the challenges of inclusion. As mentioned in the introduction to this Background Research Report, anglophone Deputy Minister of Education, John Kershaw, gave a speech entitled “The Opportunity of Inclusive Education” at the National Summit on Inclusive Education (November 2004, Ottawa, Ontario). In this speech Deputy Minister Kershaw confirmed that New Brunswick has placed inclusive education on the regional agenda with CAMET. Indeed in this same speech, Deputy Minister Kershaw also confirmed that New Brunswick has placed inclusive education on the national agenda with the Council of Ministers of Education Canada (CMEC) –the organization we mention above in connection with the Canadian Education Statistics Council (a partnership between CMEC and Statistics Canada).

We met on June 6, 2005 with representatives of APSEA, as we are expected to make comments in the Final Report about ASPEA and the New Brunswick

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<sup>147</sup> CAMET Online: <http://www.camet-camf.ca> Date Accessed: March 11, 2005.

school system. The current partnership for service provision with APSEA in New Brunswick encompasses only the anglophone sector. Although, we are informed by the APSEA directors that requests for technical equipment alternate format materials from the francophone sector in New Brunswick are honoured. Services for students with visual or hearing impairments provided by APSEA include itinerant teachers, sign language interpreters, transition services, short term and intensive instruction programs, assessment, consulting, orientation and mobility instruction, and more. This organization has its own structure and is quite independent of the educational system. The services it provides appear from initial glance to be very well integrated into the educational system and well received by educators, parents and students.

The APSEA partnership, between the four Atlantic Provinces, began as a way to cooperate and pool resources in order to provide a better quality and range of services for a few, low incidence, high-cost disabilities. Indeed the partnership has been successful. Many of the programs and services operated by APSEA would not be possible by each of the four Atlantic Provinces individually as the “critical mass” to run many APSEA programs are attained only by uniting students from all four Provinces. The quality of the services provided and the APSEA approach are now internationally renowned and many young people with visual or hearing impairments have benefited.

We are aware that APSEA represents a different approach to the needs of visually or hearing impaired students to the approach followed in the francophone system. The francophone sector, which approaches students with hearing impairments from an “oralist” perspective, teaches coping skills without relying on sign language. It has been suggested that the rate of students with hearing impairments who undergo surgery to install the “Cochlear Implant” is higher in the francophone sector than the anglophone sector. Although this comment has not been verified by any available data, this may be an important area for further study. Choosing to undergo the “cochlear implant” may be related to the approach to services and the success of inclusion for hearing impaired students in schools and communities.

Finally, we are aware that APSEA is currently undergoing a review process of its organization and structure. APSEA’s current structure provides for an organization that is independent of any one government and a committee structure for collaboration by key departmental personnel from the four Provinces. Much of APSEA’s current operating budget is provided by the Provinces on a student census basis. APSEA also manages trust funds and real estate donated for the benefit of visually or hearing impaired students in the Atlantic Provinces. The APSEA directors do welcome the current review as an opportunity to improve some of the administrative functioning of this organization. Despite their identification of a need to improve communication and smooth administration, the APSEA directors highlight the unique strengths of this organization.



The quality and level of service delivery currently provided by APSEA cannot be duplicated by each province individually. As was mentioned above, the critical mass to run many of the APSEA programs are only achieved by uniting the students from the four provinces. It is the experience of these directors that the budget and coordination of services for low incidence disabilities achieve better results when they are dedicated, as in the APSEA model. Furthermore, that if the budget and coordination of services were transferred to global provincial budgets aimed at addressing many disabilities or student services, the results for students with low incidence disabilities will be inferior service and low priority.

The biggest barrier to inclusion for students served by APSEA, as identified by the APSEA directors is the isolation felt by students of low incidence disabilities. This is particularly the case for those with hearing impairments as very few people in their communities and schools learn alternative modes of communication. Students with hearing impairments often have no one, other than the sign language interpreter, to communicate with at school. Many of these students would be the only person in their community with their particular impairment. This is especially the case in rural communities. Indeed, this comment was strongly articulated by one hearing impaired student who attended the consultation sessions pursuant to this Review. The solidarity and companionship that is fostered for some of these students through the APSEA short term programs that bring students together from around Atlantic Canada, is an important benefit of these services. This also highlights the need for more meaningful inclusion, not simply physical integration in schools and communities.

## **Conclusion**

The context in New Brunswick is clearly unique, with its own challenges and strengths. One source of uniqueness and strength is the fact that New Brunswick has a dual language educational system, as is appropriate for Canada's only officially bilingual province. The ongoing consultation sessions pursuant to this Review are extremely useful in identifying more of those unique challenges and strengths. Once these sessions are completed there will be even more content and depth to our understanding of the New Brunswick context. This is forthcoming in the Phase II document, a summary and analysis of these consultation sessions.

The work to date has been both interesting and challenging, but most significantly it is important. Few things are more important in a democratic society than the education of our children.

“Whether one views it from an economic, social, cultural or civic point of view, the education of the young is critically important in our society”

- Supreme Court of Canada in *R.v.Jones* (1986), per Justice LaForest.<sup>148</sup>

This line appears just before the Court endorses a significant passage talking about the importance of education to democratic society’s, from the famous United States case on racial desegregation in schools.<sup>149</sup> In a very real way, our children are our future and we owe them the best education that we can reasonably provide.

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<sup>148</sup> *Jones v. The Queen* [1986] 2 S.C.R. 284 at para 22.

<sup>149</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

**PHASE 2 :**  
**CONSULTATION REPORT**

## EXECUTIVE SUMMARY

Part I of this consultation report begins with an introduction to the process and the parameters of the consultation sessions. Over the course of nine months, more than 700 persons were consulted in 35 meetings. In addition, over 100 individuals and 26 organizations made written submissions. Hundreds of signed petitions were also received. Many of those who submitted in writing also attended an in-person session. This consultation process can still only be considered a sampling of those living and working with the New Brunswick educational system.

The consultant would like to thank all those participants who took time from their busy schedules and/or traveled long distances to attend consultation sessions. The consultation process has been very helpful for this study. Meeting with such diverse groups of people has provided insight into the unique situation and structures in place in both linguistic sectors of New Brunswick.

Part II provides a summary of themes that emerge from the analysis of participants' dialogue and submissions. These themes are organized around the deliverables found in section IV of the *Terms of Reference*. They represent points for which there was widespread discussion in all or almost all of the sessions and submissions. There was some consensus around some of the themes, but not all of them. Many varying perspectives were revealed in relation to these themes. There are two overarching, universal themes and points of consensus that have emerged. First, the appreciation people felt at having been genuinely consulted and actively listened to. Second, the appreciation people felt for the opportunity to dialogue with others about these difficult issues. Comments about these two themes were frequent. The nature and the approach of this consultation process were welcome and refreshing for many people. Many people claimed to have never been consulted or to have had an opportunity such as this before. This claim came from people both inside and outside the educational system.

Part III provides a compilation of the written recommendations, as articulated by the submitter(s).

Each in-person consultation session was recorded by between two and five note takers. The synthesis and summary of these notes can be found in Appendix M. This summary provides an outline of the dialogue from each in-person consultation session.

A sampling of some of the common questions that were used in the consultation sessions is provided in Appendix N. Questionnaires were designed for each

session with many sessions using the same or similar questions. The format of the sessions was flexible. This allowed the flow of the dialogue to determine the precise pace and coverage of the questions.

A record of the written submissions made to this Review is provided in Appendix O. The original written submissions will be deposited with the New Brunswick Department of Education upon completion of this Review.

## PART I: INTRODUCTION

The consultation sessions pursuant to this Review were organized primarily according to the requirements of the *Terms of Reference*. Additional consultation sessions and invitations came from two sources. First, inquiries from persons or organizations not mentioned in the *Terms of Reference* resulted in numerous additions. Second, the consultant, in collaboration with the Department of Education, identified appropriate additional persons to consult.

The final list of groups consulted at in-person sessions is as follows. Equivalent sessions were held in the francophone and anglophone sectors. Some sessions were held as bi-lingual sessions.

- Department of Education Staff (Curriculum/Evaluation, Student Services, Corporate Branch)
- School District Administrators(Superintendents, Directors of Education, Directors of Human Resources, Directors of Finance and Administration)
- School District Staff (Teachers, Principals/vice-principals, Resource and Methods Teachers, Guidance, Psychologists, Teacher Assistants, Itinerant teachers for the visions and hearing impaired, Student Service Supervisors)
- District Education Councils
- Teachers Federation (NBTA/AEFNB)
- CUPE 1253/2745
- Parents (of “exceptional” children, and of “non-exceptional”)
- Students (“exceptional” and “non-exceptional”)
- External Stakeholders (advocacy groups, DEC representatives, professional organizations, etc.
- First Nations
- Partner Departments (Health, Family and Community Services, Public Safety, etc.)
- New Brunswick Human Rights Commission
- New Brunswick Ombudsman
- New Brunswick Office of the Comptroller

The main challenges for the consultation process were the tight budget and the short time frame. Over the course of nine months, more than 700 persons were consulted in 35 meetings. In addition, written submissions were accepted from over 100 individuals and 26 organizations. Hundreds of signed petitions were also received. The consultation process is by no means a comprehensive survey

or audit of those living or working within the New Brunswick educational system. None the less, the results of this sampling are extremely valuable in providing a broad range of the views and the perspectives of many stakeholders. They also provide valuable insight into some emergent themes for this Review.

The response of people in New Brunswick to this Review and consultation process has been very positive. People have welcomed this opportunity and participated in the dialogue with honesty and passion. The consultant would like to congratulate the many diverse participants for being engaged by these issues and this Review in particular. The dedication of all the participants to promoting the best interests of New Brunswick students and improving the current system is both remarkable and laudable. Indeed, this is a very important first step down the path towards a more effective inclusive education system. The consultant would like to thank all those who took time out of their busy schedules and/or traveled long distances in order to participate in person. In particular, a special thank you is reserved for those who were patient in dealing with weather constraints, technical difficulties and short notices. All of these efforts are very much appreciated.

The consultations were highly successful in enhancing the appreciation for New Brunswick's unique situation. The two linguistic sectors, anglophone and francophone, are formally recognized in New Brunswick's *Education Act* producing what some call a dual educational system. The consultation sessions have been critical to understanding the dynamics of this dual system and the distinctness of each sector. The consultation sessions have also been critical in revealing that in practice there is a tri-partite educational system operating in New Brunswick. First Nations education initiatives and band operated schools are significant and the relationships distinct as well.

While there are many differences among the three systems, there are also many commonalities. One commonality in all the sessions was the impressive dedication and commitment of those involved in providing service to children. The people we encountered all care very deeply about what happens to the New Brunswick educational system because they care about the students.

Each consultation session proceeded based on a set of questions organized around each "deliverable" area listed in section IV of the *Terms of Reference*. The format of the sessions was flexible. This allowed the flow of the dialogue to determine the precise pace and coverage of the questions. Every effort was made to ensure that participants received their questionnaire ahead of time, though this was not always possible.

All of the meetings were chaired by Professor A. Wayne MacKay with the assistance of a professional facilitator for the larger anglophone sessions and a francophone facilitator for all of the francophone sessions. Sessions conducted in French were assisted by the use of simultaneous translation services. The quality

of these translation services was high and the translators are to be congratulated.

Each session was recorded by between two and five note takers. The note taker's role was to record as accurately as possible the comments of session participants. These notes form the record of the consultation sessions and are the source for the consultation summaries in Appendix M. Taken together with the written submissions, they are also the source for the emergent themes outlined in the following section.

Attendance lists were kept for all sessions and were used in determining total participant numbers. Session participants and individuals who have made written submissions have been very honest and frank. No comments or anecdotes will be attributed to individual participants or submitters in any of the Review documents. The consultation process was generally well received as an opportunity to discuss the important issues around inclusive education. The information gathered is an invaluable addition to the base for this Review.



## **PART II: EMERGENT THEMES**

Analysis of consultation session notes and written submissions revealed many themes emerging from the dialogue. Within those themes, varying perspectives have also emerged. There is some consensus concerning these issues, but also some discord.

There are two overarching, universal themes and points of consensus. First, the appreciation people felt at having been genuinely consulted and actively listened to. A common comment was how welcome and refreshing the respectful and attentive approach to the consultation process was. Many people claimed to have never been consulted before; people both inside and outside of the educational system.

The second universal theme is the appreciation people felt for the opportunity to dialogue with others about these difficult issues. The in-person consultations provided an excellent networking opportunity for many participants. People seemed to particularly appreciate dialogue in groups where different perspectives were represented. The *Terms of Reference* set out the groupings for the sessions. These groupings organized participants around their function within the system. The “external stakeholders” session however, incorporated a variety of functions and perspectives. This is one session where participants commented in particular about the richness of the dialogue and where participants claimed to have learned the most.

People sent a similar message when they were in relatively homogenous groupings as well. One example is that participants at the “partner departments” session commented that they would have liked to have more educators involved in dialogue with them. Another example was in parent sessions where some participants commented that they would have preferred that the parents not be split into two groups -parents of “exceptional children”, and parents of “the rest”. In both of these cases though, there was a great deal of consideration for trying to promote an environment where people could feel comfortable participating and giving their honest comments. The groundwork for more widespread dialogue on these issues has been laid with this consultation process. The clear message from the participants in this study is that people are engaged and ready to continue the dialogue together.

The consultation questions were organized around the five deliverable areas found in the *Terms of Reference*. The emergent themes are also organized around these five deliverable areas. These themes represent points around

which there was widespread dialogue, though as indicated, there was not always consensus. The main purpose of the sessions and submissions was to initiate dialogue. Given the large number of participants and perspectives represented, it would be very difficult to reach consensus on all of these difficult issues. This makes the points of consensus that did emerge even more interesting.

The summary of themes that follows makes some generalizations about the varying perspectives. Care has been taken not to over-generalize. Within each consultation session the perspectives were as varied as the participants. The summary of the consultation sessions would not be complete without recognizing the views that are not entirely captured by the emerging trends. Further detail on these themes as they arose in the individual sessions and written submissions can be found in the detailed summary of each session in Appendix M and in the Record of Written Submissions in Appendix O.

## **ELEMENTS OF A POLICY STATEMENT ON INCLUSION FOR THE NEW BRUNSWICK GOVERNMENT**

### **General Acceptance of Inclusion as the Appropriate Model of Education**

There is widespread acceptance of Inclusive Education as the appropriate model of education for New Brunswick. There was however, discord over how to effectively implement inclusive education. This issue will be addressed later in this section. None advocated a return to the situation that existed pre-integration. The benefits of inclusive education were articulated numerous times from numerous perspectives. Not the least of these benefits is a perceived growth in tolerance among students for those among them who are different.

### **Inclusion is Not Just a Placement.**

In almost every session, the perception was articulated that inclusion for students with disabilities in New Brunswick has become a fairly rigid presumption in favour of regular classroom placement. Many participants raised questions about the adequacy of resources in conjunction with making this comment. Some raised questions about the lack of flexible options and commented that continuous placement in a regular classroom does not meet all of the students' needs. This kind of comment was raised in reference to many different needs, for example students with autism, students with learning disabilities, students with enhanced intellect (the "gifted"), and students with behavior disorders, to name but a few. Others raised the fear that moving away from a presumption of a regular classroom placement would lead to the "ghettoization" of some students in resource rooms or other segregated areas. The critical point for many participants is when and how a student is pulled out of a regular classroom and

for what purpose. People who made this kind of comment, though, would agree that inclusion is more than just a placement. They believe that all children's needs should be met, as much as possible, in a regular setting. However, there was a widespread willingness to consider inclusive education that does not rely on a rigid classroom placement.

Many comments were also made expressing the view that inclusive education is much broader than including disabled students. There were varying degrees of participants' desire to broaden the view of inclusive education. First Nations, racial and cultural minorities, sexual minorities, and generally all students (including both genders), were mentioned at various times through the consultation sessions as needing to be included and have their particular needs met. Clearly though, the majority of participants viewed the purpose of this Review to be in connection with disabled students. There was a general consensus that inclusion should be a broader concept designed to meet the needs of all students.

### **Maximizing Student Potential and the Need to be Student Centered**

The concept of student potential surfaced many times in the discussion about people's vision and values with regard to inclusive education. Most felt that providing an opportunity for each student to reach their potential (whatever that might be) was very important. This concept was generally considered to be applicable to all children in the educational system.

In particular, "gifted" children, or students with enhanced intellect, were mentioned in several sessions as being a group of children whose potential is not widely maximized by the curricula and practices in New Brunswick schools. People who made this comment felt that there were no resources or mechanism to allow bright students to accelerate their studies or really develop their talents. This appeared to be a greater concern in the francophone consultations.

Many participants also spoke passionately about the lost potential for the students "in the middle". If student ability were seen on a continuum, this category would refer to students who are not at the particularly bright and talented end, but who also do not face significant educational delays, multiple disabilities or other challenges to achievement and success. This may include students with mild behavior difficulties, learning disabilities, attention deficits, or no particular identified challenges. The students "in the middle group" were not seen to be maximizing their potential because they have less pressing needs and most of the special education resources are taken up by a small percentage of children with very expensive and immediate needs.

Interestingly, though, this group of children who seem to be receiving most of the special education resources, those with significant or severe and sometimes

multiple disabilities were seen by many to not be reaching their potential either. It was revealed that Teacher Assistants (TAs) sometimes act as “baby-sitters” and that these students are often not receiving appropriate academic programs. In addition, prevailing attitudes and low expectations were also thought to be a barrier to this group of students reaching their potential in some cases.

Most agreed that the facilitation of each child reaching their potential was very important to society, particularly in the long term. The waste of human potential was viewed as expensive in the long run from several points of view. For students with disabilities, many participants were of the opinion that enabling a child to reach her or his potential may translate into the need for less intense supports later in life and a greater likelihood of societal participation. Many believe that an environment that encourages and enables all children to reach their potential reduces the number of children entering the justice system or welfare system later in life. This belief is especially important when it is considered that a justice worker provided information in one session, that one New Brunswick youth in secure custody costs \$80,000 per year.

Many participants also expressed their concern about the numbers of students who leave school unmotivated and uninterested in entering the world as an adult citizen; those students who settle for collecting a social security check or unskilled employment. There was also much discussion about the number of young people enrolled in general literacy classes who are unable to read after 13 or 14 years in school. The phenomenon of the social pass (a student passed along even though they do not demonstrate the required skill level) was also the subject of some adverse comment. It is fair to say that there is widespread agreement that all of the students in New Brunswick schools have tremendous potential, but that inclusive schooling in New Brunswick has not yet mastered how to unlock it all. That is not to say that there are no success stories in the New Brunswick system as there are many. We were also impressed with how dedicated staff members can achieve a great deal, even with limited resources. Generally however, there was a view that more can be done.

### **The Importance of Belonging**

Belonging is a value or goal that surfaced in every session as an important consideration in inclusive education. The benefits of every student feeling like they belong and are included in the school community were emphasized time and again by session participants and in written views. Many anecdotal stories were shared about a positive relationship or sense of community that was fostered by having all children educated together. Many participants cited positive impacts on children’s tolerance and respect for one another. Many participants, also shared difficult stories about not belonging, feeling isolated, alone, hurt, and disrespected. Developing an acceptance for difference appears to be one of the successes of the New Brunswick system. This theme also

demonstrates the link between the legal framework, discussed earlier, and the front line concepts and practices.

### **High Expectations in Meeting Student Needs and Behavioral Challenges**

Not surprisingly, almost everyone agreed that it would be ideal to have mechanisms, strategies, and resources that would effectively meet all of the students needs while maximizing positive social interaction for all students. Tremendous variance of opinion arose concerning the feasibility of this goal, particularly given the current structure and funding. Generally, many participants expressed serious concern about the expectation to meet all student needs in a regular setting. Some expressed optimism that this goal could be met if the correct conditions were in place. Frustration and distress with regard to the current situation were strongly expressed from a variety of perspectives (teachers, parents, administrators, and other personnel). There is great concern about the number of young teachers leaving the profession as well as the levels of stress leave among the remaining teachers and resource teachers.

Negative attitudes toward inclusion were primarily expressed in relation to the challenges in meeting the high expectations for services and achieving student potential, and educators' inability to meet these societal and parental expectations. Both students and parents of general education students (students not designated as exceptional –which we will call here “the rest”) claimed that the pace of the teaching and learning has been slowed, and that standards have been lowered since integrating students with disabilities. Some teachers claim that they are afraid to fail children and that a student's effort is the main key to passing. The desire for clear limits on service delivery stemmed primarily from a concern over the inadequacy of resources and the inability of educators to meet these growing expectations for services and to achieve student potential. No one in the consultation sessions or in submissions expressed the belief that students with disabilities do not have the right to attend school, or a regular classroom<sup>150</sup> – distress and frustration stemmed from how to achieve inclusion and meet all students' needs. There was a clearly expressed desire in many sectors to have more achievable goals for service delivery set and to not promise more than can be delivered.

Disruption of the learning process from behavioral outbursts was a frequently cited concern. These disruptions were predominantly not caused by students traditionally associated with inclusion or defined as “exceptional” by the New Brunswick *Education Act*. Many participants expressed the belief that behavior problems and disruptive behavior are symptoms of underlying problems and

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<sup>150</sup> This does not necessarily mean that this sentiment is non-existent in New Brunswick. Many participants alluded to the fact that there are negative attitudes of this nature in New Brunswick communities and schools.

unmet needs. In almost every session someone made a comment linking disruptive behavior to some kind of underlying factor such as:

- frustration,
- disengagement/ boredom,
- social or emotional problems,
- poverty,
- abuse,
- ineffective parenting.

A few, over the course of the consultations, raised the connection between technological stimulation (through television, movies and video games) and negative impacts on children's behavior, coping skills, and brain function. There was a wide consensus on the need to have better, more effective behavioral management plans and strategies to respond to the behavior challenges in New Brunswick schools.

In particular, First Nations communities expressed serious concern about common responses to students presenting behavioural difficulties. They consider the existing common responses to be culturally insensitive and a source of systemic racism. These communities cite many of the above factors as well as a lack of cultural sensitivity among school staff, in curriculum, and in school culture. Disproportionate rates of suspension, expulsion and drop out among First Nation students do support this claim.

Many students and teachers complained about class noise levels (not necessarily associated with extreme behavior incidents or exceptional students). All of the students who attended sessions were informally polled. Most students reported preferring a stricter teacher with regard to class noise, talking, and disrupting other students' work. A few students admitted to being a disruptor. Some students claimed not to have any difficulty working in these conditions, while many more did have difficulty.

Some advocacy groups in particular were very optimistic that all student needs could be reasonably met in a regular setting given appropriate levels of funding and better alignment of resources. There was a widespread perception that there is a general under-funding of education in New Brunswick. Those who shared this perception felt that this is a factor impacting on the education system's ability to meet student needs and provide a quality education for all students. At the same time, however, many were of the opinion that simply adding more money and continuing to deliver education in the same way will not solve all of the problems.

## **The Importance of Leadership, Attitude and a Common Vision**

These three values surfaced time and again in the consultations. The lack of a common vision about education's goals and purposes, and in particular inclusive education's goals and purposes, was expressed a number of times. The need for clarity and a common vision about the different roles for everyone to play in inclusive education was also expressed a number of times.

There was universal agreement that the school principal is a key player in the implementation of inclusive education and that leadership shown in this position made all the difference in individual cases. Many participants indicated that negative attitudes about inclusion for a variety of reasons still exist in the educational system and that this poses one of the most significant barriers to successful inclusive education. Knowledge about, and acceptance of, inclusion at all levels was considered by many to be a vital element of success.

## **Links Between Inclusion, Equity and Equality**

Equity and equality were raised numerous times in connection with the values and goals of inclusive education. Many people associated equality with different treatment to achieve equality of outcome. This was raised in the context of exceptional students and the need for individualized approaches, as opposed to "one-size-fits all" or "cookie cutter" approaches to education and student services.

Concepts of equality and equity were also raised with respect to socio-economic disparity. Equity in this regard had several incarnations in the sessions. Many pointed out the differences between urban and rural settings and that the costs of providing services in rural areas can be much higher, particularly with transportation costs as the distances between locations are much larger. The costs associated with attracting qualified professionals and other workers to rural areas are also said to be significant.

A similar issue was raised with regard to the francophone sector. There is a perception among some participants that French language materials are more expensive to purchase and with lower overall numbers of students, unit costs are higher. There are also special challenges in locating specialists who can operate in the French language. This is further complicated if the community is also rural in nature (as many francophone communities in New Brunswick are). Equity between the anglophone and francophone communities in New Brunswick is an on-going matter of social debate and one that plays out in the education sphere as well.

Socio-economic disparity also surfaced in relation to the fund-raising power of Parent School Support Committees in different communities, neighborhoods, and

districts. For example, a Home and School Association in one community is able to raise thousands of dollars. In another community, however, the same efforts raise hundreds. In some communities such active home and school associations do not even exist.

## **Education's Goals and Purposes**

In defining inclusive education, many also defined more general goals and purposes for education. The most frequently expressed goals and purposes were:

- fostering an attitude of lifelong learning,
- preparing children for life as active adult citizens in a democratic society,
- fostering independence<sup>151</sup>,
- competence,
- skill development,
- academic achievement,
- knowledge and critical thinking.

There was also recognition of education's role in socialization. The importance of social inclusion and being able to work with a variety of different people was emphasized by many groups –including the students themselves. Indeed, the students regarded socialization as the most important part of the school experience. Again, this links back to the definition of equality discussed earlier in the legal framework section.

## **WORKING DEFINITION OF EXCEPTIONAL STUDENT**

### **Problems with the Term “Exceptional”**

Many people expressed dissatisfaction with the term “exceptional” used in section 12 of the *Education Act*. Many felt that it is vague, euphemistic, and too “politically correct”. Some people, however, did not have any issue with the use of this term although most agreed that the term and the definition are vague. The term also produces confusion with respect to “gifted” students, who are not included in the definition.

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<sup>151</sup> Some proposed that education should foster the value of inter-dependence. This is a more nuanced concept than independence that recognizes that everyone needs help at one time or another and that building strong connections and relationships reduces dependency without the isolation created by having independence as the goal.



Most groups were prompted by Professor MacKay to come up with a term other than “the rest” to define the group of students not included under section 12 of the Act. This practice emphasizes the problem of the dichotomy that is produced when one small group of students are defined in the statute and the rest who are not. The dichotomy is between the group defined as “exceptional” and the rest of the students. Most participants agreed that all students are exceptional in their own way and that using this term in the definition was not helpful. No one was able to provide a satisfactory term that avoids dichotomizing students. Ultimately, then, if the existing term of exceptional students is retained, no effective and useful label for the rest of the students was suggested by the participants. Terms such as non-exceptional, normal, average, regular or mainstream were viewed as problematic and inappropriate.

Some participants went so far as to suggest that a definition of this group or category of students is not necessary in an inclusive education system. There was a sentiment that all students should have access to services if they need them, and all students need to be included. This kind of comment surfaced most often during discussions regarding the s.12 definition of exceptional students. This kind of comment also surfaced in the discussions concerning service delivery, where some felt that an intervention plan or service should be available for any student in the population who needs it, whether it is temporary, permanent, minimal or extensive. The general consensus was that all students are likely to need some kind of intervention at some point in their school life.

### **Defining “Educational Delay”**

Many participants expressed concern about the requirement referred to in s.12 of the Act that an educational delay be identified before a student can be an exceptional student entitled to services. Many believe that this approach is too rigid. Comments of this nature generally arose in the context of wanting services to be more pro-active and preventative in order to avoid educational delay where possible. Most people who raised these concerns also made the comment that preventative and pro-active approaches can often save resources and money in the long run and that waiting for an educational delay before triggering services was too reactionary. Early intervention in matters of educational delay is vital.

Additional comments pointed out that a requirement of educational delay prevented some children from meeting the definition altogether, even though they may require significant supports. Examples of such situations given were diabetes, epilepsy, chronic illness, social or emotional needs, severe allergies, and physical disabilities. Some of these challenges for students may or may not lead to an educational delay, but all need some level of accommodation, adjustment, or service. The requirement of “educational delay” also serves to exclude gifted or talented students from section 12 of the Act. This seemed to be a more pressing concern in the francophone sessions.

## **Decision Made by the Superintendent in Consultation with “Qualified Persons”: Problems of Application**

Several participants in various sessions raised the question of whether the Superintendent is really making the decisions regarding exceptional student status and furthermore, whether the Superintendent is the appropriate person to make this decision. This latter comment was often expressed in the context of people’s perception that the Superintendent does not actually interact with the children, and often never meets the child that is the subject of the decision. Most claimed that the Superintendent would in fact rely on others who would have closer contact with the child and the school situation. A few pointed out that the Superintendent is employed by the District Education Council and is responsible for balancing the budget. Some felt that for this reason, the Superintendent was not the appropriate person to be responsible for this decision as this put him or her in a kind of conflict of interest situation. Many participants –particularly personnel employed in the educational system, indicated that in practice this decision is actually made at the school level by the principal and the school team where such a team exists.

Several participants expressed concern about who would be classified as “qualified persons”. Participants said that in practice qualified persons include the principal, the methods and resource teacher, classroom teacher and other professionals (such as a social worker, psychologist, doctor, speech-language pathologist, or other professional person) where it is appropriate. Many parents indicated that they did not feel that they would be considered a qualified person to be consulted about their child.

## **The Definitional Escape Hatch: Inconsistent Application**

As with much statutory language, section 12 of the Act includes discretion reserved for the Superintendent to exclude students from a regular classroom, if it is not practicable to include them, or to do so would run counter to the interests of the students as a whole.

12(3) The superintendent concerned shall place exceptional pupils such that they receive special education programs and services in circumstances where exceptional pupils can participate with pupils who are not exceptional pupils within regular classroom settings to the extent that is considered practicable by the superintendent having due regard for the educational needs of all pupils.

Many participants were not aware of the implications of this section and its scope for limiting the placement of students. Based upon the limited samplings of

participants, it would appear that there is little guidance given to Superintendents on how they should exercise this discretion and that there is also a lack of consistency in how the discretion is exercised from one district to another. Many Superintendents called for more guidance and clarity with respect to the interpretation of section 12 of the Act, as did others; such as, some of the advocacy groups. There was not as much consensus upon whether this clarity and guidance should be established at a provincial or district level. This is part of a larger debate about where the vital decisions should be made and drawing the proper lines between central control and local discretion. This theme resurfaces in a significant way in the dialogue about the funding model.

## **A NEW SERVICE DELIVERY MODEL TO REPLACE THE SUPPORT SERVICES TO EDUCATION AGREEMENT**

In all sessions, this deliverable was interpreted much more broadly than simply looking at the Support Services to Education Agreement. Questions were also asked about the delivery of educational services generally, as the mandate of the study includes this broader view of educational service delivery.

### **Lack of Resources**

The issue of lack of resources was addressed by every consultation group, in many cases several times in a session. The treatment of this issue varied, however. The variation tended to be within individual groups themselves, rather than revealing distinct perspectives of particular groups. Many felt that there are simply too few resources available to the education and other human service systems across the board. While it is dangerous to generalize based on the limited sample, the concern about the lack of resources appeared to be more acute in the francophone sector.

A significant number of participants expressed concerns about asking for further resources. Some felt that simply adding new dollars to the system as it currently operates would not solve all of the problems. Many expressed that shifting and better alignment of the current resources would assist the efficient and effective use of the resources available. These same people did also agree that more resources could be put to good use and that the system is under funded.

Some participants, (particularly higher level educational administrators), did not feel optimistic that more resources would be forthcoming and expressed a desire for clear limits on the expectations of service delivery. They felt that limits on service delivery should be more in line with what they view as possible with the current resources. There was a general consensus that there were more resources to meet the needs of students in the early days of inclusion in New

Brunswick. This is in part explained by the widespread perception of a growth in the number of exceptional students over time.

### **The Role of Teacher Assistants (TAs) in Inclusion**

There was widespread agreement that Teacher Assistants (TAs) are currently the primary service providers for many of the day-to-day support services to students.<sup>152</sup> These services include:

- diapering,
- catheterizing,
- tube feeding,
- suctioning,
- safety supervision,
- crisis management,
- mobility assistance,
- physiotherapy or other therapy programs in between specialist visits,
- tutoring,
- educational programming,
- other tasks as defined from time to time.

There was also widespread agreement that when a TA is assigned to a student, the TA often takes on most of the responsibilities with regard to delivering day-to-day educational services for that student. There was also recognition that teaching assistants should be assigned to a class as a whole rather than to particular students. Many suggested, however, that in reality the TAs are often assigned to particular students.

Many anecdotes were shared from a variety of perspectives on the impact of TAs as they are currently used. When a TA is assigned to a student (particularly in older grades), that person is often a buffer between the student and the general student population. Students with a TA often spend almost no time between classes with other students in the hallways or other gathering places –they are transported from class to resource room, etc. From the school personnel perspective, there was often a desire to protect the student from bullying or harassment in the hallways and other unsupervised areas. Some students, in both the anglophone and francophone sectors, expressed willingness and a desire to be more involved in the lives of disabled students, but cited a lack of knowledge about disabilities or confidence in developing these relationships. A few students noticed the lack of opportunity to interact when “special needs”

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<sup>152</sup> Some variation in the job titles emerged. This variation seemed to be related to the function performed by the personnel, as well as the source of the funding for the position. Teacher Assistant was a global title sometimes used interchangeably. Other job titles that emerged include: Behavior Intervention Worker, Kindergarten Worker, Student Attendant, Aboriginal Worker.

students are “whisked away” to the resource room by their TA. These students thought that this was a significant barrier to their greater involvement with “special needs” students.

There was also concern expressed by some participants, especially some of the advocacy groups, that the TA had replaced the classroom teacher as the main person in charge of the education of the exceptional child. Those who raised this concern thought that this practice runs counter to the real intent of inclusion, as the child can be effectively segregated within the classroom. Teacher Assistants also expressed concern about not being included as a full participant in the educational team –in part because of their limited hours of work. Both teachers and TAs called for more time to meet and co-operate. Some suggested that the TA should be, as the name suggests, assisting the teacher and that the classroom teacher should be fully engaged with all the students in the class – including the exceptional.

There was widespread agreement that Teacher Assistants are among the least paid and the least trained personnel in the New Brunswick educational system. Bus drivers claim to receive more first aid training than TAs. There was also unanimous agreement that the number of hours TAs work are generally less than the full school day.

Concerns were raised by many TAs and their union (among others) about the risks endured by many TAs. Instances of physical injury due to kicking, hitting and biting as well as “sexual assault” were cited by many. There was acknowledgement that in instances of “sexual harassment”, the TA may be working with a student with an intellectual disability or other disability and that the student may not be forming the intent to harass. TAs claim that if the injury or risk are related to a student’s disability their supervisors tell them that enduring the treatment is simply “part of their job”. TAs and their union feel that little is done in terms of training, equipment, or strategic planning in order to address or prevent these risks and injuries.

There was unanimous agreement that the “bumping” process causes upheaval in schools. “Bumping” refers to the process whereby TAs use the provisions of their collective bargaining agreement that allow more senior TAs to move to more desirable jobs, displacing personnel, who then make their choice and “bump” someone else, and so on. A fairly serious difference in perspectives emerged around the bumping process. Some participants blamed bumping on TAs and the collective bargain agreement. TAs and their union were strongly of the opinion that bumping is triggered by the reduction of TA hours and the re-assignment TA hours in schools and across districts. A few administrators shared, that upon realizing this, they increased and stabilized TA hours, and experienced an end (or at least significant reduction) to ‘bumping’ in their areas. The bumping process was certainly viewed by all as a tremendous waste of resources as it causes upheaval in student, teacher, and TA lives, and triggers the need for a new round of training and transition. In these ways bumping was

also seen to have a negative impact on the quality of education. Parents and students were particularly concerned about the lack of continuity in their child's education and the disruption that results.

Many participants, in almost all of the sessions, expressed discomfort with the situation that has resulted in very minimally trained and low paid personnel performing very specific and skilled tasks that have a medical or health care dimension (catheterization, toileting, diapering, suctioning, and tube feeding). In particular many felt that there would be liability issues if anything ever went wrong. Many also felt that the quality of the services was diminished by having them delivered by low-paid and largely untrained personnel, often without appropriate equipment or facilities (e.g., changing a diaper on a gym mat on the floor). The personnel performing these functions felt particularly uncomfortable. There was also a strong desire expressed by TAs for more training and educational opportunities.

A significant difference in perspective emerged with respect to these duties in the 'partner departments' session. Some of the participants in this session were significantly less concerned about this situation and characterized these tasks as assistance with daily living, rather than as medical procedures. Particularly, this was the view of the health professionals. This reveals a serious difference in perspective and comfort level with these kinds of tasks. There was a general consensus that the provision of these medical related procedures should be re-examined as an important part of exploring the proper role of the TA in an inclusive educational system.

### **Lack of Available Professional Support**

While on paper the Support Services to Education Agreement seems to address the needed professional supports, this does not appear to be the reality on the front lines. There appear to be several layers to this problem, which include but are not limited to –a lack of financial resources, a lack of trained professionals, language issues and the difficulty of attracting people to rural communities. The cost of providing these professional services within the limited special education budgets was frequently cited. There are also jurisdictional disputes about which department should pay for the services and equipment, and who should control them.

Many participants in the sessions (particularly those from rural communities) expressed frustration with the lack of access to various professionals in their communities. Most often cited were a lack of speech/language pathologists, audiologists, social workers, and psychologists, also cited were occupational therapists and physiotherapists. This frustration was particularly acute in the francophone sector. It was expressed several times that it is even more difficult to find qualified professionals who speak French. The need for these expert

services was emphasized as participants referred to the growing range of exceptionalities encompassed within schools and the impossibility of the teacher becoming expert in all areas.

### **The Need to Work as an Educational Team: The Collaboration Imperative**

The days of the teacher as the sole operator at the front of the classroom are passing. The growing emphasis is now on working with others as an educational team. In spite of this change in approach neither the pre-service nor the in-service training of personnel reflects this change. In some cases the structural context within which teachers work does not reflect this change either. There was a strong desire expressed to learn more about the skills required to work with and also lead effective teams. This was described by many as a significant gap in educational training –especially for those operating within an inclusive model.

There were also concerns expressed about finding time for the needed team meetings, given the many different priorities and time-tables of those who should be part of the team. This problem is particularly acute in respect to Teaching Assistants, but can also be a problem for teachers who cannot easily take time from class to meet with other professionals on the team. The problem of a lack of time to fully operate as an effective team was cited by many as a barrier to more effective delivery of inclusive education in New Brunswick.

Indeed, the team approach goes beyond the school and class levels, extending to the district and department levels as well. For example, at the departmental level, the francophone sector seems to be achieving results by having the curriculum and evaluation staff working together with the student service staff to assist in developing inclusive curriculum and evaluation. These participants talked about the challenges of producing curriculum that is useful for all students and they would also welcome further training and research in this area. In contrast, the curriculum and evaluation staff in the anglophone sector sees accommodation and adaptation as primarily a matter of concern for the local level.

### **Lack of Adequate Training for Teaching Personnel and School Leadership**

Every session addressed the issue of lack of adequate and continued training for personnel. Personnel themselves expressed frustration with the lack of easy access to training. Many expressed that with the number of new conditions and exceptionalities and new developments in pedagogy and approach to teaching, teachers and other personnel cannot keep up to date on their own.

In addition, many felt that a significant proportion of school personnel do not have the skills or knowledge to work in an inclusive classroom. Many anecdotal examples were given from a variety of perspectives (parents, district

administrators, district personnel, advocacy groups and external stakeholders). Many from the parent and external stakeholder groups revealed that they had done research on their own on class management and responses to specific conditions, among other topics, and brought this research to school personnel, with very positive results. The high degree of commitment and dedication from teachers was evident in the consultation sessions and was specifically commented on by many parents. The degree of effort exerted by teachers seems to add to their level of frustration with not having the skills, knowledge, and tools necessary to be successful. This also leads to frustration and guilt when they cannot accomplish what they would like to accomplish with all the students in their class.

Many also noted that there is no mandatory requirement in New Brunswick for teachers to upgrade or continue to develop their skills and knowledge. It was confirmed that many personnel do engage in professional development through the means provided by their union or their employer as well as on their own, but, conversely, many do not. There are personal growth plans for teachers in the anglophone sector that encourage professional development, but there are few incentives and teachers choose the area of growth that they will focus on. This approach was not discussed or confirmed for the francophone sector.

Many participants expressed the belief that the current pre-service training does not adequately prepare teachers with the skills and knowledge to work in inclusive settings. Skills in cooperation, collaboration, and flexibility as well as skills in a variety of teaching and evaluation methods are seen as necessary. Knowledge of community resources, child development, and exceptionalities was also seen as beneficial.

This problem is seen to be compounded by the fact that there are few effective means for transmitting the necessary skills and knowledge once teachers enter the educational system. Many from within the educational system (both in the francophone and anglophone sectors) cited the summer institutes run by the Department of Education as an effective model for in-service training and lamented their loss in recent years due to budget cuts.

More specifically, with regard to pre-service training, many participants identified the loss of Bachelor level programs in special education at New Brunswick Universities as being problematic and also noted that enrollment in Master's level courses is low. Many viewed the loss of specialty knowledge from these programs as having the biggest impact on the Resource and Methods Teacher positions. There was a wide consensus on the need to re-consider both pre-service and in-service training for all levels of staff in an inclusive educational system.



## **Lack of Meaningful Communication**

Almost every group cited the lack of meaningful communication and lack of clarity for how the various roles and responsibilities should work together, as significant challenges. Lack of meaningful communication was an issue seriously affected by perspective, in terms of the view of the relationship as well as the source of the lack of communication. In general though, the broad lack of meaningful communication resonated in all of the groups.

A few groups in particular stood out as projecting the most distress or dissatisfaction with regard to communication. First, many of the parents we consulted with (both parents of exceptional children and parents of “the rest”) expressed dissatisfaction with the quality and frequency of communication with school personnel. Many felt that they were not welcome in the school environment and that their opinions or insights about their child were not considered important. There were, however, positive communication initiatives and positive personal anecdotes shared in both linguistic sectors as well.

Positive parent-school communication initiatives included satisfaction surveys and questionnaires in several anglophone districts. Generally case conferencing was considered a good venue for meaningful communication, particularly where the attitude of school personnel was welcoming and collaborative. Communication journals between the teacher and home were also cited as being very effective in maintaining communication, where such initiatives were undertaken. Some teachers appear to be using this approach for all of their students (not just exceptional students). Where this practice was undertaken, it was cited as being very appreciated by parents as well as being very effective. Another initiative included regular phone calls from the school, informing parents of upcoming events.

The greatest overall expression of dissatisfaction from a parent group concerning the quality and level of communication came from the francophone sector including both parents of exceptional students – and perhaps even more strongly expressed by the parents of “the rest”. The use of terms such as “struggle” and “fight” occurred numerous times among the francophone parents of exceptional students. Among the francophone parents of “the rest”, almost all indicated that there existed poor communication and several indicated that conflicts with school personnel remained unresolved.

Advocacy groups expressed dissatisfaction with the lack of openness and willingness of education personnel to communicate and work together with organizations and people outside of the educational system. This was particularly expressed in the context of community groups, advocacy groups, and non-professionals who could have a role in education. Where there is communication and collaboration with these groups, it was seen to be very effective. Examples of excellent programs and partnerships that brought tremendous value and

positive benefits for students and the educational system were shared. Many participants from these groups advocated a true partnership, where they are invited to the planning and implementation processes and where their perspective, resources, and capacity are regarded as valued contributions to the educational system.

District personnel and administrators expressed distress over the inadequacy of inter-departmental communication, particularly from the departments of Health and Family and Community Services. In particular it was claimed that these support professionals often make recommendations in particular cases without communicating with the school personnel first. This practice, they say, creates an expectation that sometimes cannot be fulfilled. The most common example given was of receiving a doctor's prescription for a TA, although there were other, more elaborate comments pertaining to long written reports with large numbers of recommendations that education staff felt ill equipped to put into place. Some participants talked about outright conflict or disagreement about the appropriate intervention among professionals and education staff. School personnel also addressed other concerns, such as haphazard communication, having to communicate with more than one branch of a department due to inconsistency in geographical boundaries between governmental departments, and the lack of available professionals. From the point of view of school personnel, support professionals pop in and out of the schools, meeting with a few individuals, in the context of no sustained communication or coordination.

Some of the partner department personnel, for their part, expressed frustration at the functioning of the communication between themselves and education personnel as well. Many of these people felt that they are often not invited to case conferences or other meetings (including District Education Council meetings) where their participation would be useful. Many were of the opinion that their suggestions and input are not welcomed by education personnel in many cases. They felt that this was particularly true if their input related to the educational structure or general delivery of services that are barriers or trigger problems for a student with whom they are working. Many felt that educators have a set idea of what support services should be, and can be inflexible on this point. Those who spoke about cases of successful collaboration with educators cited strong communication and on-going contact as having a positive impact.

The group represented by CUPE (TA's, bus drivers, secretaries, food service workers) expressed very strong dissatisfaction with the quality and quantity of communication they have with school personnel and administrators. This was particularly the case with regard to the detailed information concerning exceptional students with whom they are expected to work closely. Several shocking anecdotes were relayed by this group and are outlined in more detail in the CUPE session summary in Appendix M and the written submission received from CUPE, listed in Appendix O.

Privacy laws that prevent the sharing of information in a student's file were cited as a significant barrier to communication from both the CUPE group as well as the partner departments group. This concern was also raised in a few other sessions.

District Education Councils generally expressed some level of dissatisfaction and frustration with the communication between themselves and the Department of Education and in particular with regard to the clarity of their role in education. Some members of these Councils felt that they were not taken seriously as a body by the Department of Education.

With regard to in-class communication, both teachers and students talked about noise levels having a negative impact on communication. Teachers felt strained by having to shout to get children's attention. Students (particularly younger students as conveyed by their parents and the one middle school student who attended a session) felt uncomfortable with the volume and tone used by their teachers in getting the class's attention and in response to challenging behavior.

Audiologists and others working in this field strongly expressed the positive benefits of classroom amplification systems (usually FM). With these systems the teacher wears a microphone which then amplifies the teacher's voice through speakers around the classroom. One very small component of the consultation process involved a visit to a classroom using one of these systems. The result was a calmer, gentler voice and clearer communications by the teacher. In addition the speakers are arranged around the room to ensure good hearing regardless of where the listener is located in the room.

Several participants in a variety of sessions raised the issue of "public relations" or the need for a public communication strategy and plan, particularly when changes to the educational system or service delivery are proposed. Brochures initiated in several francophone and anglophone districts, which outline services and processes for parents were seen by many as having a positive effect on this issue, although many indicated that the written form is not always the most effective way to communicate with parents or the public.

One of the prices for poor lines of communication is the existence of many different expectations about what schools can reasonably do. Many school administrators expressed frustration about the high expectations among parents and advocacy groups about what the schools can provide to exceptional students and students generally. There is little consideration of budgetary limits on service delivery and some felt that realistic levels of service delivery should be more clearly articulated at the provincial level. Many felt that the frustrations on the front lines would be reduced if the expectations were more realistically defined and communicated,

Different expectations were also recounted at different levels within the educational structure. The departmental, district and school expectations were not always well aligned. An obviously vital component of a realistic and reasonable expectation of the educational model is the budgetary resources needed to meet it. Many front-line educators expressed concern about delivering a “Cadillac” educational model on a “Rent a Wreck” budget. Coming to more common understandings about what is a reasonable expectation of service delivery is a matter of both definition and communication. There are many players involved in this process and the differing expectations were regarded by many participants as being a significant source of stress and frustration for all concerned.

### **Examples of Effective Strategies and Best Practices**

Each group was asked to identify strategies that in their experience had been effective in promoting inclusion. The sessions produced a long list of ideas for successful strategies.

Peer helpers were cited as a successful initiative by anyone who tried it.

Generally this initiative could involve any student assisting in almost any area that another student might need assistance. Many benefits came from not assuming that only the strongest or most able students can be in the helper role. Pairing weaker students in older grades with younger students needing help was very beneficial to both students. Many students expressed a desire to be more involved in helping each other (and in particular assisting with students with disabilities). Many already do this informally.

Circle of Friends is an activity designed to help people understand the importance of community relationships and networks. The activity highlights in particular the isolation felt by people whose main contacts are with adults who are paid to provide services for them.

PATH (Planning Alternative Tomorrows with Hope) is a planning activity that has as its goal drawing important people in a student’s life together to brainstorm and plan for a hopeful future (particularly students with disabilities). The action plan involves building up resources, identifying connections and establishing stable relationships in support of reaching the goals and dreams.

Differentiated Instruction is a strategy used to teach diverse children in one class. Many of the teaching personnel and administrators cited differentiated instruction as a strategy that they use. It is slightly unclear whether they all have the same meaning in mind when using this term.

Offering children choice within the educational structure was listed by a few participants as a very effective strategy, though was not cited as being used in any kind of widespread manner across New Brunswick.

The identification and awareness of multiple intelligences, and different teaching and learning styles was cited as critical to effective teaching in an inclusive setting. In particular First Nations communities connected this issue with a racial or cultural barrier to their children's participation and success. Members of First Nations communities seem to more often be people who learn through experience and community connection. First Nations communities are primarily societies based on oral traditions.

Collaboration, where it is working, has produced excellent results. Interestingly many anecdotal examples given in this regard came from small and rural settings. Three are provided here:

Collaboration between a "healthy learners" program under the Department of Health and a school principal, in a situation where a community did not have an established recreation department, resulted in increased opportunities for students to be active. This was seen as a positive initiative aimed at reducing and preventing risky behaviours among youth.

Two small communities side by side were faced with declining enrollment, mixed age group classes and the possibility of school closure. Collaboration with Parent School Support Comities, the District Education Council and school personnel produced a solution that helped both communities keep their schools and strengthened the ties between the communities. The solution involved students from both communities attending one of the schools for the early grades (primary distribution) and the other school for later grades (a middle school type situation).

A rural community initiated an after school recreation program in collaboration with community service providers. The program operates out of the school and parents agreed to pay a small fee for their child to participate (\$5 for the year was mentioned). The benefits within the community of this initiative were tremendous. This initiative made after-school recreation programs accessible to far more students in the community. Altering the bussing schedule also permitted more students to participate. Parents cited reduced stress and more time for family in the evening as they did not have the need to coordinate recreation for their children with the attendant transportation responsibilities and other costs.

Where they exist, school based student services teams (using a few different names: student services team, school based team, school team, intervention team) were reported to work very well.

Alternative settings were expressed to be effective for some students, particularly if they could not cope with the regular setting for a variety of reasons. Alternative settings were only seen as beneficial if they met the student's needs. Some concern was expressed for students who do well in alternative settings followed by attempts to re-integrate them back into a regular school system that had not changed and that was partly itself a barrier for the student. This was part of a larger discussion about the need for more vocational and other options within the New Brunswick educational system.

Flexible groupings and heterogeneous groupings of students were considered by many to be very effective in some cases. With these suggestions though, it was very difficult to gauge a clear or common conception among participants. No clear consensus was drawn about the characteristics of groupings and their effectiveness related to various kinds of activities or learning. There was a general perception by people making this comment that arbitrary and homogenous age or ability groupings are possible barriers to more effective learning and inclusion.

### **The Need for Greater Variety and Options for Curriculum and Courses**

A large number of participants expressed the belief that the curriculum in New Brunswick has been to focus solely on a narrow academic curriculum in both the anglophone and francophone sectors, particularly at the secondary school level. This phenomenon was confirmed in by the Department of Education. Many expressed the belief that this has had a negative impact on the quality of education for many students, if not all students. Co-op programs ("stage" in the francophone sector) do still exist. The narrowed focus seems to have had primary impact on the courses and curriculum that are required and/or available.

In many cases people making comments about this issue talked about the loss of, or the desire for, more vocational courses. For some people this triggered the image of the traditional shop class or carpentry. One student mentioned textiles, another traditional trade area. Others had a broader concept in mind. Some participants mentioned "life skills", although this was mentioned both in reference to students with disabilities as well as in reference to all students. It is unclear precisely what is meant by "life skills", some interchanged this term with "employability skills". One student wanted to learn about filing income tax. There was a strong call for more options for all students.

Some participants referred to the manner of teaching and the curriculum material itself as being overly focused on a particular kind of academic teaching and outcome and not allowing for different learning styles or interests. The First Nations communities in particular talked about the lack of cultural sensitivity in the curriculum content as well as in the delivery of the curriculum. A call for greater opportunities for experiential learning and learning that is relevant to daily life came from many communities. Others expressed the importance of student interest as a motivator and the need to accommodate varying interests.

Some participants expressed concern that if the curriculum and courses available were to be broadened to again include trades and life-skills that the streaming and negative connotations associated with “non-academic” programs would return. Streaming refers to making assumptions about student ability and future options based on past performance (particularly performance on standardized tests). These assumptions about student abilities and future options subsequently translate into placement in “streams” of educational programming. In the past, streams of educational programming at the high school level have reflected three main streams leading to expected outcomes after high school. Those three levels are the university or academic level, the college or vocational level, and the unskilled employment or other community placement level. The greatest prestige, accolades, and value are bestowed on those in the university or academic stream by parents and schools. Others indicated that more vocational and other options would not necessarily lead to streaming and that structures could be put in place to avoid this problem.

### **Bullying and Violence: Behavior Problems in Schools**

The participants at all consultation sessions were asked to talk about bullying and violence in some manner. Most groups were also asked whether they could identify any particular group that was the perpetrator or the victim more often than others. The answer to both of these questions depended significantly on the participant’s perspective. A sharp contrast was revealed between the perspective of students and the adults working in the educational system. All of the students who attended the sessions reported a far higher estimation of the level and degree of bullying and violence than the adults working in the system. The reports of parents, relaying what their children told them was more closely in line with the students’ description of the situation.

Interestingly enough, over the course of the consultation sessions two serious threats of violence (both thankfully averted) were reported from different corners of the province.<sup>153</sup> Only a short time prior to the initiation of these consultations, the New Brunswick media reported two other incidents. In one students were

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<sup>153</sup> In both Saint John and Miramichi threats of violence involving weapons and/or a list of targets perpetrated by an individual student were averted.

reported to have shouted insults at disabled workers from a bus.<sup>154</sup> In another reported incident, an autistic teen trying to run away to Ottawa paid some classmates to drive him. Those classmates took his money, leaving him stranded at a gas station. There is no suggestion that these are typical situations but, never the less, they did occur.

With regard to the issue of whether there was an identifiable group that was more often the aggressor or the victim in relation to bullying, there was much more consensus. None of the participants could really identify any particular group that is always the target of bullying or school violence, nor was it possible to accurately identify the profile of the perpetrators. As the discussions progressed on this issue, some patterns did emerge. Again, there was far greater detail about the “how and why” of these behaviors from the student groups. The focus of the problem from the students’ perspective was behavior and not exceptionality.

Some of the patterns that emerged are first, that bullying and violence at school tends to happen in the unsupervised areas; the hallways, the bathrooms, the change rooms, through email and otherwise electronically. Second, the relationships and factors that surround incidents of bullying are extremely complex, and in some ways are different in every case. Generally, though, across both the francophone and anglophone sectors, students in “the rest” category talked about power dynamics, insults, put downs, and ridicule. If pressed to identify a perpetrator, the anglophone students talked about the “preppy’s or preps”. The francophone students talked about “les high class”. These students, in the non-disabled sessions, were very aware of the dynamics going on in their school and a few had experienced mild bullying personally. Some students in both the francophone and anglophone groups of non-disabled students suggested that sometimes disabled students were targets of bullying. However, they indicated it would most often be students with in-visible disabilities who appeared “normal”.

In contrast, quite a few of the students who attended the “exceptional student” session (in both the anglophone and francophone sectors) reported personally being a victim of bullying, harassment, intimidation or ridicule. Some students shared accounts of seriously violent incidents. Some stated that they suffered regular verbal abuse, mistreatment and ridicule. Some of their stories were deeply concerning and extended to suicidal thoughts.

Adults in the educational system, who talked about whether any group could really be identified as the aggressor or the victim, claimed that students with disabilities tended to be generally pretty well received by their peers. Many, though, admitted that things deteriorated by middle and high school. The suggestion did arise in some sessions, and most people who were questioned

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<sup>154</sup> News Release, Alanna Palmer ([then] Chair New Brunswick Human Rights Commission) September 23, 2004.



about it agreed, that severely disabled students or students with a very obvious form of disability were not as vulnerable to bullying, violence and intimidation as those students who appear 'normal' or who have mild disabilities, particularly those with disabilities that affect social function or communication. In other words, of students with disabilities, the closer a student gets to appearing 'normal', the more vulnerable they seem to become to bullying, intimidation and ridicule. There was wide spread consensus that school violence and bullying is not a product of inclusion but a broader problem of anti-social behaviors in schools.

### **French Immersion: Its Impact on Inclusion**

It was unanimously agreed that the impact of the French Immersion program in the anglophone sector is to concentrate higher numbers of students with exceptional needs and general learning difficulties in the English programs. This effect is heightened in areas where French Immersion is very popular. Moncton would be one such area. Varying accounts were given of the decision-making around French Immersion that produces this effect. Some expressed the belief that the French Immersion program is viewed as an elite program and that parents choose it in an attempt to get their children out of classes with higher concentrations of students in difficulty. These parents also believe (probably accurately) that there are fewer behavior problems and disruptions in the French Immersion classes. Some participants expressed the opinion (and some parents expressed their personal experience) that school personnel strongly encourage students experiencing any kind of difficulty to move out of French Immersion. Some participants believed this to be related to the view that French Immersion is an elite program. Some participants, however, believed this practice to be more related to the lack of support services available for the French Immersion program. There was not full agreement about whether the approaches to teaching in the French Immersion program are a factor in concentrating students in difficulty in the English programs. Some suggested that the methods and approaches used in the English programs are more inclusive and that this accounts for the streaming of students in difficulty into the English programs. School personnel and administrators confirmed that there are fewer resources available for French Immersion, because it is a separate program and it is more difficult to find resource personnel who are bi-lingual. French Immersion as currently delivered, is widely regarded as a barrier to effective inclusion in the anglophone sector.

### **Support Services and Relationships with 'Partner Departments': The Gap in Practice**

Many different views were expressed regarding the relationship between education and 'partner departments' in relation to the delivery of student support services. Currently, the agreement in place (at least on paper) is called the

“Support Services to Education Agreement”. This agreement recognizes that there are many issues and difficulties that children bring with them to school. It also recognizes that teachers cannot meet all of the needs of these children while they are managing the whole class. This Agreement sets out the partnerships and process for delivering support services, shared between government departments.

School personnel expressed general dissatisfaction with how the relationships under this Agreement function. They felt that schools were at the bottom of the priority list with other government departments. In particular many felt that they were required to perform tasks and pay for things (typically expensive equipment that is related to an individual student’s health or physical condition) that they felt were “health” concerns and should be paid for out of a “health” budget. In several sessions educators claimed that professionals in other departments are allowed to “close a file”, for various reasons, including for example if two appointments are missed. Those educators contrast this with their situation where they must address every student who walks in the school door. They are not permitted to ‘close a file’ on a student. All the files are continual for the period of time that students are required to attend school.

The ‘partner departments’ session, which included a fairly diverse group from the departments of health, family and community services, and public safety, revealed another perspective on the communications and relationships with education personnel. The common theme coming from this session was that the communications and dialogue between education and other departments need systemic changes. Some of the participants in this session talked about triage and strategic planning. Many of them felt that schools were not open to case conferencing and that the current approach is not truly a collaborative process. They felt that there is often resistance to changing the school or classroom environment accompanied by a preference for focusing on changing the student and removing the student from the classroom. They also felt that collaboration is essentially a function of the human relationships involved. These participants believe that currently people are under too much stress and do not have sufficient time to really talk, making it a very difficult environment for collaboration and cooperation. There are also problems arising from people having different time-tables and priorities and the difficulties teachers have in scheduling meeting time.

Further challenges to communication and service delivery expressed by this group include not using technology to assist with accessing specialists and professionals. In addition, protection of privacy legislation that prevents the sharing of information among professionals engaged in case conferencing was cited as a challenge to full collaboration and cooperation. This group also suggested that skills and knowledge supporting inclusive education, collaboration and cooperation should be taught in pre-service and in-service training for

'partner department' personnel (examples given were nurses, doctors, psychologists, speech-language pathologists, physiotherapists, etc.).

Personnel from the 'partner departments' also shed some interesting light on practices across the various districts. Although coordination varies from district to district, many felt that, where they exist, strategic teams play an important role. A few of the participants shared a perception that in the anglophone sector a "one-size-fits-all" approach is currently very dominant. Those who shared this perception felt that a greater flexibility and diversity of approaches prevails in the francophone sector (including classroom, community and life skills approaches). Again, our sample of participants was limited and this observation may not be fully accurate.

Brainstorming ideas for a new vision or model for support services and partnerships produced many suggestions throughout the sessions. Interestingly, some suggestions surfaced in more than one session. Some participants suggested ideas such as viewing support services as part of basic services requiring coordination. This takes the focus away from educational delay and puts the focus on the nature of the services and coordination. Some participants suggested that support should not be offered to education but to students and families (this suggestion puts the focus on reaching out with support in the community, as well as on an individual, ad hoc basis). Still others suggested that more supports for teachers are needed rather than more supports for students. A few participants suggested that a new government ministry responsible for children and youth is necessary to ensure the level of integration needed. A few participants suggested 'Centres of Excellence' organized around certain disorders to provide alternate settings and research initiatives. Some participants simply believed that nurses should be available in all schools.

In a few different sessions a "functional development" model was proposed (contrasted with a medical model which begins with diagnosis or identification of deficit). The goal of this model is to assess needs and channel resources to meet these needs. Within this approach the root cause or deficit is still sought out, but support services do not wait for the diagnosis, nor do they particularly hinge on the diagnosis. As applied to learning in particular, some people called this "curriculum based intervention". Many concerns were expressed throughout the sessions about the labeling of students which is often associated with a 'medical model'.

In general, participants wished for more cooperative partnerships within, between and among government departments. Many described the current situation in terms of "silos" or "black boxes". Some sought clearer role definitions and clearer expectations in service delivery on the part of partner departments. Others sought greater flexibility and more effective collaboration and coordination. The coordination measures envisioned in the Support Services to Education Agreement and departmental guidelines are not confirmed to be operating in

practice. There seems to be a large gap between the language of the Support Services to Education Agreement and the implementation of its provisions at the practical level. An essential missing component appears to be an inter-departmental administrative structure to deliver integrated services to students.

## **Other Commonly Cited Challenges to More Effective Inclusion**

### **The Challenges of Rural Living**

Rural communities face several common challenges including declining enrollment and out-migration. Transportation was also frequently cited as an issue in rural areas because of the fact that distances between locations are much greater than in an urban area. This problem is particularly acute where personnel are shared between schools. It was indicated that there is no extra budget allocated to allow for this extra travel.

Difficulty attracting and retaining qualified personnel and specialists was also often cited as a challenge particular to rural areas. These issues seemed to be felt more strongly in the francophone sector, in which a higher proportion of the communities are small and rural. The difficulty in attracting and retaining qualified personnel is also compounded by the absence of qualified personnel who speak French. Some suggestions in response to this issue include “isolation pay” and “signing bonuses” to attract professionals from outside rural communities. Another approach suggested the implementation of training incentives for people already living in rural areas.

### **The Unique Needs of Secondary Education**

Inclusion was frequently cited to be more difficult to achieve and less successful at the secondary level. Varying opinions were given to explain this phenomenon including the opinion that the ability gap between students grows larger as students get older. The behavior issues which pose barriers for all students appear to be greater at the middle and secondary levels as well. Some suggested that the courses are even more focused on academic achievement this level and are therefore more complex, subsequently making differentiated instruction and inclusion more difficult. The adults working in the system also reported that students tend to become less tolerant of difference as they get older. The pressures of the peer group are greatest at the junior and senior high levels.

### **Transition Planning**

There was a general concern expressed in some sessions about the lack of adequate planning concerning transitions for children in a variety of contexts. In some cases pre-school children were not adequately prepared for primary education. Even more problematic were the transitions to junior and senior high school. Transition when a family moves localities or schools was also cited as a

transition time needing planning and attention. This lack of planning for transitions was seen as particularly problematic for students with exceptionalities.

Sometimes good intentions in the planning process can also meet with unexpected challenges. One anecdote was shared concerning a child transitioning from pre-school to school. In this particular case school officials were successful in meeting ahead and planning out wheelchair accessible washroom facilities for the student. Unfortunately, however, the adult size accessible washroom prescribed by the building code was too large and high for a small child to use.

Many participants talked about the need for a greater emphasis on the transition from schools to the work realm or post-secondary education, for all students generally, but for exceptional students in particular. This view was often expressed in conjunction with the desire for more vocational options within the New Brunswick educational system. This need for emphasis on transitions is supported in the best practices discussions in the earlier part of this Report.

### **Reactive rather than Proactive Practices**

Many working in the education system lamented that they felt they were constantly responding to crises and were often only able to apply band-aid solutions. The imagery of “putting out fires” was used by many participants in both linguistic sectors. Partly in the context of this kind of comment that a very common refrain was expressed stating that people generally felt they did not have sufficient time to do what they felt was needed. This last comment about insufficient time to adequately address issues as they arise also applied to planning, collaboration, and communication.

### **Physical Accessibility**

Numerous participants informed the study that many of New Brunswick’s school buildings are not fully physically accessible for all students. Areas where physical accessibility is lacking in some schools includes, wheelchair accessibility, accessibility for the visually and hearing impaired, and considerations for autistic students, among others. It appears from the comments of participants that improvements to the physical accessibility of school buildings and other equipment are provided for in the general “special education” or “adaptation scolaire” budgets of each school district. These improvements tend to be undertaken in response to the needs of an individual student. This may be part of a larger concern about having a physical setting that is appropriate for the inclusion of all students.

### **The Paper Trail and Forms**

The challenge of documenting accommodations for individual students Special Education Plans (Plan d’Intervention), i.e., the paper work, was also frequently cited as being problematic. Both classroom and resource teachers strongly expressed that they do not have adequate time to complete this documentation.

The desire for increased documentation comes from court cases and human rights tribunals, as well as expectations of parents and advocacy groups. The challenge is to achieve documentation efficiently and without adding too much to the work load and stress of teachers. Many in the anglophone sector are looking forward to the new implementation of an electronic form for documenting special education plans.

### **Services Follow Labels: Prioritizing Disabilities and Needs**

Many participants, particularly those charged with making difficult decisions, addressed the difficulties of prioritizing students for limited services. Various strategies have emerged for accomplishing this kind of prioritizing. The strategies seem to usually result in students with the most severe and most immediate needs being prioritized ahead of others. For example, TA assignment in several anglophone Districts is done according to a numeric system where a student is classified as priority one, two, or three. Priority one students tend to be assigned a TA. While some felt that this strategy was helpful, others felt that in practice it relies too heavily on labeling students according to their disability. Many participants expressed concern that a student would not be prioritized for services without a diagnosis or label for their disability or difficulty. The response to parents who ask for services and assistance is often to compare the student's needs to the more extensive needs of others in the class. The response to children who have extensive needs can at times include statements that the student has already received more resources than any other student and that the parent should be happy with what they have received, rather than ask for more.

The problem with allocating services following a labeling process is that the student then bears the burden of the label long after they leave school. There are also problems of consistency between districts and between schools as to how the different categories are defined. Many expressed a preference for services following an identified need, rather than a label or diagnosis of a particular student. This is an issue that plays out in respect to the funding model options as well.

### **Vision for a New System**

Although it would be impossible to claim that any consensus was conclusively established in any of the sessions (as the purpose was simply to allow for discussion), one common theme arose in people's comments about their vision for a new system. This was particularly true among those not directly working in the educational system. This vision described was one where schools should be more involved as the centre of the community and the service delivery centre for diverse student needs. People who articulated this vision did so in many different contexts and with many different ideas in mind. There were many variations on this vision of the school as community center.

Comments about the need for proactive and preventative strategies and early interventions were common refrains in all of the sessions; although here again, there was significant diversity with respect to meaning. It is safe to say that nearly all saw a role for schools at the pre-school stage and a more cooperative, comprehensive role for health and other services at the school-age stage.

Some examples of a role for schools at the pre-school stage involved day cares located in schools, early registration and universal assessments. Transition planning and programs that invite parents with their preschoolers into the school early were also raised. The benefits of early interventions for students facing challenges were raised numerous times. One participant from the APSEA organization talked about some of their successes with pre-school intervention that resulted in some of their clients beginning school on an educational par with their peers, something that was virtually unheard of for this group before.

Interestingly, in both the francophone and the anglophone “External Stakeholder” sessions, members of the business community were put forward as potential partners that are currently under-utilized. Some participants suggested expanded co-op roles and transition planning, as well as motivational speeches and presentations to students, in an attempt to help them recognize the relevance of the academic skills and knowledge they are working on.

### **Atlantic Provinces Special Education Authority (APSEA)**

Generally any comments expressed about APSEA described excellent experiences in terms of both the quality and the scope of the services provided. In fact, no negative comments about APSEA or the services provided by APSEA were received. Some participants would like to see the APSEA model or at least the range of services offered by APSEA emulated more broadly. Positive comments about the services provided by APSEA extended to considering the inter-provincial partnerships developed under APSEA as an effective and desirable model for servicing high-cost, low incidence disabilities. Other participants considered some of the services and approaches used by APSEA to be desirable for use in servicing high-incidence disabilities as well as servicing all students. In particular, the child-centered focus and the comprehensive approach to transition planning were cited as important components of the APSEA model and approach.

A meeting with the APSEA directors provided insight into the internal functioning of this organization. Some functional challenges and points for improvement were raised. The precise role and functioning of APSEA, however, fall significantly outside the mandate of this Review, except to the extent that it impacts on the effectiveness of inclusion. APSEA appears to play a positive and important role within the New Brunswick education system and a role that promotes and supports inclusion.

## **Voucher System**

A voucher system is one where taxpayers who remove their children from the public education system are given a sum of money to be spent on the child's education at another approved institution or at home. This provision can also come in the form of a tax deduction. Although no questions were directly asked concerning participants' views on the desirability of or the impact on inclusion that a voucher system might bring, the issue was raised in one consultation session. In addition numerous written submissions were received, mostly from parents, asking that the Review consider this issue. Many participants expressed the opinion (almost exclusive through written submissions) that by not having a voucher system, the Government of New Brunswick is in violation of the Universal Declaration of Human Rights and other international commitments. In particular, the following section is referred to:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.<sup>155</sup>

The requirement of a voucher system is one interpretation of these international commitments. Another interpretation of this section highlights inadequate parental input into the public educational process as a broader, recurring theme. The manner in which parents interface with the educational system, particularly if they have specific values or educational goals for their children that may not be currently addressed in public schools, is another facet of the inclusion dialogue; one which was not squarely mandated for this Review, but which has surfaced from some of the comments of participants.

## **STANDARDS/ACCOUNTABILITY FRAMEWORK**

### **Indicators of Successful Inclusion**

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<sup>155</sup> *Universal Declaration of Human Rights*, Article 26.



Every group was asked to brainstorm indicators of successful inclusion and a successful inclusive education system. A wide variety of indicators were given. There was significant agreement on some of the indicators. Those indicators that received the most common mention throughout the consultations have been marked with a “▶”. The indicators brainstormed by these groups include both qualitative and quantitative measures and address varying aspects of inclusion.

- ▶ Parent, student and personnel happiness and satisfaction.  
Many suggested that this can be measured using surveys.
- ▶ Student demeanor and relationships with one another.
- ▶ Drop out rates, retention rates, suspension/expulsion rates, rates of students not included in regular classes.
- ▶ Post school employment, opportunity, and outcome.
- ▶ Competency and inter-dependence are developed among students. This was also expressed as promoting autonomy and independence among students.
- ▶ Inter-departmental cooperation functions effectively.
- ▶ Student success at achieving academic or other goals set. (many were in favour of provincial exams and PISA as one measure of academic goal achievement, many talked about using SEPs or intervention plans for measuring achievement of other goals set.)
- ▶ Classes and schools foster a sense of belonging.
- ▶ Reduced wait lists and greater availability of support services.
- ▶ Preventive and proactive approaches are supported and encouraged.

School transitions (the smoother the better).

Student engagement, or conversely student boredom.

Strong links and relationships in the school and community.

Inclusion is not felt to be a burden.

After-school programs are inclusive for all children.

Good communication.

Widespread participation is achieved.

Honest but high expectations for all students.

Fewer human rights challenges.

Reduced bullying, intolerance, and discrimination.

Parents are supported to take responsibility (responsibility for their child's behaviour and improved parenting skills).

School culture and attitude that is supportive, encouraging, and optimistic for all students.

Ongoing professional development that supports a culture of lifelong learning.

Teaching is child centered and takes advantage of individual strengths and meets children's needs.

Education for all is seen as an investment.

Sustainability.

Tracking exemptions and accommodations on provincial exams.

The number of children home schooled as an indicator of successful inclusion.

The number of students with behaviour problems.

The number of students that attempt –succeed at suicide.

The amount of successful students in the learning process, especially in the primary skills of reading, writing and math.

Provincial Assessments.

Literacy at graduation.

## **Evaluation**

Most individuals and groups were asked how their roles were evaluated or whether they participated in school evaluations at all. The answers were varied. District personnel in the anglophone sector claimed to almost never receive regularized personnel evaluations, unless a problem had been identified. Professional growth plans are utilized in the anglophone sector but the growth areas are voluntarily chosen by the personnel and there is not necessarily any component that evaluates the skills and knowledge that promote inclusion. District personnel in the francophone sector reported more widespread use of evaluations for district personnel. In both sectors, Resource and Methods Teachers claimed that they do not receive any kind of evaluation. Most of these teachers suggested that this stemmed from the practical point that no one really supervised them or really knew the requirements of their job well enough to conduct an evaluation. TAs in both linguistic sectors reported not receiving evaluations – except after some kind of incident. Many from this group felt that evaluations are used as a disciplinary tool. They would welcome constructive evaluations and opportunities to improve.

A very few districts in the anglophone sector have initiated parent and student surveys as a way of evaluating the educational services provided. Parents who had participated in such a survey felt that it was a good exercise but expressed frustration at not being allowed to see the results of surveys once they were tabulated. Many parents had never had this experience and were shocked that it took place in other areas. In particular, parents in the francophone sector expressed no experience with a survey or school evaluation exercise. In some cases, the reflection produced by attending the consultation session prompted some people who had participated in the construction of a satisfaction survey or their school's improvement plan to admit that they had not really considered inclusion or students with disabilities in that process.

With regard to student evaluations, some variation in evaluation tools was expressed. Teachers in both sectors use projects and group work, in addition to tests in evaluating students. Some are also using student self-evaluation,

particularly for behavior, work ethic, and other more qualitative areas of evaluation. Generally, though, evaluations tend to focus on academic achievement, performance and compliance. Many parents and students expressed the opinion that the evaluation reports they receive about performance are not very helpful and do not tend to indicate how students can improve in the future.

### **Policy and Accountability for Decision Making**

A very interesting dialogue arose over the course of several sessions, regarding the use of policy and the continual balancing of centralized leadership and local autonomy. Some participants suggested that local administrators tend to want clear policy when there is a tough decision to be made because this allows them to avoid making really tough decisions which are often subject to challenge and conflict. This sentiment may be reflected in the trend of administrators and District Education Councils seeking clear limits on service delivery, outcomes, and expectations when it comes to “exceptional students”. A contrasting perspective arose in some sessions. People expressed a desire to move away from rigid approaches to service delivery, in favour of flexibility, collaboration, and cooperation. This would allow discretion at the local level to meet the needs of students. Accountability becomes more difficult and less direct where local discretion is the norm.

With regard to the implementation of policy initiated by the Department of Education, many people felt the policy was generally satisfactory but that it is not consistently followed across the province and that there is generally no accountability or enforcement of policies and guidelines. Similar comments were made by parents and students with regard to Special Education Plans. Parents and students felt that when they are written Special Education Plans tend to look appealing but are often not fully implemented. This was a widely expressed concern. The paper trail may not reflect reality.

It was suggested in several parental and external groups that some kind of educational ombudsman, student advocate or other dispute resolution mechanism should be established. Comments of this nature were either in the context of dissatisfaction with the outcome in a particular case, or pertained to the perception of a lack of effective dispute resolution and mediation procedures in general. Many participants felt that a position outside of the educational structure was needed because there was a feeling that people within the system tended to “cover for each other” and that complaints rarely find satisfactory resolution within the system. These advocacy roles outside the educational structure were sometimes referred to as student advocates and other times as parent advocates.

### **Policy vs. Practice**

In many of the sessions there were comments made concerning the gap between departmental policy and the implementation and monitoring of that policy on the front lines. There was a wide spread view that policies were not always enforced and that there was little or no accountability when they were not implemented. One of the issues raised was the lack of resources at the departmental level to monitor policy implementation and set standards of accountability. There are, of course, some exceptions where policies are effectively implemented (such as policy 703 on the positive learning environment, where the view was that this policy made a difference). There was also some concern expressed regarding the communication about policies both before and after their adoption and the lack of training about how to effectively implement the policies. How much these generalizations can be supported is less clear because of the limited sampling involved in the consultations.

## **PROPOSED FUNDING MODEL**

It is fair to say that most participants did not have a good understanding of the current funding models used in New Brunswick. In most sessions, Professor MacKay provided general information about two general models of funding for special education services; census based and categorical funding. Once presented with these two extremes and the advantages and disadvantages of each, most participants expressed a desire for some kind of hybrid or amalgamation of the two. Many participants felt that for the most expensive and least ambiguous cases of need, need based funding may be desirable or preferred.

Some participants suggested a contingency fund that districts could apply to for extra funding if their budget became depleted. Another twist on this idea was a provincially operated fund for high cost items – particularly those items that would be unlikely to encourage over-identification or increased diagnosis (such as lifts, tube feeding equipment, equipment and facilities for catheterization and other expensive needs).

Comments about the current funding model included the expression that many feel that there is no vision or plan driving the current funding model and that the current funding model promotes a reactionary and “band-aid” approach to planning and service provision. Many parents claimed, and many personnel confirmed, that most of the student services budgets are used up meeting the needs of the 10% of students with the most severe conditions. Many claimed that this meant there is often nothing (or very little) left for the rest. Many cited in particular that students with learning disabilities, the “gifted or talented”, and other students in difficulty (equaling a fairly large proportion of the student population) do not have the resources they need to succeed.

At least one commentator suggested that an area where specified funding would be beneficial would be in the area of innovation and research toward developing better, more efficient and effective ways of meeting student needs in an inclusive setting.

Many participants echoed the perception that the resources available to educators were better when inclusive education first began in New Brunswick in the 1980's. There is a perception that resources have been consistently eroded over the years or have not kept pace with increasing costs. It was strongly felt that in localities experiencing declining enrollment that this phenomenon is compounded because these areas receive less funding when their enrollment goes down, but the costs of providing services are not necessarily reduced. In fact, costs may even be increasing where there are large numbers of high needs students.

One of the critical questions animating debates about the proper funding model is where the critical financial decisions should be made. The current census based model leaves little discretion about the amount of funding to be made available but a lot of discretion as to how it should be allocated. Many participants felt that the setting of province-wide service delivery levels would provide for more centralized decision-making about allocation.

With respect to the categorical model, the vital issue would be who defines the categories. Thus a critical underlying question for the adoption of a new funding model is establishing a clear message about which decisions should be made at the provincial level, which ones at the district level, and which ones at the school level. As with most debates about funding, the issue ultimately boils down to jurisdiction and control as well as money.

## **PART III: COMPILATION OF SUBMITTED WRITTEN RECOMMENDATIONS**

This compilation contains the recommendations submitted to this Review for consideration. The recommendations appear as articulated by the person or organization who submitted them.

### **Association des Enseignantes et des enseignants francophones du N-B (AEFNB)**

#### 1. Défi de la prévention

- Qu'une évaluation précoce des enfants se fasse avant l'entrée à l'école et que cette évaluation se poursuive tout au long du cheminement scolaire de l'élève afin d'assurer les suivis nécessaires à ses succès.
- Que les indicateurs soient mis en place afin d'identifier les jeunes élèves qui évoluent vers une difficulté de comportement ou d'apprentissage.

#### 2. La composition de la salle de classe

- Que le ministère de l'Éducation du Nouveau-Brunswick, en tenant compte du libelle de l'article 20.09 de la Convention entre le Conseil de gestion et la Fédération des enseignants du Nouveau-Brunswick qui stipule que l'on doit tenir compte de l'intégration des élèves à besoins spéciaux dans la détermination du nombre d'élèves par classe, se penche sérieusement sur la question de la composition de la salle de classe en y apportant les ressources et les appuis nécessaires afin de s'assurer que toutes les classes de nos écoles francophones sont effectivement des milieux propices à l'apprentissage et au succès de tous les élèves.

#### 3. Services et ressources

- Le ministère de l'Éducation du Nouveau-Brunswick doit prévoir les niveaux adéquats de financement au système scolaire afin d'assurer les ressources et les services nécessaires pour répondre adéquatement aux besoins de tous les élèves à besoins particuliers des écoles francophones du Nouveau-Brunswick.

#### 4. Formation des enseignantes et des enseignants

- Que le ministère de l'Éducation du Nouveau-Brunswick collabore avec la Faculté des sciences de l'éducation de l'Université de Moncton et ses

partenaires en éducation afin que son programme de formation initiale a la pédagogie de l'inclusion soit évolutive et reflète mieux les réalités de la composition de la salle de classe.

- Que le ministère de l'Éducation du Nouveau-Brunswick collabore avec la Faculté des sciences de l'éducation de l'Université de Moncton et ses partenaires en éducation pour offrir la possibilité au personnel enseignant en formation ou en salle de classe de spécialiser dans le domaine des interventions efficaces par rapport aux nouvelles réalités de la pédagogie de l'inclusion et de la composition de la salle de classe en vue des postes d'intervenants scolaires ou d'enseignement ressource.
- Que le ministère de l'Éducation du Nouveau-Brunswick fasse la mise en place des modalités de soutien sous forme de sessions de formation et de temps d'échanges et d'entraide à l'intention du personnel scolaire, des intervenantes et intervenants, agents et agents scolaires.

#### 5. Formation des élèves à besoins particuliers

- Que le ministère de l'Éducation du Nouveau-Brunswick, dans sa volonté de lutter contre le décrochage et l'échec scolaire, offre un curriculum plus ouvert, flexible et mieux adapté aux besoins de tous les élèves.
- Que le ministère de l'Éducation du Nouveau-Brunswick se penche sur la question du diplôme ou certificat de fin d'études des élèves exceptionnels et laisse à l'équipe école le choix de déterminer si un diplôme de fin d'études régulier peut être remis aux élèves à besoins particuliers qui démontrent les acquis et la possibilité de suivre une formation professionnelle quelconque.

#### 6. Programmes d'études et matériel pédagogique

- Que le ministère de l'Éducation du Nouveau-Brunswick fournisse au système scolaire les programmes et le matériel pédagogiques adaptés aux élèves à besoins particuliers.

#### 7. Protocole d'entente avec autres ministères

- Que le ministère des Services familiaux et communautaires et le ministère de l'Éducation du Nouveau-Brunswick réaffirment leur engagement à long terme au moyen d'un protocole d'entente pour s'assurer que des services à l'intention des élèves à besoins particuliers seraient offerts de façon raisonnable et équitable dans l'ensemble des écoles francophones de la province.

## 8. Engagement des parents

- L'AEFNB encourage donc l'implication des parents dans le processus d'éducation des enfants exceptionnels afin d'assurer le support et la collaboration nécessaires à leur réussite.

## 9. Temps de préparation

- Que l'on accorde aux enseignantes et aux enseignants du temps sur une base régulière et en fonction du nombre d'élèves exceptionnels et d'élèves à besoins particuliers dans leur salle de classe. Ceci afin de leur permettre des rencontres d'évaluation, d'étude de matériel, de mise à jour de dossiers, d'échanges avec les enseignantes et les enseignants ressources, les équipes écoles, les tutrices, les aides, les services de physiothérapie, d'ergothérapie et out d'orthophonie afin de combler les exigences occasionnées par la présence de ces élèves dans leur classe.

## 10. Evaluation périodique

- Que la situation générale en salle de classe soit évaluée périodiquement afin de s'assurer que le bien-être de tous les élèves soit respecté.

## 11. Milieu d'apprentissage

- Que dans les cas où l'intégration d'élèves exceptionnels ou à besoins spéciaux dans une ou des classes s'avérerait néfaste pour ces élèves ou pour les autres élèves, le milieu scolaire soit prêt à fournir des solutions alternatives pour ces élèves à besoins.

## 12. Délai d'évaluation

- Que le ministère de l'Éducation prenne les dispositions nécessaires permettant d'acquiescer, dans un délai de moins de 30 jours, à la demande de services faite par l'équipe école pour mettre sur pied un plan d'intervention à l'intention d'un élève exceptionnel ou d'un élève à besoins particuliers.

## 13. Formation des aides enseignantes et des aides enseignants

- La complexité des tâches...les attentes bien précises...important que ces aides enseignantes...bénéficient d'une formation appropriée afin d'être capables de travailler avec les professionnels



de l'éducation en vue de la réussite de tous les enfants exceptionnels et a besoins particuliers.

### **Autism Society New Brunswick**

- Training in Applied Behavioural Analysis (ABA) for all TA's or Autism Support Workers, who will work with a child with Autism Spectrum Disorder (ASD), e.g., College of Extended Learning, Autism Intervention program.
- Training in ABA and "Clinical Supervisor" training for Methods and Resource teachers, e.g., College of Extended Learning.
- Provisions of collective bargaining agreements should not be permitted to negatively impact a child's education, e.g., work jurisdiction and seniority rights
- Address insensitivity to ASD behaviours and needs through personnel training.
- Reduce wait times for occupational or speech-language therapy.
- "If a child cannot learn in the way we teach, then we must teach in the way he can learn."
- More than one autism consultant for the entire province.
- More flexible options available –a teacher cannot instruct an entire class and provided one-on-one instruction required by a student with ASD.

### **Canadian Parents for French New Brunswick**

- Make available to schools with French Immersion programs, bilingual resource and methods teachers and teacher assistants
- Summer tutoring and peer tutoring programs should be implemented for French Immersion programs –as they are for English programs.
- Balance classroom composition of French Immersion and English Program classes (stop using English program as "dumping ground" for students who are struggling). In an officially bilingual province, second language training should be accessible to all children. Entering and remaining in French Immersion should be based on academic achievement or perceived intellectual ability.
- Train teachers how to teach and teach children how to learn, instead of telling teachers what to do

### **Canadian Union of Public Employees (local 2745/1253)**

#### **Inclusive Education:**

1. The DOE should fully support inclusive education in the province of New Brunswick.
2. The DOE should provide adequate funding and resources for inclusive education to be successful.

3. All children, including those with and without exceptionalities, should be provided the resources and staffing necessary to achieve their individual learning goals.
4. In order to prevent segregation of exceptional students in the classroom, support and attention should be given to all children.
5. Inclusion means that resources, staffing and physical environment are appropriate and conducive to that child's individual learning goals.
6. Support in the classroom should be geared to creating maximum independence.
7. A team approach to inclusive education should include all school personnel, including the members of CUPE 2745 and 1253: teacher assistants, school intervention workers, student attendants, library assistants, administrative support staff, bus drivers, custodial and food services staff, etc.
8. A team approach should involve all students, school personnel, parents and the community in order to coordinate programs, services and inclusive programming for exceptional students.

#### **Exceptional Students:**

1. Numbers of exceptional students requiring special education programs and services in New Brunswick, as well as the type and extent of their needs, should be determined to guide the planning and implementation of inclusive education.
2. This information should be available to the public.
3. Specifically, the Policy and Planning Branch of the DOE should include in their Summary Statistics the number of enrolled students requiring special education programming, i.e., those for whom an SEP has been developed.
4. Specifically, the Policy and Planning Branch of the DOE should include in their Summary Statistics a projection of students requiring special needs programming in future years.

#### **Our Members and the Work We Do Teacher Assistants**

1. Teacher assistants should be recognized as a valuable part of a team approach to inclusive education.
2. When students are evaluated before school begins in September, teacher assistants should know the results and obtain background information on the children.
3. Teacher assistants should be given time for preparation at the beginning of the school year and on a weekly or daily basis.
4. Teacher assistants should be given more opportunities for training and professional development which is appropriate to their needs.

5. Teacher assistants should receive training during administrative and professional development days.
6. There should be adequate facilities for exceptional students, such as change tables, accessible washrooms, space for physiotherapy, and ramps, stair lifts and elevators in all schools.
7. Violence against teacher assistants should not be tolerated.
8. The DOE should promote a harassment, bullying and violence-free policy in all schools.
9. There should be violence prevention plans in place to deal with students who have a history of violence.
10. Violent behaviour should be dealt with by a team of professionals and paraprofessionals that includes teacher assistants.
11. Teachers assistants should be included in developing SEPs and violence prevention plans.
12. Teacher assistants should not be expected to work alone with students who have a history of violence.
13. Teacher assistants should have adequate space to work with children on time-out from the classroom.
14. Teacher assistants should have access to training on how to positively, effectively, and safely deal with violent or disruptive behaviour, crisis intervention, safety measures, first aid, etc.
15. Teacher assistant hours should be increased to improve the ratio between teacher assistants and exceptional students.
16. More teacher assistants should be working full-time hours.
17. Hours of teacher assistants should be regularly scheduled.
18. Teacher assistants should be scheduled to work for the full school year.
19. Job descriptions for teacher assistants should be revised to reflect actual requirements of the job and positions should be reclassified where appropriate.

### **School Intervention Workers**

1. The DOE should provide funding to place at least one school intervention worker into every school across the province.
2. School intervention workers should be given full-time hours.
3. The DOE should provide one full-time intervention worker per school as part of an overall coordinated plan to reduce the incidence of violence against teacher assistants and all other staff and students.
4. Teacher assistants should have sufficient hours to meet with school intervention workers and teachers in order to most effectively implement the plans and strategies developed to deal with behavioural, social and emotional problems of students.

### **Library Assistants**

1. Library assistants should be considered part of the team approach to inclusive education.
2. Library assistants should be recognized for the valuable role they play in the schools.
3. Library assistants should have job descriptions and rates of compensation to be commensurate with their duties.
4. Library assistants need the support and training, as well as access to professional development, in order to meet job expectations.
5. In particular, library assistants should have adequate training on literacy, and the educational and accessibility needs of exceptional students.
6. Library assistants require the same support as teachers and teacher assistants in dealing with effective supervision of students, some of whom may be acting out or violently due to the nature of their exceptionality.

### **Administrative Support Staff**

1. Hours for Administrative, Secretarial and Clerical staff should be increased to full-time.
2. Secretarial and Clerical staffing should be expanded as needed in order to create reasonable workloads.

3. Job descriptions of Administrative, Secretarial and Clerical staff should be revised to reflect actual duties.

4. The necessary supports, information and training for administrative staff dealing with medical emergencies or disruptive or violent behaviours should be provided.

### **Bus Drivers**

1. As a minimum, each bus should have two or more staff, other than the bus driver, to supervise the children and provide medical and emergency care. At least one of those staff should be a teacher assistant with the appropriate medical and behavioural training.

2. At no time should bus drivers work alone with students, whether he or she is driving an un-retrofitted, a retrofitted or a special needs vehicle.

3. At no time should bus drivers be providing supplemental supervision of children due to lack of staffing at the school.

4. When a school bus arrives at the school, the appropriate staff should be scheduled to immediately assist severely disabled children from the bus into the school.

5. Bus drivers should not be responsible for medical emergencies, disruptive behaviour and violent outbursts.

6. The school should provide bus drivers full information about any potential medical emergencies that could arise for particular students, and a clear and detailed plan of action for each possible emergency.

7. All buses should be fully physically accessible to students in wheelchairs or having any mobility or perceptual disability.

8. Scheduling of bus transportation should at no time interfere with a student's classroom time or place them at a disadvantage in terms of participating in extra-curricular activities.

### **Custodial Staff**

1. Clear guidelines and instructions should be developed for custodians on how to safely clean and dispose of bodily fluids and biohazards, and sufficient training should be given to custodial staff on these guidelines.

2. The effectiveness and safety of cleaning products and other supplies should be reviewed.

3. Training to all school personnel should be provided on universal precautions against infectious diseases, including HIV.
4. Policy 704, “Health Support Services”, should be reviewed to determine whether custodial staff should be held responsible for medical emergencies, and if so, sufficient training should be provided.
5. Emergency plans should be developed with clear and detailed plans of action for any medical situation that might occur, and these plans should be communicated to all staff, including custodians, responsible under Policy 704.
6. Information on the medical and health needs of particular children should be provided to all staff, including custodians, responsible under Policy 704.

### **Job Evaluations –standards and norms**

1. Job evaluations should be conducted for all members of CUPE Local 2745 representing teacher assistants, school intervention workers, student attendants, administrative support staff, custodial and food services staff.
2. Job descriptions should be revised to reflect actual and reasonable duties and activities.
3. All jobs should be properly classified or reclassified as necessary, based on new job descriptions.
4. The Teacher Assistant Guidelines and Standards & Evaluation should be revised and updated, based on new job descriptions.
5. Regular performance appraisals should be conducted based on accurate and reasonable job descriptions.

### **Top 4 challenges identified:**

1. Reduction of workload
2. Communication and coordination
3. Adequate and appropriate training
4. Adequate and accessible facilities

### **Family Autism Centre for Education (FACE)**

1. **Location** –Determine whether each individual child with autism would be better able to learn in a setting outside the mainstream classroom for all or part of the day.

2. **Method of Instruction** –Instruct the autistic child, where appropriate for that child, using the highly structured, one to one, methods of Applied Behavioural Analysis (ABA).

3. **Flexibility** –Be flexible in the choice of settings. An autistic child might learn specific skills best in a quieter setting outside the classroom but might be capable of integration with the mainstream classroom for part of the day for specific activities and for social interaction. Other autistic children, particularly higher functioning children, might be able to learn in a classroom setting for most or all of the day.

4. **Properly Trained Instructors** –Recognize the reality that Teachers' Assistants, not the classroom teachers are in fact assisting autistic children to learn and provide them with the required training. At present Autism Support Workers who work with pre-school autistic children are receiving training from the University of New Brunswick College of Extended Learning. The same course should be used to train the Teachers' Assistants who work with autistic children once they enter the school system.

#### **5. Remove Barriers to Inclusion in a Real Education**

**Work Jurisdiction:** Teacher's Association maintains that it has work jurisdiction over teaching and instruction –but teachers cannot teach a class and provide one to one structured instruction to an autistic child at the same time. The reality is that TAs are actually involved in direct instruction of autistic children as a matter of necessity.

**Seniority:** Education officials often tell parents, correctly or not, that they have to assign TA's to available positions based solely on seniority. This is a questionable interpretation of the collective agreement which also speaks to qualification and of governing legislation such as the Education and Human Rights Acts of NB and the Charter of Rights and Freedoms.

**Transfers:** TA's are permitted to transfer after the start of a school year when position vacancies are posted. When this occurs the interests of the child affected by a transferring TA are not considered. This can be very difficult and disruptive for an autistic child who then has to adjust to a new TA.

**Continuity:** Some parents wish for the TA assigned to their child to continue with them as they progress in the school system. The TA may have acquired a wealth of knowledge about that child and how to educate him/her but is rarely permitted to continue with the child beyond a second year.

#### **Learning Disabilities Association of New Brunswick**

1. That the DOE prepare a document which addresses the needs of students with Specific Learning Disabilities. This document will provide details of a comprehensive policy, together with guidelines and procedures necessary for its provincial implementation.

2. That the in-service training is delivered to all district and school personnel to introduce DOE policy documents which address the needs of students with Specific Learning Disabilities and ensure a seamless continuum of services.
3. (a) that all teachers currently employed by the DOE have instruction in Specific Learning Disabilities. This shall include “differentiated instruction” as it applies to their student population and their subject area(s). (b) that all pre-service teachers have courses in Specific Learning Disabilities. These shall include “differentiated instruction” as it applies to their student population and their subject area(s).
4. That all resource teachers have on-going and systematic in-service training in Specific Learning Disabilities.
5. That each student with Specific Learning Disabilities receives an education in an environment which takes account of the specific needs identified in his/her Special Education Plan and/or Accommodation(s). Such provision of service will require a continuum of service ranging from one-on-one instruction in a specifically designed environment to support services delivered within a regular classroom.
6. That adequate and appropriate instructional resources, as well as professional expertise, are available at school, district and provincial levels to enable the enactment of these recommendations.
7. That the Government of New Brunswick ensures that adequate funding is provided to implement these recommendations.

### **New Brunswick Association for Community Living**

1. Recommends the following vision of inclusion:  
*Inclusion in a school environment means the unambiguous and unconditional acceptance of all children in all their diversity so that they all learn together, with and from each other, and interact positively with each other in co-curricular and extra-mural activities. This vision requires the recognition, understanding and acceptance of the individual ability of every child; of the variety of learning styles, interests and abilities present in every classroom; and of the variety of skills, techniques and knowledge which, when used creatively will foster: a lover of learning in every child and the achievement of potential for every child; and positive interaction among students and also among educators, inside and outside the classroom and in all aspects of school life.*
2. Recommends the adoption of the following values for New Brunswick’s education system:



- *Citizenship, Acceptance and Belonging.*
- *Equality*
- *Dignity and Respect*
- *Individualization* (education policy and programs should be based on determining and enhancing individual strengths and capacities and on providing education programs that seek to maximize each individual's potential and opportunities for success. This does not mean that individual students are isolated within the school system. Rather, it means designing and implementing curricula, teaching methods, assessment methods, so as to recognize the broad diversity of abilities and interests that exist within the student population.
- *Participation* (including academic, social, extra-curricular, etc.)
- *Self-Determination and Autonomy*

3. Recommends the following working definition of inclusive education:

*Inclusive education means developing and designing all schools, classrooms, programs and activities so that all students learn and participate together. Schools that are inclusive are those in which all students, regardless of pre-conceived notions of ability, are welcomed to, and learn together in, heterogeneous classrooms. They are considered to be valued as equal members of the school population and as such have access to all programs and services offered. Inclusion also means that our schools help to develop positive relationships and mutual respect between all students.*

4. Recommends that the following key elements of an inclusive school be adopted as part of education policy and practice in New Brunswick:

- The unconditional acceptance of all children into regular classes and the life of the school;
- Students receive as much support as necessary to be successfully included in their neighborhood schools and in regular classes;
- A commitment to taking parents seriously and especially parents' dreams and goals for their child's future;
- A commitment to looking at all children for what they can do rather than what they cannot do;
- Accepting and understanding that children do not have to have the same educational goals to be able to learn together in regular classes;
- Strong leadership from school principals and other administrators;
- Schools are restructured in ways that focus on individual achievement and student learning;
- A recognition that all students are individuals who have different ways of learning, different strengths, abilities, and weakness, different backgrounds and values, and that helping them all learn to their capacity requires knowledge of a broad range of pedagogical approaches and techniques;

- A commitment to continuous improvement throughout the school and district;
- Teachers are supported in the classrooms, and schools are supported as necessary;
- Systematic in-service training and other learning mechanisms are provided to all educators (and other staff as necessary);
- A formative accountability mechanism that is effective and strong.

5. Recommends that:

- The use of “special education” concepts and language be removed or eliminated from New Brunswick education laws, policies and documents.
- A generic system of support services to education be adopted and implemented in all schools throughout New Brunswick.
- In situations where student-focused education planning is required, it be referred to as a “Student Education Plan” or simply as an “Education Plan”
- Clear guidelines be established and promoted that set out the circumstances in which a student may be removed from the regular classroom, and the planning process to be undertaken to ensure that the student returns to the regular classroom as soon as possible (unless ver exceptional circumstances can be demonstrated).

6. Recommends that effective leadership for inclusive education be provided by:

- Developing a leadership development strategy that would target key positions within the education system, including the Department of Education staff, District Education Council members, district superintendents and directors of education, district student service supervisors, and principals.
- Developing and implementing hiring policies and practices that will ensure that people in key positions (including district superintendents, directors of education, student services supervisors, and school principals) have sound knowledge of, and a commitment to, implementing an effective and accountable inclusive education system within their area of responsibility.
- Giving sufficient support to school principals (including administrative support) so that they may take more active measures to observe classroom instruction and other school activities and to consult with teachers individually on inclusive education issues.

7. Recommends that:

- A school by school and district by district audit take place to determine the level of knowledge and competencies of educators in the New Brunswick education system to implement effective inclusive education practices. It is further recommended that such audits be conducted in a formative way that is developmental in design and that key stakeholders (including external stakeholders) be included on district audit committees.

- The implementation of inclusive education practices becomes part of a standards and accountability framework.
- Key competencies for implementing effective inclusive practices are identified.
- Within 5 years, all educators in New Brunswick schools receive adequate training and professional development to effectively implement inclusive practices.

8. Recommends that the Government of New Brunswick and New Brunswick school districts recognize the critical aspect of school culture to effective inclusive education and that measures be identified and implemented to promote and foster a culture of hospitality, willingness and creativity within all New Brunswick schools.

9. Recommends that New Brunswick's inclusive education system confine the definition of service levels to those services that are provided by non teaching professionals. We further recommend that no student be required to wait any longer than one month for such services to be delivered regardless of the place of residence of the student.

10. Recommends that there be no definition of "exceptional student" and a process be established to remove the term progressively in an appropriate manner (including the provision of any retraining that might be required) from all laws and other documents used in the New Brunswick public education system.

11. Recommends that:

*"Student who requires additional planning and/or support"* means a student whose opportunities to succeed and to be included in school are deemed such as to require individualized educational planning and/or specific on-going or short-term interventions, accommodations, and/or other supports from teachers, other professionals or paraprofessionals.

12. Recommends that:

- Clear teacher competencies be identified through a collaborative process involving community stakeholders, as requirements for teachers employed in New Brunswick's public education system.
- The licensing of new teachers be based on the acquisition of the skills and competencies identified.
- A 3-5 year strategy be developed to ensure that all educators in New Brunswick's public education system receive the appropriate education and training to develop the competencies and skills identified.
- Adequate resources be provided to school districts and schools to ensure that educators receive quality in-service training on inclusive schooling practices throughout the school year.
- As part of an overall strategy, opportunities for teacher-to-teacher mentoring be developed and implemented (this should include

opportunities for teachers to spend time at schools that are recognized as successful inclusive schools in New Brunswick).

- Teachers who attend in-service training, summer institutes, and workshops be provided the opportunity to use this training toward academic credit at a university.

13. Recommends that all professional support services to education be housed in school district offices or in schools and that school district administrators be responsible for their work.

14. Recommends that:

- Under the responsibility of school principals, all public schools in New Brunswick be required and supported to establish student service and support teams and that appropriate training is provided on strategies to operate such teams effectively.
- All public schools in New Brunswick adopt a sustained problem solving orientation, and that appropriate training be provided on problem solving techniques and strategies.
- Teachers be afforded adequate time for collaboration with each other during the school day or week.

15. Recommends that:

- The skills and competencies of in-school consultants (resource teachers) on inclusive schooling practices be clearly identified and that each school district be required to undertake a review of current educators holding these positions to determine their level of competency to effectively provide consultative assistance on inclusive schooling practices.
- Within two years, and through the provision of appropriate education and training opportunities, all in-school consultants on inclusive schooling practices be required to demonstrate that they have the skills and competencies to effectively play these roles in the schools to which they are assigned.
- School districts be provided with resources adequate to allow each school in the district to employ one or more in-school consultants on inclusive schooling practices. In addition, schools and school districts must be required to account for the use of funding for the purposes of providing in-school consultants.
- Through appropriate guidelines and training, in-school consultants on inclusive schooling practices be required to focus a majority of their time on supporting and encouraging classroom teachers in their work to provide a quality education to all students in their classrooms (rather than working directly with students).

16. Recommends that:

- The DOE undertake a short-term project to research and identify current best practices for addressing behavioural challenges in positive ways, and

in ways which respect the individual as well as the vision, values, and expectations of an inclusive education system.

- Following the research project, a training strategy for educators and other school staff be developed for implementation over a two-year period. This strategy would best be implemented on a district-by-district basis and involve the use of known experts on these issues from New Brunswick and elsewhere.
- The DOE develop a provincial protocol for addressing behaviour challenges that will include clear guidelines setting out the circumstances in which a student will be removed from the regular classroom, as well as the planning process to be undertaken to ensure that the student returns to the regular classroom as soon as possible.

17. Recommends that a three-pronged approach to developing the knowledge and competencies of paraprofessionals be adopted and implemented in New Brunswick, as follows:

- Each school in New Brunswick be required and be supported to carry out an evaluation of the way that paraprofessionals are being used as well as school improvement planning for the provision of paraprofessional supports. It is further recommended that this evaluation and planning process be conducted pursuant to a process developed by the Center on Disability and Community Inclusion at the University of Vermont (see, Giangreco, Edelman and Broer, *A Guide to Schoolwide Planning for paraeducator Supports*, 2001).
- Both informal and formal in-service training opportunities be provided to paraprofessionals in all New Brunswick schools. Informally this means establishing times and mechanisms to allow for opportunities for paraprofessionals to be oriented to teacher plans, report on student progress, ask questions, etc. Formally, in-service training should be provided on an annual basis.
- New Brunswick introduce requirements for pre-service training for paraprofessionals based on the establishment of a training program (preferably offered through the regular community college network)
- In addition, the DOE should develop and implement a training program for teachers on being effective supervisors of education paraprofessionals.

18. Recommends that the DOE explore the feasibility of assigning guidance counselors to each school and of developing expanded roles for guidance counselors to support teachers and students on such issues as citizenship, appropriate behaviour, a sense responsibility to and for others.

19. In recognition of the benefits of students supporting one another, recommends the following:

- School districts, with the support of the DOE and others, develop and implement strategies that promote student-provided support, student

interdependence, and student-led initiatives in promoting inclusive schools.

- The DOE should make available on an annual basis a small amount of money for promoting student-to-student support and student involvement in fostering inclusion.
- School personnel should receive information and training on student peer support strategies as part of their training on inclusive schooling practices.

20. Recommends that efforts to create objective, measurable outcome to provide data on the effectiveness of educational programming for students with exceptionalities be abandoned because:

- Such efforts are inconsistent with the concept of inclusive education; and
- Valid, reliable, objective, outcome measures cannot be created for a small group of students, all of whom will have individualized education plans which are intended to be subject to change over the course of a school year.

21. Recommends that the indicators for determining successful inclusive schools include committed leadership, shared direction, a sense of community, flexible learning experiences focusing on individual students, learning supports available and properly utilized, an innovative and creative environment, a collaborative approach, and open and responsive communication. We further recommend that “whole school” success indicators be established and that a process be initiated whereby a clear set of detailed indicators of inclusive schooling be developed for implementation in all New Brunswick schools.

22. Recommends that the following strategies are incorporated into a planning process to develop an overall strategy for determining the inclusiveness of public schools:

- School districts and all schools, as part of their requirements for developing district education plans or their school improvement plan, incorporate whole school improvement planning that is based on achieving and demonstrating indicators of successful inclusiveness.
- The DOE should invest in providing external consultative support for developing whole school improvement planning with a focus on indicators for successful inclusiveness. This should be available at the district and the school level.
- A clear evaluation mechanism be developed that will allow schools and school districts themselves, as well as external evaluators, to determine the degree of success in achieving indicators of inclusiveness in all public schools. An evaluation mechanism should include annual satisfaction questionnaires for students, parents, and school staff. Further, we recommend that evaluation be an ongoing process as part of the *Quality Learning Agenda* for New Brunswick public schools.

- Specific action steps be identified to address deficiencies in achieving indicators of successful inclusiveness within public schools as a measure of successful schools.

23. Recommends the following funding model for inclusive education in New Brunswick:

- The current block-funding model be maintained in New Brunswick as a key foundation to inclusive education.
- That as a minimum, the current budget allocations for student services be maintained and not decreased on the basis of declining enrollments.
- That serious consideration be given to adding supplementary per capita grants to the existing per capita student services grant to school districts where there is significant difference between:
  - a) the incidence of illiteracy;
  - b) the incidence of poverty or low socio-economic status; or
  - c) the rural/urban balance in the school district;
- A portion of the student services budget be held in reserve to deal with difficult circumstances encountered from time to time such as emergencies, addressing the situations of “medically fragile” students, and the movement of students from one school to another or from one school district to another within the school year.
- Funding be made available for innovative projects and initiatives that will support inclusive education within various schools and districts.
- Additional supports be provided to teachers as may be required to provide teachers with adequate time for planning and collaboration and for providing students with additional teaching time.
- Allocate adequate funding for teachers to buy resources (teachers in New Brunswick are currently spending their own money to buy classroom supplies such as pens, paper, markers, and resource material).
- Implement a monitoring system to ensure that money allocated for student services is being used for the purposes stated and not used for other educational related costs.

### **New Brunswick Association of Psychologists and Psychometrists in the Schools**

1. To support the full role of school psychologists in New Brunswick schools, a recommended staffing ratio of 1:1000 is suggested. This staffing ratio should be independent and not be tied to any other support service.
2. The Department of Education reinstate the position of the provincial consultant in school psychology. This crucial leadership role has been critical to the development and support of school psychology, as well as the promotion and development of school wide positive behaviour support programs in the Anglophone school system of the province.

3. All psychologists working in New Brunswick schools should be employed exclusively by the Department of Education.
4. Support Services to Education, Psychology positions should be transferred to the Department of Education.
5. School psychology services should be funded according to the ratio identified in recommendation number one.
6. School social worker positions should be transferred to the Department of Education.
7. The role of school social worker needs to be defined in order to determine a staffing ratio. Generalist statements such as “to support students with behaviour difficulties” are not specific enough.
8. A staffing ratio should be established for these positions.
9. Speech and Language Pathology, Occupational Therapy and Physiotherapy positions serving the schools through the Extra Mural Hospital program should be transferred to the Department of Education.
10. An appropriate staffing ratio should be established for these positions.
11. School districts should be provided with specifically designated and adequate funding to pay for the salaries, expenses and resource needs of any personnel transferred to Education from other departments.
12. Change the word “perceptual” to “processing” [in the s.12 definition in the Education Act]. This term better reflects current understanding of how the brain works.
13. A funding formula must be developed that is based on actual demonstrated need, rather than total student population. Demonstrated need will be based on multiple sources of information, as discussed.
14. Sufficient time must be allotted within the school day for program planning and collaboration in the development of Special Education Programs for students. Inclusion of students with exceptionalities necessitates regular meetings of parents, classroom teachers, resource teachers and various support personnel.
15. Universities and the Department of Education need to cooperate to ensure that teachers in training as well as all teachers currently employed in the province have specific instruction in exceptionalities.



16. The province should establish a specialization of resource teacher, with minimum training requirements and a special pay scale, which recognizes the special demands, administrative responsibility and specialized training of these personnel.
17. All resource teachers should be required to meet minimum standards within a specified period of time and be given opportunities to do so.
18. There is a need to identify core competencies and future training requirements for teacher assistants.
19. Adequate and appropriate resource materials must be available to support teachers in inclusive classrooms. This would include the development of curriculum guides with modified and enriched strands for all subjects in grades K-12, modified text material (reading level controlled), more technological supports for learning disabled students in the classroom, adequate designated budgets for resource materials.
20. Each school district should have its own trained clinical supervisor(s) or autism specialist(s) whose sole role is to act as a consultant and provide training and supervision for teachers, teacher assistants and resource teachers within the schools.
21. There be made available sufficient and designated funding to provide services such as alternate education programs, school intervention workers (paraprofessionals) and school psychologists (consultants) to provide better and more consistent services for this population.
22. The department of education needs to continue to encourage schools to implement school wide positive behaviour supports and school wide positive behaviour environment initiatives.
23. The Joint Provincial Committee on Positive Behaviour in Schools which consisted of representation from the NBTA, Education Group, Department of Education and District PLEP coordinators be reinstated.
24. The Department of Education must support the development of a provincial Individual Behaviour Support Plan document.
25. Adequate personnel and resources are needed at every grade level to provide direct instruction for serious literacy and numeracy deficits of non-intellectually handicapped students who have been non-responders to regular classroom and early literacy intervention.

26. There needs to be opportunity for resource teachers to have more in depth training on various exceptionalities, appropriate programming for various types of exceptionalities and the development of special education plans, especially modified and individualized plans.
27. The definition of exceptionality needs to be expanded to include intellectual giftedness.
28. Future funding models must recognize the need for some specialized and enriched instruction for this group of students.
29. School districts should be required to provide specialized educational services for gifted and talented students.
30. School districts should have designated consultants who are mandated to develop programs for this population.
31. Training and in-service opportunities should be available for educators to develop skills suited to meeting the needs of the gifted and talented student population.

### **New Brunswick Association of Speech-Language Pathologists and Audiologists (NBASLPA)**

#### **Recommendations with regard to Audiology/Audiologists**

1. Establish the role of “community audiologist” for each region of the province with appropriate FTEs allocated based on the populations and the needs of the region. In order for this to be accomplished, specific training would need to be done for the audiologists. The role of audiologist in the community/schools could include:
  - Measuring acoustics in classrooms
  - Education re: hearing/learning, classroom acoustics and FM systems
  - Assessment and monitoring of FM systems
  - Auditory Processing Disorders (assessment and rehabilitation, education on the effect of A.P.D. on the learner in the classroom and subsequent recommendations for the student and the teacher).
2. Increase the number of audiologists with specific training in APD testing and rehabilitation.
3. Establish the position of Rehabilitation Support Personnel/Audiology Assistant or technician who would work under supervision and direction of audiologists.
4. Establish “teams” that could include any or all of the following, depending on the needs of the student: student services staff, speech-language pathologists,

psychologists, social workers, APSEA staff and audiologists. The purpose of the team would be to look at the needs of specific children who have been identified as not being successful in school despite assessment and program adjustments at the school level (some possible examples of difficulties might include APD, hearing difficulties, language/learning, behavioral concerns, ADHD).

**Recommendations with regard to Speech-language pathology services:**

1. Increase the number of speech-language pathologists dedicated to working with school-age children to meet the recommended ratio of at least one SLP to 1500 students (Ontario Association for Families of Children with Communication Disorders, 1999). Additional staffing would allow for more effective and efficient service through:

- a. earlier and more intense treatment for children requiring direct service;
- b. a preventive focus for working with “at risk” children;
- c. integration of SLP services into the overall school curriculum.

2. Integrate speech-language pathology services into school services to optimize educational outcomes for the child. Under the current structure, educationally-based SLP services fall under the umbrella of the Department of Health and Wellness and are thus often perceived as “add on” or “external” services. In contrast, school-based management of SLP services could provide continuous services as part of the overall educational plan as children move through the educational system. Children with specific speech-language disorders (e.g., voice and resonance, fluency) might be better served through hospital services with consultation/collaboration with the SLPs in the education setting as deemed appropriate according to therapy goals.

3. Ensure that SLP services are a protected service. If positions are brought under the Department of Education, these positions should be counted outside of teaching staff allocations.

4. Develop the support services required to increase the efficiency of SLPs in the education setting, specifically looking at the role of Teacher Assistants (TAs) and of other Support Personnel. Currently, SLPs collaborate with Resource Teachers and TAs. However, a significant amount of time is often invested in training a TA in a particular area of practice to address a student’s needs only to have the TA “bumped” out of the position. There is also a role in the school setting for other trained support personnel who would be under the direction and supervision of the SLP.

5. Increase the capacity of educators to provide adequate supports for students with communication disorders. Allocate sufficient funds for helping with curriculum modification and teacher in-service to advance their knowledge base.

6. Train parents to help support children's academic and social success. Enhance the amount of parent education and training provided by school speech-language pathologists to improve cost effectiveness of SLP services.

### **New Brunswick First Nations Education Initiative Committee**

- Early screening of pre-school children who are at risk of entering school with educational delays (Band Operated and Provincial schools). Nipissing District Developmental Screen for infants and children up to age six.
- To improve programming for students, particularly those who require intervention but are not identified as exceptional (First Nations students attending provincial schools are the responsibility of the Province. First Nations must be payers of last resort.
- To ensure the principles of inclusive education are consistently applied in all public schools (all students includes First Nations)
- Managing fiscal pressure so as to include cost factors for First Nations students (the \$663,000 given by the Department of Education to the Districts has not been factored in).
- Meeting the needs of increasing numbers of students with behavioral challenges which are often the presenting factors of First Nations students.
- Providing quality training for Methods and Resource Teachers, Teacher Assistants and other professionals. Extend this training to include employees in Band Operated schools.
- In service Resource Teachers on the W.I.A.T. and PALS assessments (including Band Operated Schools).
- Improving the allocation and use of Methods and Resource Teachers and ensuring the use of Teacher Assistants and other paraprofessionals to include First Nations students.
- Improve transition programming for exceptional students in Provincial schools exiting Band Operated schools at various levels or entering directly into Kindergarten when there is no Band Operated school.
- Ensuring better learning outcomes for First Nations students with exceptional needs, taking into account the unique situation of these students and taking in account new First Nations learning styles (hands on learners).
- Capitalizing on positive partnerships with First Nations within the Province of New Brunswick and responding to the particular needs or requirements of each First Nation.
- Ensure that there is a continuance of services/interventions for exceptional students exiting Band Operated schools and entering the Provincial system.
- Provide district support for programming and evaluation of behaviorally challenged students (reduce the suspension rate of First Nations students).
- Monitor transition from level to level and from school to work.

- Provide referral and access support from outside agencies to school system and monitor such supports.
- Investigate service options for Band Operated schools versus Provincial schools (psychometric service, psychologists).
- Track the numbers of exceptional students in Band Operated schools to assist in determining the allocation and use of resources at the district level.
- Provide cultural and sensitivity awareness training for Teachers, Teacher Assistants and Paraprofessionals.
- Provide in service to Band Operated Resource Teachers on the electronic version of the S.E.P. process.
- Provide alcohol and substance abuse counseling and guidance at various grade levels.
- Assist Human Resources personnel in coordinating and promoting hiring of First Nations Teachers/Teacher Assistants under the Quality Learning Agenda.
- Assist in recruiting qualified Teachers and retention of said teachers at the Band Operated level.
- In the event that more Methods and Resource Teachers can not be recruited and hired consideration is to be given to creating funding for Teacher Associates positions to service the needs of exceptional children including Native and non-Native. There exist gaps in services between the role of Methods and Resource Teachers who are too tasked to deliver individual services to children in need and the expectations given to Teacher Assistants who are expected, but not trained to realize the goals of S.E.P.'s for exceptional children.

### **New Brunswick Medical Society**

1. The Department of Education should introduce measures aimed at ensuring that all children in Grades K to 12 have a minimum of 30 minutes per day of physical activity, because physical activity improves “readiness to learn” for all students, and may be particularly important for children with exceptional learning needs.

2. The Medical Society believes that as many as 30% of school-aged children may have ADD, ADHD or a Learning Disability and that children with ADD, ADHD or a Learning Disability are not given the opportunity to excel to the best of their ability because they are unable to access the necessary assessment and treatment services. The Society makes the following recommendations:

- The Department of Education, the Department of Health & Wellness, and the Department of Family and Community Services need to promote an interdisciplinary team environment, including the removal of any

administrative barriers that prevent effective communication and collaboration among team members.

- The Department of Education should develop a formal policy framework, incorporating evidence based research practices, for identifying and managing children with ADD, ADHD or Learning Disabilities. The development and implementation of the policy framework should be overseen by an Interdepartmental, Interdisciplinary Provincial Advisory Committee that reports to the Minister.
- Specifically, there are not enough publicly funded psychologists, speech language pathologists or occupational therapists available to contribute to the assessment/diagnosis and treatment process. There is also a need for appropriately trained Teaching Assistants in sufficient numbers so as to provide the required assistance in all areas of the province.
- Training in the field of ADD, ADHD or Learning Disabilities needs to be encouraged among all educators, both in and out of the classroom, in order to manage children with ADD, ADHD or Learning Disabilities appropriately.

### **New Brunswick Teacher's Association**

#### **Broad Recommendations:**

- A. Government must address classroom composition issues.
- B. Government must provide adequate resources to meet the needs of the children of New Brunswick.
- C. Government must redefine expectations of the level of service that can be provided to our children by teachers currently within the system.

To adequately respond to these three broad recommendations, the Committee further recommends:

1. More teachers must be hired in order to redistribute the high concentration of special needs children in some classes. The current funding formula is inadequate.
2. Support services external to education must be put in place to address the needs of school children. Currently school age children are receiving woefully inadequate service from Department of Health, Department of Family and Community Service, and educators are receiving inadequate cooperation from the Department of Justice.
3. All Departments that serve school-age children need to coordinate services.

4. Funding must be put in place to provide material and program resources. Middle and high school children with exceptional learning needs are being provided with virtually no materials or programs currently.
5. Time to consult with partners in education must be built into the workday.
6. Education funding should be used to pay for educational supports. Currently, too much of the budget for exceptional learners is being spent on medical supports. Medically necessary supports should be provided by the Department of Health.
7. Agencies external to the public education system need to provide pre-school readiness programs.
8. The Employer must develop higher standards for the hiring of educational support workers.
9. Funding that is redirected from medical supports needs to target “modified” learners. Currently, human and material resources are desperately lacking for this group of children.
10. Government must address the streaming effect that is occurring between Core and French Immersion programs. This effect is leading to an untenable concentration of needs (both learning and behavioural) in Core classrooms.
11. Government must create stronger policies and practices with regard to children with extreme behaviours. Resources (financial, material, and human) must be available to address the needs of those students whose behaviours put others at physical risk and/or destroy the learning environment of others.
12. Alternate programs and/or sites must be available for children of all ages in all areas of the province.
13. Properly trained, dedicated personnel are needed to deal with children with behavioural needs.
14. The definitions for the categories for exceptional learners must be redefined so they make sense.
15. Resource and methods teachers need to be provided with a more accurate job description –one that focuses on teaching and acknowledges the professional autonomy of the resource teacher.
16. Resource and methods positions need to be allocated a reasonable maximum caseload.

17. The “Collaborative consultative model” being espoused by the Department of Education needs to be discarded in favour of a workable model.

18. The amount of paperwork expected by the Department of Education must be dramatically reduced. Teaching and learning opportunities are being lost simply because teachers cannot keep up with the required paperwork.

19. Teachers must be provided with more training on dealing with exceptional learners.

### **Phonic Ear Canada**

1. The use of wireless microphone by the teacher and loudspeakers placed appropriately in the room may result in reduced student fatigue, increased on-task student behaviour, improved classroom management, and decreased teacher vocal fatigue.

### **Premier’s Council on the Status of Disabled Persons**

Recommends that:

1. The Premier and the Minister of Education make clear public statements to reconfirm the commitment of this government to insure that inclusive education is here to stay in New Brunswick.

2. The Department of Education take action immediately to change the licensing requirements for teachers in New Brunswick to ensure teachers are well prepared to teach effectively in an inclusive education system and meet the diverse needs of all students.

3. The Department of Education work in cooperation with the Faculty of Education at all New Brunswick universities to highlight the expectation that inclusive education will be integrated across the curriculum for teachers as well as expecting mandatory specific training on understanding how to meet the needs of students with various disabilities.

4. The current mandate and resources administered through the APSEA initiative be continued for the foreseeable future.

5. The job description for the position of school principal include accountability measures that require the principal to provide effective leadership within the school at all times to support inclusive education measures.



6. The current funding formula be adjusted so that as student enrollment continues to decline, financial resources and especially the numbers of teachers and support staff will not be reduced. This would provide for reduced class sizes and improved student services and teacher supports for the benefit of all students with exceptionalities.
7. The school budget process be changed so that some funds are held in reserve by the Department of Education in order to provide supplemental funding to provide supplemental support in specific situations as they are identified at the school level. There may need to be special consideration to ensure adequate funding for smaller schools especially in the rural areas to enable consistency and a level playing field in the availability of student supports.
8. The current dispute resolution and/or appeal mechanism needs to be refined to insure that disputes are dealt with in a timely fashion.
9. The Department of Education review all policies, incentives and possible mandatory requirements to ensure that all teachers and other paraprofessionals take advantage of opportunities for professional development around the successful implementation of inclusive education.
10. The Department of Education act as promised to revise the terms as promised to create a more mutually beneficial interactive process for the operation of the Dialogue on Education Committee. This Committee involves a number of disability organizations and officials from the Department of Education.
11. The Department of Education develop a quality assurance program to objectively measure student and parent satisfaction with the implementation of inclusive education practices.
12. Students with disabilities have reasonable access to all extracurricular activities offered by the schools to other students. This would include providing access to appropriate transportation and any other disability supports required while at school (i.e. sign language interpreter services or attendant care)
13. Individual schools be required to demonstrate that they are providing consistent and adequate transitional planning services for all students to insure that they are prepared for what they will be doing when they graduate from the public school system.
14. The Department of Education must create a new Best Practices for Inclusive Education resource manual to highlight examples of successful inclusive education initiatives and to clearly state that it is mandatory for all schools to implement an inclusive education environment throughout their school in all activities. The resource manual could include an appendix with specific contact information of teachers and schools and other community resources willing to

provide hands-on information and support to schools attempting to improve their level of inclusive education for all students.

15. The Department of Education adopt the proposed definitions for full inclusion and for exceptional students as outlined in this submission.

### **School Districts**

#### **District Scolaire 01 (Dieppe)**

1. Étant donné que certains enfants, par exemples les enfants autistes, recoivent des services avant leur rentrée à l'école,

- Nous recommandons que le ministère de la Sante et des services sociaux et communautaires continuent d'assumer les responsabilités face a ces enfants une fois qu'ils rentrent dans le système scolaire

2. Etant donne qu le système d'éducation a fait le choix de l'intégration scolaire, Etant donne que le système d'éducation doit offrir de plus en plus des services de santé dans les écoles. Étant donné que le nombre d'élèves nécessitant des services de santé spécialisés augmentent,

- Nous recommandons que les autorités concernées prennent des décisions quant aux ressources humaines et financiers nécessaires pour offrir des services de santé aux élèves ayant besoin de services spéciaux.

#### **District Scolaire 5 (Restigouche, Baie des Chaleurs)**

1. Le perfectionnement professionnel par les Instituts d'été, crée par un partenariat entre l'Université de Moncton et le ministère de l'Education. La preuve que ces Instituts répondaient aux besoins des enseignants est le fait qu'il y avait toujours une liste d'attente d'enseignants qui voulaient y assister.

2. La création d'une équipe multifonctionnelle dans chaque district scolaire. Ces équipes seraient formées de spécialistes en enseignement, autisme, psychologie, enseignement ressource, littératie, numératie, orthophonie, ergothérapie, physiothérapie et gestion du comportement.

Les membres de cette équipe pourraient participer:

- Aux réunions des équipes stratégiques de l'école
- Au recensement des situations problématiques pour arriver a une meilleure planification des services éducatifs offerts, et
- A l'évaluation de l'efficacité de l'enseignement.

3. Financement:

- Financement par rapport a la minorité: On doit se demander comment la minorité peut offrir des services égaux a ceux qui sont offerts dans la langue de la majorité, car nous avons moins d'élèves, donc moins d'argent pour offrir les mêmes services.
- Le financement par rapport a la location géographique des districts. Les districts du nord et les régions éloignées ont plus de frais de kilometrage a payer lorsque leurs employeurs ou membres des Conseils d'éducation de district doivent voyager a Fredericton.
- Le financement par rapport aux régions urbaines et rurales des divers districts. Offrir des services dans les régions éloignées des districts devenant un défi financier assez important à relever pour tous les districts.

### **School District 6 (Rothsay, Sussex)**

- Reduce class sizes for core French
- Flexibility for ability grouping through block scheduling (multi-age and multi-grade groupings)
- More PD for staff especially TA's we currently provide (1) PD day at a cost of \$14,000/day to cover wages
- More clerical support for resource teachers
- More exploratory programs –vocational training, life skills training, shop
- Transition to Work opportunities
- More intervention programs –transitional resource rooms, in school suspension rooms, crisis intervention behavioural resource room
- Current funding model is inadequate –NB and NS are funded by census only. Some level of categorical funding is absolutely necessary based on identified and clinically diagnosed need. We are currently funded at \$400/student for special needs. We would need \$425/student just to break even with 95% of this budget serving the needs of our priority 1 students.
- More co-operation between government agencies –DHW, DFCS, HRD
- Develop policy around integrating some learning opportunities between FI and Core French programs
- Peer assisted learning strategies
- Continued emphasis and support for Early Childhood Education (more government departments need to invest in this initiative)
- Emphasis on proactive interventions rather than reactive interventions

### **School District 8**

1. The district should create a supervisory position for at least a two to five year period. The supervisor would have primary responsibility for moving an inclusion agenda forward.

2. The district should follow this study with the perceptual survey that was developed regarding inclusionary practices.
3. The district should develop options for intensive intervention of reading and/or math that remain within an inclusive framework.
4. The district should make a distinct effort to provide and require professional development for principals on student services issues, as strong leadership is key to the effectiveness of programs and services for students with exceptionalities.
5. The district should develop a long-range professional development plan for classroom teachers regarding the needs of children at-risk or with exceptionalities.
6. The district should review the resource teacher caseloads in an effort to balance support and provide it adequately to all schools.
7. The district should develop a framework and guidelines for the feasibility of placement of teacher assistant support and make these guidelines clear to school personnel and the public.
8. The district should emphasize that the responsibility for children at-risk or with exceptionalities is a collaborative one with the primary responsibility remaining with the classroom teacher. As such, the district should encourage the involvement of classroom teachers in the writing of Special Education Plans.
9. The district should support and enhance the capabilities of school-based student services teams.
10. The district should develop a long-range plan for the recruitment of qualified personnel for resource positions.
11. The district should develop effective methods of communication with schools and with the community in general.
12. The district should consider initiating a project for the identification of resource materials for classroom teachers.

### **School District 18**

1. Review alternative funding policies giving DEC's greater responsibility for personnel, capital expenditures and curriculum.
2. Review voucher-like funding legislation, such as that in British Columbia, Alberta, and Quebec models, with full funding for special needs students. Any

long term savings accruing from voucher-like funding should be re-invested as increased per-capita public education funding.

3. Review policies that provide a material cost allowance for children of home schoolers. Any long term savings accruing from funding home schooling should be re-invested as increased per-capita public education funding.

### **District Scolaire 11 (président)**

1. Etablir un ministère de l'Enfance –pour assumer tous les services aux enfants de 0 a 18 ans autres que les services réguliers prévus dans la Loi sur l'éducation et qui relèvent actuellement du Ministère de l'Education. Les services qui tomberaient sous la juridiction de ce ministère seraient donc:

- Les services aux élèves définis comme "exceptionnels" dans la Loi sur l'éducation;
- Les services que le ministère des Services familiaux et communautaires assure présentement aux enfants et aux familles (dans la mesure où ces services impliquent un enfant);
- Les services que le ministère de la Santé et du Bien-être assure auprès de cette clientèle;
- Tous les services de garderie gérés par la province et la supervision de la réglementation imposé aux autres;
- Tous les autres services existants et ceux qui seront mis en place dans le futur qui visent les enfants, tels que les divers types d'intervention précoce, l'aide aux parents, l'accueil et la formation des ayants droit, la francisation des enfants d'âge pré-scolaire, etc.

### **District 10 – Student Services Team**

1. **Time –Adjustment of school hours** to create time for professional collaboration and planning. Professional educators cannot plan individual student plans solely on their own time, and they are insulted by the current expectations to do so. Specifically we recommend:

- A five year trial program to improve inclusive education in which all students will be dismissed at noon, one day per week. This afternoon should be designated specifically for collaboration and professional development designed to increase educators' ability to serve a diverse population of students. Student results will be used to evaluate the effectiveness of the system after five years.

2. **Training** –We recommend a five year plan for professional development of Classroom Teachers, Teacher Assistants, Resource Teachers, Guidance Counselors, Administrators, Psychologists, Speech-Language Pathologists, Occupational Therapists, School Social Workers, and District Consultants.

In the recent past, Professional Development for educators working with exceptional students has been inadequate at two levels: pre- and post-service training:

- Pre-service: Universities have done an inadequate job of preparing teachers for inclusive education. This needs to be addressed with New Brunswick Bachelor of Education programs to improve in the future. (e.g., exceptionalities, classroom management, differentiation) Similarly, we need to address a consistent standard for Teacher Assistant pre-service training
- Post-service: We have done an inadequate job of post-service professional development. Student Services budgets have been restricted to providing the direct services of Teacher Assistants and Resource Teachers. There has not been enough money left in the budget to provide adequate on-going training. We need to establish core competencies and provide in-service time to ensure we have them. (e.g. Autism support worker training for TAs working with Autistic children)

**3. Temptations –Financial and professional incentives:** Specialists such as Resource Teachers, Guidance Counselors, Speech-Language Pathologists, occupational Therapists, and Psychologists are voting with their feet. We can not get qualified people to enter and stay in these positions, particularly in remote areas. We need to provide financial and professional incentives to attract and retain these professionals.

Specifically we recommend:

#### *Resource Teachers and Guidance Counselors*

- Certification programs for Resource Teachers and Guidance Counselors similar to the current system of university courses and District modules for a Principal's Certificate. To meet the needs of rural areas, we need to offer on-line and local courses for certification.
- In cases of forced transfers, the collective agreement (45.03) requires the employer to keep teachers within a school providing they are able to satisfactorily fulfill the requirements of the position. For Resource and Guidance positions, this has not been interpreted as Master's level to qualify. Resource and Guidance positions should be advertised if teachers without a Master's (or certificate) in their field are not available within the school.
- Access to administrative assistants for Resource Teachers and Guidance Counselors
- We need to find ways to retain School Resource Teachers. In District 10 we had a 50% turn-over rate last year. We recommend that Resource Teachers receive responsibility allowances to compensate them for their administrative and supervisory roles (e.g., coordinating staff to implement SEPs and Behaviour Plans; evaluating Teacher Assistants and School Intervention Workers)

### *Paraprofessionals*

- Teacher Assistants and School Intervention Workers are currently assigned positions 5 hours/day or less. This is not adequate to retain individuals. Paraprofessionals should be assigned 7 1/4 hour/day permanent positions as the norm. Time for professional development should be included in their assigned time. This increase in time would allow special needs students to participate more fully in the school. Many do not attend the school for all the instructional time and are seldom able to participate in extra-curricular activities.

### *Other*

- Support Services to Education personnel (School Social Workers, Occupational Therapists, Speech-Language Pathologists, Psychologists) be consolidated under the Department of Education.

### *All Student Services Personnel*

- Designated ratios (e.g., the Psychologists recommend 1 to 1000 students)
- Competitive pay scales to attract and retain qualified personnel. Vacation and other contract terms must also be competitive. For example Psychologists in Nova Scotia are entitled to summer vacations, while New Brunswick School Psychologists are not.
- Job descriptions and protocols to help team members work collaboratively.
- Professional Development opportunities to keep staff up-to-date

## **4. Tools –Improve Programming for Students on Special Education Plans**

Currently, exceptional students are included in regular classrooms, but we are not always able to provide adequate programs to meet their needs

- We need to provide educators with evidence based programs for students on accommodated, modified and individualized programs.
- We also need to offer a variety of course options to the variety of diverse learners (e.g., practical skills courses such as carpentry, hairstyling, money management, advanced placement courses, etc.)
- Tools for ongoing assessment, and evaluation of exceptional students to direct our interventions as outlined in a Pyramid of Interventions
- Curriculum guides with accommodations, modifications, and individualized instruction and practice items, so that teachers do not have to invent these for every lesson.

These four objectives Time, Training, Temptations, and Tools, will help achieve the objectives set out in the QLA.

## **Agente pédagogique en adaptation scolaire au district scolaire 11**

### **I. Le Personnel**

#### **1.1 Augmentation des postes d'enseignantes ressources**

Je propose donc que le ratio soit augmenté à 1 :130 afin de permettre aux enseignantes ressources d'intervenir auprès de cette clientèle.

#### **1.2 Formation continue auprès des enseignantes ressource**

Je propose donc que chaque District reçoive financier nécessaire afin de fournir la formation à une enseignante ressource par région dans les domaines spécifiques des troubles d'apprentissage et de l'autisme.

Je propose également que des formations spécialisées telle que celle offerte par des consultantes expertes en adaptation scolaire en 2002 et en 2003 puissent continuer. (Formation sur le processus de lecture offert par G.Duguay et V.McEniry) –C'était, à ma connaissance, la première fois que toute la population des enseignantes ressources recevaient dans leur milieu la même formation et je remarque déjà l'impact positif de cette démarche/

Je propose que des formations comme celle là se poursuivent quelques jours à chaque année afin de développer l'expertise nécessaire pour assurer un meilleur suivi auprès des élèves.

#### **1.3 Formation des directions d'écoles**

Il est important que l'on accorde une formation de base aux directions d'écoles afin qu'ils puissent se familiariser avec les diverses tâches autant de gestion que d'accompagnement qu'exige la clientèle de l'adaptation scolaire

#### **1.4 Formation des enseignant.es de salle de classe**

Il serait de mise que chaque District reçoivent plus de financement dans le budget de formation afin d'inclure des formations sur la gestion de salle de classe, la pédagogie différenciée et autres approches favorisant un enseignement répondant aux besoins d'apprentissage de l'ensemble des élèves.

#### **1.5 Ajout de postes d'intervenants en autisme**

Que l'on crée un poste d'intervenant en autisme et que l'on embauche des intervenants qui ont complété le cours d'intervenant en autisme pour combler ces nouveaux postes.

#### **1.6 Ajout de postes d'intervenants médicaux ou d'infirmière**



Que l'on ajoute des postes d'intervenants médicaux ou de soins infirmiers dans nos écoles.

### **1.7 Nouveau ratio d'aide enseignant basé sur le nombre d'élèves à besoins**

Que chaque District scolaire reçoive le financement du Ministère de l'Éducation d'un.e aide enseignant.e ou d'un poste d'accompagnement (intervenant en autisme ou intervenant méical) pour chaque enfant du group 1 révisé ci-dessus.

Que chaque District scolaire reçoive le financement du Ministère de l'Éducation d'un.e aide enseignant.e pour 180 élèves pour l'accompagnement des autres élèves du group 2 révisé ci-dessus.

### **1.8 Augmentation des postes de psychologues ou d'intervenant en psychologie scolaire**

Que chaque District scolaire reçoive le financement du Ministère de l'Éducation pour appliquer un ratio en psychologie de 1 :800 élèves

### **1.9 Services provenant de d'autres Ministères**

Que les responsables de la haute gestion (Ministres ou sous-ministres) du Ministère de l'Éducation et du Ministère de la santé se rencontre avec des membres du District et des membres des programmes extra muraux afin proposer des pistes de solutions pour le bien de nos enfants.

Que les responsables de la haute gestion (Ministres ou sous-ministres) du Ministère de l'Éducation et du Ministère des services familiaux et communautaire se rencontrent avec des membres du District et des responsables des travailleurs sociaux scolaires afin de proposer des pistes de solutions pour le bien de nos enfants

## II Programmes

### **2.1 Programme de littératie**

Que le programme de littératie se poursuive dans les écoles et qu'on ajoute un programme semblable en numératie.

### **2.2 Programme foyer-hôpital**

Que les District soient accordés plus de financement dans le programme foyer-hôpital afin de nous permettre de desservir plus d'élèves des groupes 5, 6 et 7 (voir annexe 1)

### III Équipement Médical Spécialisé

Que les responsables de la haute gestion (Ministres ou sous ministres) du Ministère de l'Éducation et du Ministère de la santé et du mieux-être se rencontrent avec des membres du District et des membres des programmes extra muraux afin de se rediviser les tâches au niveau des achats et de proposer des pistes de solutions pour le bien de nos enfants.

### IV L'importance de la collaboration école-famille

Les parents doivent être invités à participer activement à l'élaboration de la vision à long terme du plan d'intervention de l'élève et dans les moyens identifiés pour se rendre au but. En encourageant une collaboration active en le milieu familial et l'école, l'élève a plus de chances à recevoir l'encadrement et l'appui nécessaire à son cheminement.

**PHASE 3  
RECOMMENDATIONS<sup>156</sup>**

**RECOMMENDATIONS FOR ADVANCING  
CHILD CENTERED SCHOOLS AND SCHOOL  
CENTERED COMMUNITIES**

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<sup>156</sup> These final recommendations are in response to the *Terms of Reference*. For reference please see Appendix A.

## **INTRODUCTION: CHILD CENTERED SCHOOLS AND SCHOOL CENTERED COMMUNITIES**

Any good school system must be child centered and that is what the New Brunswick system seeks to be. The challenge of this Review and the recommendations is to advance this goal in real and practical terms. New Brunswick is also a predominantly rural province and the traditional concept of the school as the center of the community is one that resonates with its history. Schools alone cannot change the way children are educated, but they can do so in partnership with the larger society – other government departments, the private sector, community groups, parents, students and the general public. A greater emphasis should be placed upon the school as the center of the community and schools should once again be seen as a primary place where services of all kinds are delivered to students. Not only should schools be more central to our communities but also the walls of schools should be lowered to let the larger community in.

New Brunswick has been on the road to inclusion for almost twenty years now. Along the way a tremendous will and capacity for inclusion has developed in New Brunswick. The timeliness of this report is unmistakable. New Brunswick is poised at a critical bend in the road. There are some difficult and complex problems evident. This research and Review have been useful in helping define some of the issues. In the beginning the Review started with the broad concept of inclusion and the applicability of the law of equality in Canada. It was concluded at that time that inclusion and equality are very compatible and mutually supportive concepts. This is the right road for New Brunswick to be on. Most of the difficulties in New Brunswick turn up at the implementation stages, making implementation the most critical component in the Minister's response to this Review.

New Brunswick is at a turning point and the decision-makers must ensure that equality for all students is the destination. The societal context within which the education system is situated has changed dramatically, exacerbating many of the relationships in the school community and in the larger community. Schools are not operating in the same external environment they once were. Many of the challenges and difficulties faced by students, teachers, and parents have their origins outside of the school. Family structures and functions are under stress in the current socio-economic culture. We are beginning to witness how our negative impact on the environment is beginning to have an impact on human health. Eating and lifestyles have also changed in ways that often have detrimental effect on health. Technological change has had a major impact on work and leisure activities alike. Some people have suggested that the stress of modern living may itself be a partial explanation for the growth of autism and attention deficit disorder. Of course, this is only one possible element in this complex and evolving field of cognition and learning development. Each of these changes in the societal context presents new challenges for education and

produce mounting expectations that can be daunting for the people who operate the schools.

The development and discourse of rights entitlement as it applies to education have also significantly raised the expectations for education. This is discussed in more depth in the legal analysis section of the background research report. In particular, the law of equality as it relates to students with disabilities and service provision has seen some recent important developments. This is particularly true with regard to providing service to students on the autism spectrum and students with learning disabilities. The following recommendations attempt to address some of these rising expectations and provide modest suggestions for managing them, as well as for designing an education system more capable of meeting the challenges of the twenty first century.

Of course, all the challenges of the modern world cannot be resolved within the school system – even a well designed and adequately resourced system. Other government agencies, the private sector and parents also have an important role to play. In this rights-conscious society, it is important that parents consider their responsibilities and duties in respect to both their children and the larger school community. The flip side of the parental rights to be consulted, informed and involved in the education of their children, is the responsibility to cooperate with school officials and assist in whatever ways they can with educating their own children. If time permits them to be active members of the home and school association, then that is even better. Good education is a cooperative enterprise.

There are also critical issues of defining the human resources needs at this bend in the road. In a recent 2005 incident, a young boy died at a New Brunswick school when he choked on his lunch. This student was considered “medically fragile” by his school because he required aspiration to prevent choking. He had been at school for many years. On this tragic day the aspiration was not able to clear the blockage. The challenges of students who require specialized support in order to be physically present in their schools or communities, and the personnel who provide that support are a significant component of this report. Without commenting about the particulars of this situation, the effect of this incident on personnel in the education system was profound. Questions have been raised about whether these medically fragile students should be in the schools.

What are the roles of education and the school community? Where is each student’s place in an inclusive education system? Who makes the decisions? What human resources are necessary to do justice to the goals of inclusion and equality? How will all of the human resources and personnel interact together and how will effective inter-agency cooperation function to provide appropriate specialized service provision? What is inclusion and indeed, what are the goals of education? These are all questions addressed within these recommendations,

but of course, there are no perfect answers. There are many basic questions raised by this Review.

Another basic question raised by this Review and any process of reform and policy change, is at what level should the vital decisions be made. As will be apparent in the following recommendations, leadership must be shown at the provincial level in terms of the Department of Education and even the Legislature itself. Changes to the *Education Act*, crafting new provincial regulations and policy and modifications to funding must emanate from the top provincial level. During the process of change in the education system in Finland power was centralized, only to be decentralized as the changes became established. There is an important role for the District Education Councils (DECs) and schools at the local level to put provincial rules into action at the local level. These local agencies are also best placed to provide services that fit the local context. Finland, which currently has the highest rated education system in the world, also has one of the world's most decentralized education systems, with much discretionary power at the district and school levels. The proper balance between provincial and local control is implicit in many of the recommendations but ultimately must be reflected in the Government's response to these recommendations. The "who" can be almost as important as the "what" in delivering educational services and it is vital that the various levels of decision-makers cooperate to promote the best interest of all the students in the system.

One of the most important parts of this year-long Review process has been the consultation phase. A wide variety of perspectives were represented in the consultation sessions. Appendix M provides a summary of each consultation meeting. This summary of participant dialogue provides a significant and highly useful snapshot of the variety of perspectives present in New Brunswick. This dialogue in and of itself provides a useful resource in charting the future path.

The Government of New Brunswick and the Department of Education have taken beginning steps toward addressing some of the difficulties with the *Quality Learning Agenda* and by commissioning this Review. Both of these initiatives have been reinforced in *Believing in Achieving 2005: A Progress Report on the Targets of the Quality Learning Agenda* published in April, 2005. It was also with these goals in mind that a delegation was sent to Finland in October, 2005. Implementation of the following recommendations or some variation of them will help New Brunswick take further steps toward inclusion and equality, as well as help relieve some of the pressures on the educators, the community, and the system. These recommendations should advance the goal of producing "quality schools and high results". With excellence in both achievement and service provision in mind, New Brunswick is poised to lead the way toward a world class inclusive education system. In these times of challenge there are also outstanding opportunities.

Discussions at the consultation sessions identified some of the wonderful benefits of inclusion efforts over the last twenty years. The appearance of greater tolerance among students and personnel, the wonderful friendships and sweet moments that have been allowed to happen by taking the road to inclusion. New Brunswick has a caring school system and as indicated in the Preface this can be connected to the challenging of students to meet high standards. Many good things have begun in New Brunswick.

Like most other places in Canada and North America, violence among youth is a concern in New Brunswick. Violence and aggression are happening in many different ways. During the course of our consultation process, two separate incidents were reported of serious threats of violence in Saint John and Miramichi high schools. This is not the norm in New Brunswick schools but any acts of violence are concerning. The students at the consultation sessions discussed violence, bullying, aggression, and intimidation, and they vividly described many incidents. This was not a preoccupation with the students but they were more aware of violent overtones in some school settings than the adults I consulted in this review. There are also success stories, about improved relationships and tolerance for diversity among students but more government effort is needed to sustain and expand upon these successes.

Violent behaviour and aggression by some students and some parents was also a concern for personnel working in schools. Intimidation, aggression and non-cooperation by school personnel were reported by some parents and students. New Brunswick is no worse than the rest of Canada in facing the growing challenges of violence among our youth but it is an important challenge for producing truly inclusive schools. The frustration and stress produced by a perceived lack of adequate resources, inadequate behavior management training and what some regard as a lack of coherent vision are major challenges for the current system. This problem appears to be further aggravated by a break down in a system of effective communication between the various stakeholders in the education system. As indicated in the legal analysis portion of the background report, the promotion of true inclusion and the reduction of violence can go hand in hand. This is a hopeful sign.

Schools, however inclusive they may be cannot single-handedly curb violence in our society. There are many forces at play, including the media as a reflection of popular culture. Schools do have an important role to play. To be truly effective in educating the citizens of tomorrow, schools must be part of a broader culture of learning in which education is valued, literacy is supported, and teaching is regarded as an important and noble calling. A culture of learning may start in the schools, but it must be supported by libraries, museums and cultural centers. In the October 2005 conference that I attended in Helsinki, Finland, the above aspects of the Finnish culture of learning were identified as important ingredients in their top international scores on literacy and numeracy. The school is at the center but it needs supporting satellites reinforcing the value of life long learning.

The *Globe and Mail* ran a story on September 6, 2005 entitled “Why is India gaining on us? Do the math” by Sumitra Rajagopalan. The article alludes to North Americans having comparatively poor standing on an OECD (Organization for Economic Cooperation and Development) math test. The author calls for a return to more traditional teaching methods. In my October visit to Finland, which scored number one on the OECD PISA scores, traditional as well as innovative teaching methods were used. The point of the *Globe* article is that school need not always be fun. Schools should provide the foundation for life long learning and prepare students to enter a culture of learning as described above. Provincial ranking on standardized tests has proven to be important in New Brunswick as well. Both the *Quality Learning Agenda* and the recently published progress report *Believing in Achieving*, highlight the New Brunswick Government’s interest in achievement on standardized tests. This was also the impetus for the trip to Finland.

Some may think that inclusive education and academic excellence are opposing forces and that inclusion necessarily means diluting standards. In fact, this was a significant conclusion of a previous New Brunswick report on education, the *Scraba* report. The results of this research and consultation show that this need not be the case. Indeed New Brunswick’s recent literacy initiatives may be having an impact already, as evidenced by improved performance on literacy tests by New Brunswick students.<sup>157</sup> A large part of the following recommendations are dedicated to looking at teaching methods, defining human resource issues and other related aspects of educational service delivery. The goal is to connect the values of care and nurturing with challenging students to achieve high standards. I believe the two can go together.

It has been a busy year, but this Review will not provide all the answers. Despite the difficulties faced in New Brunswick, the tone of this Review is hopeful, almost excited at the possibility for the future of the New Brunswick education system. New Brunswick is already a leader in the philosophy of inclusion. A significant capacity and expertise has developed in New Brunswick and this capacity and expertise should be utilized and will be highlighted in some of the following recommendations.

The New Brunswick education system benefits from the dedication and thoughtfulness of the many people involved. The seeds have been planted. In the words of one consultation session participant: “Some beautiful things have happened in New Brunswick”. Some of those beautiful things are chronicled in

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<sup>157</sup> This refers to a preliminary trend from 2004 to 2005 on anglophone and French Immersion grade two reading and writing assessments provided by the New Brunswick Department of Education. This was a follow up to the hiring and / or assigning of reading specialists, literacy specialists, and literacy lead teachers (as mentors) by the New Brunswick Department of Education. This appears to be an important investment in literacy and higher standards of performance for students in the province.



the summaries of this Review's consultation sessions and in the written submissions to this Review. This Review's also highlights these successes. It is the successes that help guide the path forward toward the healthy growth and sustainability of schools and communities, schools as communities, and schools for communities.

One of the most important successes of this Review and its consultation process is the quality of dialogue that has begun in New Brunswick. The many different stakeholders in the New Brunswick education system embraced this opportunity to engage with each other in identifying what the difficulties really are, and in working through their differences in perspectives. An added richness was achieved by including representatives from First Nations communities in the process. This dialogue should be continued and this is emphasized in the recommendations that follow.

This research and consultation process supports a broad interpretation of inclusion - inclusion that is relevant to all students. All students should be recognized for who they are and should have access to appropriate programming and courses. Attention to dominant and minority cultures and perspectives are part of making inclusion relevant to all students. There is an added benefit to this broad interpretation. It makes inclusive education particularly consistent with the legal guarantees of equality in Canada. For New Brunswick, with a declining population, this approach also makes a lot of sense. The growing birth rate in First Nations and immigrant communities are the two main sources of population growth for both the francophone and anglophone sectors. These groups have the potential to be the sources of future population stability for the province. They also underscore the need for the New Brunswick education system to be inclusive in the broad sense, and ensure that all students feel they belong within the school community.

This Review process has shed light on the situation in New Brunswick. The many perspectives and faces that emerge are reflected in this report. The hope is that these recommendations will do justice to those living and working within the New Brunswick education system. The following recommendations flow from this intensive year long process of research and consulting with people in New Brunswick. These recommendations remain the opinion of the consultant. I am acutely aware of the magnitude of this task and the limits of any one person mapping out all of the contours of the path forward. It is important that the dialogue about the shape of change in the schools of New Brunswick continue.

With the outstanding assistance of Janet Burt-Gerrans I have set the stage for these recommendations in Phases 1 and 2 of this Review, and gained particular insights from the wide ranging consultations. Thus I am convinced that these recommendations can improve the education system in New Brunswick and chart the broad outlines of a better path for the future. On the details there will, of course be room for debate. I do not claim to provide all the answers but merely to

make recommendations for improvement. Limits of time, resources and knowledge ensure that the resulting recommendations will be less than perfect. They will be partial in all senses of that term. There are varying degrees of detail and on some of these details there is room for reasonable people to disagree. I do attempt to chart the broad features of the path ahead and hope to spark further dialogue and debate of the same high quality that was demonstrated in the consultations. With commitment, flexibility, resources and good will the ideal of inclusion can become a much better reality in New Brunswick. The challenge rests with the Government and through it, the people of New Brunswick, to use these recommendations as a guide to better education systems for all the children of New Brunswick.

The following recommendations are addressed primarily to the Minister of Education who commissioned this study. It is understood that the Minister will delegate many tasks to the appropriate individuals both within her own Department and elsewhere. In particular some of these guidelines may fall within the duties of other government departments, the District Education Councils and / or superintendents who work with the Minister and the Education Department, even though they are not part of it. Sometimes these other parties are identified in the recommendations.

There are some initiatives underway in some of the areas addressed in these recommendations and in those areas I am calling for a continuation and expansion; in other areas I am recommending new strategies and actions.

Further collaboration will no doubt arise during the implementation of these recommendations. I encourage a cooperative approach to the implementation of these recommendations and by identifying the Minister of Education in many of the recommendations I am acknowledging her important leadership role but not suggesting that she alone is responsible for implementation.

## DELIVERABLE 1

### ELEMENTS OF A STATEMENT ON INCLUSION

#### **PREAMBLE TO THE *EDUCATION ACT***

The road to inclusion in New Brunswick over the last twenty years has led to a rich experience and more consensus about the nature and goals of education generally and inclusive education. The consultations produced a broad endorsement of the concept of inclusion in New Brunswick, although there is much debate about how to implement inclusive values and practices in the schools. The dialogue about the best way to implement real inclusion is well represented in the summary of consultations in Appendix M to this report. There is also strong support for a broad definition of inclusion that goes beyond disability to a larger recognition of diversity. Inclusive knowledge and experience have developed despite the lack of anything formal about inclusion or diversity in New Brunswick's *Education Act*.

The following recommendations propose some changes to the *Education Act*, regulations and policy that will formally solidify the experience and knowledge about inclusive education that has developed in New Brunswick. The hope is that this will provide a solid basis from which to move forward to meet some of the difficult challenges that arise during implementation.

The following recommendations also recognize the significant leadership role for the Minister and the Department of Education in setting province wide goals for education. Part of this leadership role means setting the tone for education with an emphasis on promoting excellence and equality: promoting challenge and care.

As discussed earlier in this report and in the introduction to these recommendations, there have been significant changes in society in respect to family structures, technology, and a growing rights consciousness that have raised the expectations about what schools should provide. Some feel these expectations are too high and delivering a quality education is a major practical and financial challenge. However, reform programs such as School<sup>Plus</sup> in Saskatchewan and others in Finland offer hope. Leadership in addressing the gap between expectations and delivery of education in the classroom starts with the New Brunswick Government and its legislation pertaining to schools.

Education is in the unique position of requiring all children in the province to pass through its doors for an extended length of time.<sup>158</sup> This extended relationship between schools and almost every child in the province underscores the importance of making this a positive and productive experience. Education presents a tremendous opportunity for the state to shape its future citizens. It also makes schools a natural point of entry for a gamut of other government services and programs for children.

## **Recommendation 1: Preamble to the *Education Act***

1. The Minister of Education should amend the *Education Act* to incorporate a preamble that sets out the guiding values of education, and the foundation for inclusion.

Legislation in the Northwest Territories provides some interesting language to consider. What follows is an adaptation of the Preamble to the *Northwest Territories Education Act*. It has been altered to fit the New Brunswick context and to reflect some of the findings of this Review. The following preamble, or some variation of it, should be enacted within one year of the release of this Report.

### **Preamble**

**Recognizing that through education the people of New Brunswick can acquire the knowledge, skills and attitudes needed to be responsible, confident members of society who can provide leadership and direction for the future;**

**Believing that the focus of the education system must be on students and on developing the physical, emotional, social, intellectual, citizenship and spiritual aspects of their lives within a safe and positive learning environment and recognizing that student welfare and the conditions that support student welfare are vital to this;**

**Believing that inclusive education promotes this focus and is necessary to achieve the goals of education;**

**Believing that prevention, early intervention, and a positive learning environment will help strengthen students' capacity to learn, to participate in their communities, and to reach their own ultimate potential;**

**Believing that education must be a partnership between students, parents,**

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<sup>158</sup> All children are required by the *Education Act* to attend school or to fit within a narrow list of exemptions.

**communities, educators, professionals, para-professionals and government**

**each of whom have a vital role to play and a responsibility to one another in achieving quality and excellence in education;**

**Recognizing the importance to the people of New Brunswick of having access to an education program that meets the highest possible standards for education**

**to ensure that students have the opportunity for continued personal development and achievement and to pursue post- secondary education, training and employment;**

**Recognizing the importance to communities of having access to excellent and coordinated services that support children and families;**

**Recognizing the relationship between language, culture and learning, and the multi-cultural heritage of Canada, and believing that school programs must be based on the many cultures of New Brunswick;**

**Recognizing the importance of human rights and the dignity of the person as expressed in the *Canadian Charter of Rights and Freedoms*, and the *New Brunswick Human Rights Act*;**

**Recognizing the rights and freedoms of every individual and English and French linguistic minorities as set out in sections 15 and 23 of *The Canadian Charter of Rights and Freedoms*, and New Brunswick's *Official Bilingualism Act*, and in particular section 4 of New Brunswick's *Education Act*;**

**Recognizing the rights and freedoms of the Aboriginal peoples of New Brunswick as set out in sections 25 and 35 of the *Constitution Act, 1982*;**

## **DEFINITION OF INCLUSION**

This proposed preamble to the *Education Act* refers to inclusive education, the main theme of this Review. Inclusive education is a malleable concept which has been used in various ways across Canada.<sup>159</sup> The Minister of Education must clarify what inclusive education means in New Brunswick. Some of the current policies and guidelines from both the francophone and anglophone sectors outline many of the elements proposed here. However, there is no single, clear statement of educational orientation for the entire province.

The Minister should also consider at what level in the legal hierarchy this statement ought to be made. The statement of basic values would be strongest in statutory form but could also be presented in regulations or policy. Difficult

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<sup>159</sup> Phase 1, background research.

questions arise regarding different levels of decision-making and the values of centralization versus decentralization. Indeed this is a significant theme running through many of the recommendations. The decision on whether to make this statement in the statute, regulations, or in policies is not an easy one. My preference is to use either the statute or regulations.

In attempting to produce a definition of inclusive education I would suggest revisiting the discussion of terminology in the Introduction to the Phase 1 Background and Research. Gary Bunch and Kevin Finnigan suggest in their Canada-wide study that there is little consistency in the use of terminology in respect to special education and inclusion. Having a common understanding of what is meant by inclusive education is an important departure point. Inclusion does not necessarily mean integration of all students in the regular class all of the time. Disability is also not the only form of diversity that should be included in schools. The following definition from the Manitoba 2001 reform proposal for education comes closest to capturing the broad and flexible definition of inclusion. It goes beyond disability to advocate inclusion of the diversity of all students.

**Inclusion is a way of thinking and acting that permits individuals to feel accepted, valued and secure. An inclusive community evolves constantly to respond to the needs of its members. An inclusive community concerns itself with improving the well being of each member. Inclusion goes further than the idea of physical location; it is a value system based on beliefs that promote participation, belonging and interaction.**

Another broad and useful definition is the following one submitted as part of the written submissions to this Review.

**Inclusion in a school environment means the unambiguous and unconditional acceptance of all children in their diversity so that they all learn together, with and from each other, and interact positively with each other in co-curricular and extra-mural activities. This vision requires the recognition, understanding and acceptance of the individual ability of every child; of the variety of learning styles, interests and abilities present in every classroom; and of the variety of skills, techniques and knowledge which, when used creatively will foster: a love of learning in every child and the achievement of potential for every child; and positive interaction among students and also among educators, inside and outside the classroom and in all aspects of school life.<sup>160</sup>**

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<sup>160</sup> New Brunswick Association for Community Living.

It is this broad approach to inclusive education that I advocate as the one most appropriate to the more diverse New Brunswick of the future. Disability is only one form of New Brunswick's diversity.

Recent attendance at a conference in Finland revealed that the Finnish system of education relied on a highly centralized approach during its transition period, moving to what is now a highly de-centralized system. This again emphasizes the importance of the Minister of Education and her Department taking leadership on this issue. There are many differences between the Finnish and New Brunswick systems, and not all aspects of the Finnish system are attractive to New Brunswick. For example, the system is not particularly inclusive for children with disabilities. What is attractive about Finland's system is that Finnish students performed the best in the world on the PISA standardized tests. This success Finland attributes, in part, to their transition over more than a decade to an extensive and comprehensive integrated services model which focuses on the welfare of children.

## **Recommendation 2: Definition of Inclusion**

**2. The Minister of Education should enact and publish a single, clear statement on the meaning of education and inclusive education in New Brunswick, preferably in the form of statutory or regulatory provisions, within one year of the release of this report. The following elements may provide some guidelines, based on the research and consultation process of this Review.**

### **Education:**

- **Provides as many young people as possible with broad and transferable literacy, numeracy, and computer skills**
- **Promotes competence, skill development, achievement, knowledge, creativity and critical thinking among all students**
- **Prepares young people for citizenship and participation in their communities**
- **Promotes independence and self-reliance among students**
- **Encourages and supports all students to reach their potential. All students should be encouraged to achieve high standards and schools should have high expectations for their achievement**
- **Promotes social skills and positive interactions between people**
- **Fosters an attitude of lifelong learning among students and the community**
- **Promotes the values of equality, diversity and the Canadian democratic society, including the development of positive relationships of mutual respect between all members of the school community**



- Promotes equality of opportunity and the development of a child's full potential
- Promotes flexibility and openness to change in a rapidly evolving world.

#### **Inclusive Education:**

- Strives to ensure that the general goals of education are available to and promoted for all students
- Allows all students' potential and perspectives to be valued
- Has flexible options and more than one way of delivering programs and services to meet the needs of students. Students do not all need the same goals and outcomes to learn together. While regular classrooms may be the norm, other options may be preferable in some cases. Inclusion is an approach not a place. Flexibility is vital
- Permits each individual to feel accepted, valued, and secure
- Requires that students be supported with appropriate services, as much as reasonably possible
- Evolves constantly to respond to the needs of members of the school community
- Promotes a comprehensive, holistic approach to schools, learning, and children. This approach supports an active and engaged culture of learning and focuses on student welfare as the foundation for learning
- Promotes participation, belonging, interaction, self-determination, independence and inter-dependence for all students
- Means developing and designing all schools, classrooms, programs and activities to achieve the goals of education and inclusive education, over time, as much as possible and in an inclusive fashion
- Is always focused on the best interest of all the students
- Ensures exposure to a diversity of experiences for all students
- Promotes an active role for students as learners and ensures a climate of care for students' physical and psychological well being
- Promotes inclusion in the larger community, and inclusion of the community within the school system.
- Ensures each student learns to his or her full potential.

#### **CLASS COMPOSITION**

Class composition is one of the most critical issues for those working in the education system in New Brunswick, as evidenced by the prominence of the issue in the 2005 round of collective bargaining with New Brunswick's teachers. Indeed education systems are struggling with this across the country, as seen in British Columbia's October 2005 illegal strike by teachers. Class composition was a central issue in this strike as was supports for students with disabilities.

English as a second language was also a significant issue in British Columbia, and this will become more of an issue for New Brunswick if it succeeds in its plans to increase immigration.

Class composition refers to the profile of students in a class and in particular the number of children on “special education plans” or “plans d’adaptation scolaire”. The biggest concern is that students with special needs or with individual plans require more attention and planning than typical students. Calls for controls on class composition aim to control the work load and improve working conditions for teachers facing these challenging classes. They also aim to ensure that all students in the class can have a positive educational experience.

This is a serious issue. Frustration and burnout on the part of teachers, school personnel, and school administrators are significant in New Brunswick. This is also a very complex issue. Many of the recommendations proposed in this report (particularly with regard to integrated service delivery, educational service delivery, and human resources and training) are aimed at ameliorating the class composition situation. In the ideal situation, class composition would be representative of the natural variation that exists in the larger society. The higher concentration of students with “exceptionalities” is particularly acute in core English classes, due in part to the impact of French Immersion, but is reported by teachers to be a problem in both linguistic sectors.

Technology may provide some of the answers. The new electronic SEP (Special Education Plan) forms in the anglophone sector in New Brunswick may be an example of an initiative that will simplify the documentation process, and thereby the workload.<sup>161</sup>

There may still be a need for targeted support for key human resources. Teachers, resource teachers, and principals in particular perform critical functions in the delivery of educational services. Assistance with paperwork, reporting, coordinating, and other tasks would help teachers, resource teachers, and principals to better focus on doing their core jobs to the highest standard and with less frustration and burnout. It should also be recognized that more supports and / or smaller classes are needed to respond to challenges of class composition. Everyone would benefit from this reduction in frustration and stress, and the reduction in communication barriers that come with dialogue.

The recommendations which follow could just as easily have been included as matters of service delivery under the Deliverable 3 recommendations which follow. However, I decided to deal with some elements of class composition up front, as it is a “hot button” issue for inclusive schooling in New Brunswick. I do

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<sup>161</sup> This initiative is in its very early stages. Its effectiveness is not yet completely established. In particular the question has been raised about the role of the parent now that the documents can be altered so much more easily. This issue could be dealt with aside from the effectiveness of the electronic form in facilitating the documentation process.

this to indicate that I take the expressions of concern about class composition seriously, and to emphasize the need to respond to the challenges and frustrations produced by some classrooms, where both teachers and students struggle to promote meaningful education. Diversity of class composition is a good thing, but only if there are resources and strategies to make it work.

### **Recommendation 3: Class Composition**

**3(a) The Minister of Education should increase the fund of money set aside to deal with issues of class composition as part of the last round of collective bargaining. This fund should be used to increase classroom supports and over a reasonable time, reduce class size in classes with challenging composition in appropriate circumstances.**

**3(b) The Minister of Education should work with the Government Office of Human Resources, AEFNB/NBTA (Teacher Associations), and the CUPE union to determine the optimal levels of clerical, secretarial, administrative, technological and other supports for teachers, resource teachers, and principals, to ensure that the critical human resources in the form of teachers, resource teachers, and principals spend their time on their core educational roles. This forum for dialogue should be established as soon as possible and completed within one year of the release of this Report.**

**3(c) In conjunction with the above consultation, the Minister of Education should direct the relevant Departmental officials to produce a cross-Canada review of how other jurisdictions have responded to the challenges of class composition. This is discussed in the Background Report portion of this report, and examined in more detail in the review of other provincial reform proposals by Pierre Dumas contained in Appendix H. This cross-Canada review should be completed within one year of the release of this report.**

**3(d) Once the optimal levels and types of supports are determined, the Minister of Education should phase in the identified supports over a two year period, while making progress in each year.**

### **COMMUNICATION**

Good communication among all parties has clearly emerged as one of the most important ingredients necessary for inclusive education. Many of the most complex issues and recommendations in this Review have tended to cross over the boundaries of the “Deliverables” areas of this Review, and communication is one of them. Communication is a key component of a statement on inclusion and in general, issues related to communication are central to inclusion.

There is a growing recognition that the number of disorders, disabilities, and other conditions that children exhibit in school has increased, and that the complexity and understanding of these conditions has also increased. There is also a growing recognition that there are many other social, psychological, and environmental factors that have an impact on children's development and well-being. It is impossible for teachers, school personnel and administrators to be experts in all of these areas, though many teachers and school personnel expressed those concerns and frustrations in the consultations during this Review.

Properly implemented, inclusive education, in my view, does not require teachers, school personnel and administrators to be experts in all areas. Inclusive education accepts the diversity that is present in the student body and relies on teachers, school personnel, and administrators to have a sufficient understanding of these issues, to make sound judgments and engage in appropriate referrals or collaborative planning where necessary. There is a need to ensure that pertinent and up to date information is made available to teachers, school personnel and administrators to promote inclusion and to ensure excellence in service delivery to all students. Some of these needs will be addressed later in recommendations dealing with pre-service and in-service education. There must also be an adequate supporting cast as will be elaborated on in many of the recommendations that follow.

#### **Recommendation 4: Communication**

**4(a) The Minister of Education in collaboration with appropriate partners including the District Education Councils, should develop and implement a plan for ongoing communication and distribution of information regarding disabilities, and other factors affecting the welfare and development of children. The goal of such information would be to assist in the implementation of inclusive education. The presentation of such information should focus on being relevant and accessible to busy parents, teachers, school personnel, and administrators.**

**4(b) The Minister of Education and Departmental staff in collaboration with education researchers, the Dialogue on Education Committee, and other appropriate partners, should develop an up to date compilation and guide on best practices in inclusive education for francophone, anglophone, and Aboriginal communities. This compilation should draw on the research of this Review in Phase 1 and Appendix E and the inventory of successful strategies in the Phase 2 Themes from the consultation sessions. This compilation should also draw on the rich knowledge and expertise of the educators and researchers in New Brunswick.**

**4(c) The Minister of Education should ensure that every school and district has available a widely distributed directory of community resources relevant to education for the benefit of teachers, administrators, parents and others in the school community.**

**The above recommendations should be completed within a one to two year period from the release of this report.**

## **ENDOWED CHAIRS IN INCLUSIVE EDUCATION**

The knowledge and expertise in inclusive education that has developed in New Brunswick is impressive. New Brunswick is already a leader in developing an inclusive education system. The Government of New Brunswick should seize this opportunity to highlight and reward the leadership and initiative shown in New Brunswick. The opportunity is there for New Brunswick to celebrate its innovative leadership and propel its inclusion initiative to the next step. The value of building upon and enhancing New Brunswick's experiences with inclusion are highlighted by the desire to entice more immigrants to the province. An education system that embraces diversity is vital.

The Government of New Brunswick has shown tremendous leadership to the world by taking bold steps toward inclusion twenty years ago. Bold steps are again needed to sustain and improve inclusion. The research in this Review is a foundation for the province of New Brunswick to take action. Further down the road, once the many other higher priority recommendations have been implemented, the Government of New Brunswick should implement the following recommendation. To demonstrate a commitment to continued research and innovation; to provide a mechanism of accountability to ensure both quality in teacher training and cutting edge research in inclusive education; and to demonstrate a commitment to excellence in designing an inclusive education system, the following endowed chairs are recommended.

### **Recommendation 5: Endowed Chairs in Inclusive Education**

**5(a) The Government of New Brunswick should establish two Endowed Chairs in Inclusive Education; one each at a francophone and anglophone post-secondary institution in the province. A number of university-based and federal funding programs or other fundraising could be accessed to match provincial funds. This should be done in seven to ten years, when the benefits and successes of the *Quality Learning Agenda* and inclusive education as a component of that strategy are being realized.**

## DELIVERABLE 2 EXCEPTIONAL STUDENT

### EXCEPTIONAL STUDENT

Currently in New Brunswick the term “exceptional student” is used to describe students with disabilities and it is elaborated on in sections 11 and 12 of the *Education Act*. These sections set out entitlement to a placement and planning process and services for a restricted subset of the student population<sup>162</sup>. Only two provinces in Canada (Ontario and New Brunswick) use the term “exceptional student”<sup>163</sup>. In Ontario the term “exceptional” also includes gifted students but that is not the case in New Brunswick. Many who participated in the consultation sessions were dissatisfied with the term and felt that trying to define the term is mired in difficulty. The use of the term “exceptional” also makes it difficult to describe the rest of the students in an acceptable way. Unexceptional, mainstream, average and “the rest” are all problematic. Because there are so many problems with the term “exceptional” and its manifestations in sections 11 and 12 of the *Education Act*, I am recommending that the term “exceptional student” be dropped through the changes proposed to sections 11 and 12 of the *Education Act*. The broad interpretation of inclusion advocated in Deliverable 1 should include what are currently described as “exceptional students” and to the extent that the exceptionality could also be described as a “disability,” these students would also be protected under the *Charter of Rights and Freedoms* and the *New Brunswick Human Rights Act*. The hard fought gains made on behalf of the disabled will not be diminished by abandoning the subset of exceptional students. In my view, it is a term which has outlived its usefulness.

### Recommendation 6: Exceptional Student

**6. It is recommended that the term “exceptional student” be deleted from the *New Brunswick Education Act* through the proposed changes to sections 11 and 12 of the *Act* which follow.**

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<sup>162</sup> Within New Brunswick this restricted subset includes those students whose “behavioral, communicational, intellectual, physical, perceptual, or multiple exceptionality...are contributing to delayed educational development.” This section was highly criticized in all of the consultation sessions as being far too narrow. That there are many children with support needs who don’t fit the definition, mostly due to the clause “delayed educational development”. It was noted that many who do fit the definition do not receive service because of a lack of resources.

<sup>163</sup> See Phase 1 Part IV (A) “Legislation”.

## **STATUTORY CHANGES TO SECTIONS 11 AND 12 OF THE *EDUCATION ACT***

The responsibilities placed on the superintendent by sections 11 and 12 of the *Education Act* create a possible conflict with the superintendent's financial responsibilities as the chief executive officer of the school district under section 47(2). In an effort to provide adequate services to all students and balance the books, there would be a tendency to define the range of exceptional students narrowly. In addition, the superintendent is removed from the school context and is not ideally situated to make highly individualized decisions such as those related to placement and service delivery. It was noted in the consultation sessions pursuant to this Review that the superintendent generally delegates this decision making. The roles of the superintendent and others involved in the process should be clarified and the statute should more closely reflect the reality. The highly sensitive and subjective nature of the decisions under sections 11 and 12 are difficult. The degree of individualization that is involved, together with the importance of the local context favour decision making at the local level. The significant budget implication of these decisions and the need for consistency favour more centralized decision making. The importance and legal implications of these decisions suggest specific regulations, particularly if the decision making is to be consistent.

This area is one of those that raise questions about which level of decision making – provincial, district or local school – is best placed to define the students in need of intervention and extra supports. In Finland this is done at a local level and many of the support services are provided at the municipal level. However, this is done in the context of a clearly articulated national core curriculum and a broad national consensus on the goals of education. The recommended statutory preamble in Deliverable 1 and the definition of inclusive education are vital to guide this front line decision making, whether it is at the district or school level.

The decision making in many of these instances also involves other government departments, particularly if integrated service delivery and shared responsibility is adopted. The research and consultation process highlight that early intervention is a good practice, and that high quality early preventive services usually reduce the level of needs later on. This is a point born out by my October, 2005 trip to Finland where there is a significant investment in early intervention.

Both the research and consultation process revealed that the most effective planning for individual students is achieved in collaborative settings, where multiple service partners work together. The PATH<sup>164</sup> process was mentioned numerous times as an effective strategy.

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<sup>164</sup> Planning Alternative Tomorrows with Hope is a planning process developed by the Marsha Frost Center, Toronto.

Collaboration was defined in the Crucial Terms<sup>165</sup> project as a group of people who come together with an open and un-coerced attitude to plan for a student in need. The mandate of the team is to develop and monitor programming and goals for learners with disabilities, expanding beyond problem solving to consider the whole person. The team is characterized by shared responsibility and accountability as well as parity among members. This approach was primarily associated with inclusion of the disabled by the participants in the *Crucial Terms* project, although collaborative planning may be used to support any student.

Currently section 12 of the *Education Act* does not expressly support collaboration or shared responsibility in planning and providing services to students who have particular intervention needs. Some Department of Education policies and guidelines (in both the francophone and anglophone sectors) do support collaboration and the formal statement in the Support Services to Education Agreement also supports collaboration and shared responsibility. There are evidently breakdowns when it comes to implementation, many of which are addressed throughout the rest of the recommendations.

I was asked under Deliverable 2 to assess the legal formulation of “exceptional student” under section 12 of the *Education Act*. One conclusion is that the existing approach could do a much better job of promoting inclusive education, pro-active and preventative early intervention, collaboration, and shared responsibility.

One of the features in the following recommendations is the reference to universal service delivery programs. This type of service delivery is targeted to a particular issue, but the product is a service that is universally available, rather than delivered to an individual student. One-on-one tutoring or having a teacher assistant assigned to an individual student (in an individual plan), are examples of individual supports. Examples of universal service delivery are services designed to support students but which are assigned more generally.

The recent literacy teachers initiative in New Brunswick is an example of a universal service, if these services are available to any student who might need it without first designing an individual plan. Other universal supports include study buddies and tutorial group programs, homework hotline and homework clubs, and small group tutorials (See Appendix E and the background research). An example of a collaborative universal service was presented at our New Brunswick consultation sessions where healthy learners nurses and school principals collaborated with a municipality to create better recreation opportunities for older children.

My recent trip to Finland demonstrated that universal service delivery is a significant component of that country’s success on the PISA scores. Two of their interesting universal service initiatives are the guarantee for every child of a free

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<sup>165</sup> See Gary Bunch & Kevin Finnigan, Appendix E at p. 4.



and well balanced hot lunch, and free extra-curricular activities both before and after school hours, led by trained and competent staff. These two universal services alone have the potential to dramatically improve student welfare and well-being.

There are a number of individual student and universal service options in many areas. Many teams in New Brunswick have already begun compiling lists of various programs that they offer, some of which were submitted to this Review during the course of the consultation process. The recommendations that follow take the view that universal services offer an opportunity to meet student needs in a more inclusive way while offering some cost-benefit savings. Individualized and remedial programming and service delivery is very time and resource intensive. While we may never do away with the need for individualized or remedial programming, the more needs that can be serviced through universalized supports the fewer will be the number of students who will require an individual plan, and all of the work that comes with it.

Take for example the instance of a student who uses a wheelchair (assume for this example that this is the student's only disability) in a school that is not wheelchair accessible. In this school an individual student plan will have to be developed for every year that this student attends this school and many individual accommodations and considerations. In a school that is fully wheelchair accessible<sup>166</sup> in all of its design, the same student requires no individual planning or significantly less planning and every other student with the same needs also gets the same benefits. The needs of these physically disabled students are largely met by the universal design of the school. This is a good example of the need for systemic changes as well as individual accommodations to respond to the equality imperative, as discussed in the background legal framework part of this report.

Both the research and consultation processes highlighted the many benefits to an inclusive education system that focuses on early intervention and general welfare. Among those benefits are fewer problems later in life for these students as well as the saving of public resources in remediation, health, public safety, welfare, law enforcement and incarceration. One source indicates that for every percent increase in the adult literacy rate, there is a permanent 1.5% increase in the Gross Domestic Product.<sup>167</sup>

The process of changing the education system in New Brunswick must be phased in over a period of time. A phased in or gradual transition that takes

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<sup>166</sup> One community in New Brunswick has already learned the hard way that when preparing a school to be wheelchair accessible, the particular needs of children must be taken into account. See consultation summaries in Appendix M.

<sup>167</sup> Submitted by the Learning Disabilities Association of NB, source: Coulombe, S., Tremblay, J. and Marchand, S., 2004. *Literacy Scores, human capital and growth across 14 OECD countries*. Ottawa: Statistics Canada. and *The Promise and Problem of Literacy for Canada: An Agenda for Action* -Canadian Education Association, 2004

account of all of the perspectives and people who will be affected by that change is very important. This point is reinforced in our background research.<sup>168</sup>

In addition to recognizing that the process of change can be slow, it is also important to recognize that we do not live in a perfect world where there are adequate resources to meet all students' needs. Tough choices have to be made about the allocation of scarce resources and, while I advocate a significantly increased investment in education, there will still be limits. Resource allocation must not be discriminatory, and students with particular challenges must be accommodated up to the point of undue hardship, as mandated by the *Charter of Rights* and the *New Brunswick Human Rights Act*.

However, there are legitimate points of undue hardship that can prevent the full accommodation of students with diverse challenges, be they in the form of a disability or some other aspect of diversity. The limits of reasonable accommodation for students with disabilities are discussed in more detail later, but I want to emphasize that the justifications based upon undue hardship also apply beyond disability as well. In the proposed statutory and regulatory provisions which follow I attempt to identify some of the factors that can be legitimately considered when the reality of reasonably available resources require the denial of a request for supports. Included among these factors are cost, safety and health as applied in the school context, and also the impact that a decision to provide supports or integrate a particular child into the regular classroom would have on the class as a whole. Many of these impacts would be positive and improve the educational experience of all students, but some could be negative. Whenever possible, changes should be made to include all students in the regular educational experience, but one size does not fit all. Sometimes the price of full integration with the necessary supports is too high and does impose an undue hardship.

Many components of this proposal are affected by human resource issues and integrated service delivery issues addressed in Deliverable 3. Many of these issues are far more pressing priorities than amending sections 11 and 12 of the *Education Act*. Much of the content of any new section 11 and 12 also depends heavily on how Deliverable 3 is implemented.

I am recommending that the changes to the *Education Act* take place after many of the other more pressing recommendations have had a chance to produce results. At this point, the system will be more prepared to meet the statutory standards proposed in the revised sections of the Act.

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<sup>168</sup> Chriss, Walther -Thomas, *Collaboration for Inclusive Education: Developing Successful Programs*. See Appendix E at 32-36.

**Recommendation 7: Statutory Changes to Sections 11 and 12 of the *Education Act***

**7(a)** After the first five years of implementation of this report's recommendations, or earlier if it is feasible, the Minister of Education should amend sections 11 and 12 of the *Education Act* as follows:

**7(b)** Section 11 should designate the principal or school strategic team to make the decisions concerning the placement of pupils at the school level. Where a placement decision is made for an individual pupil, section 11 should require that it be done in accordance with the planning process set out in section 12 as well as the regulations, policies and guidelines of the Department of Education and the District Education Councils. Although the principal and relevant school officials must operate within the general supervision of the superintendent, the above duties should be primarily delegated to the principal and school officials.

**7(c)** The current section 12 should be replaced with the following or a similar section depending on how Deliverable 3 recommendations are implemented:

- **12(1)(a)** In support of the Preamble to this Act, and in accordance with any relevant regulations, policies and guidelines, each superintendent shall ensure that the planning and implementation process set out in section 12 is followed in schools of that district. Each superintendent shall ensure that the process strive to produce the best possible reasonable outcomes given the available resources, and the educational needs of all of the students.
- **12(1)(b)** In support of the Preamble to this Act, and in accordance with any relevant regulations, policies and guidelines, decision makers under section 12 shall strive to implement appropriate supports and service delivery to promote the student's development and deliver them in such a way that the student's program is normalized as much as possible in a classroom, a school, community multi-use facility, or any combination of these that supports the best interests of the student, having due regard for the needs of other students.

**"Normalized"** means that programs and planning for students who require additional planning and/or support should ensure that they feel that they belong, they are valued, they have opportunity to interact and participate with their peers, and they have opportunity to develop meaningful relationships in the school and the wider community.

**“Community multi-use facility” means a facility that provides health and community support services to a wide variety of people in the community.**

- **12(2)(a) Where the relevant school strategic student services team**
  - (i) after assessing a student’s needs and the universal services and student supports currently available; and**
  - (ii) after consulting with qualified persons; and**
  - (iii) after consulting with the parents or guardians**

**determines that a student is a “student who requires additional planning and/or support”, that person shall be a student who requires additional planning and/or support for the purposes of this Act.**

**“Strategic student services team” means, a team of people at each school who would be appropriate persons to help plan for the individual student. Some members of the team would be permanent (such as a principal and resource teacher), others might be flexible and necessitated by the individual circumstances. This may include a teacher, guidance counselor, teacher assistant or student attendant, or another member of the school staff who knows the student and has developed a relationship with the student.**

**“Qualified persons” means, persons with professional or practical experience and insight into the challenges faced by the student in question.**

- **12(2)(b) A student who requires additional planning and / or support means a student whose opportunities to succeed, to achieve his or her potential, and to be included in school are deemed such as to require individualized planning and/or specific on-going or short-term interventions, accommodations, and/or other supports from teachers, other professionals or para-professionals.**
- **12(2)(c) A student who requires additional planning and/or support is entitled to that planning and support once school personnel become aware of the need, having due regard to what is feasible in all the circumstances. All circumstances include the reasonably available human and financial resources and the**

**impacts (if any) of providing these supports on the education of all students in the system.**

- **12(3) The relevant strategic student services team will conduct the planning process in accordance with the regulations.**
- **12(4) A decision made by a school's strategic student service team under this section shall be made:**
  - (a) subject to any regulations and policies of the Minister,**
  - (b) subject to any policies and directives of the District Education Council,**
  - (c) only with respect to pupils who are enrolled in that school.**

## **PLANNING PROCESS REGULATIONS**

After collaboration with her Cabinet colleagues on the set up of an integrated service delivery model, the Minister of Education should enact regulations directing the implementation of the section 12 individual student planning process pursuant to the above proposed section 12(3). The regulations would provide some guarantees around the planning process and implement the integrated service delivery addressed in Deliverable 3. There are many variables that will go into shaping this regulation. Many of the outcomes are not foreseeable at this juncture. The following provides some language to consider and addresses some key issues in the planning process. Some of the content will depend on how Deliverable 3 recommendations are implemented.

### **Recommendation 8: Planning Process Regulations**

**8(a) The Minister should enact regulations pursuant to the proposed section 12(3). The following provides some language to consider recognizing that some of the content is dependent on how Deliverable 3 recommendations are implemented.**

**8(b) The planning process for students who require additional planning and / or support shall be referred to as an individual student planning process. The planning document resulting from this process shall be referred to as an Individual Student Plan or an Intervention Plan.**

**8(c) Prior to formalizing an Individual Student Plan or Intervention Plan, the planning process shall evaluate whether there are systemic or structural barriers, or a lack of universal programs that prevent a student from participating in school without the need for an Individual Student Plan or Intervention Plan or that increase some elements of the student's plan. If such barriers are identified, the planning process shall also produce**

recommendations for the School Improvement Plan required under section 28(2) of the *Education Act*.

8(d) The individual student planning process shall be conducted by the school strategic student services team and shall involve the student's parents, and the student as much as possible, as active participants by making the process accessible and inviting to them. The student planning process shall involve the district multi-disciplinary team and any government or community service provider, whenever it would be in the student's best interest to do so.

8(e) The district multi-disciplinary team means a permanent team of specialist professionals and district supervisors provided in cooperation with the Department of Education, the Department of Health and Wellness, the Department of Family and Community Services, and any other appropriate identified agencies. The team works with the strategic student services team at the school level to assist in assessing and planning for students who require additional planning and/or support. This team shall be responsible for coordinating integrated service delivery when the delivery of services involves more than one government department.

8(f) The Individual Student Plan or Intervention Plan will serve as the point of reference and accountability for all government and community service delivery agencies that take part in the planning process and that support the attainment of the goals of the plan. The Individual Student Plan or Intervention Plan shall be evaluated at least twice per year for its effectiveness and for the student's progress in reaching the identified goals.

8(g) In support of the Preamble to this Act, the Individual Student Plan or Intervention Plan of each student in need of additional planning and/or support will set goals and measures of achievement for the student as well as an action plan for achieving the set goals. The goals of the Individual Student Plan or Intervention Plan can be multi-faceted in nature addressing educational, behavioral, social, physical or other needs of the student.

8(h) In cases where a student is removed from a regular class or a school as part of their Individual Student Plan or Intervention Plan, or for reasons of class safety or the educational needs of the class, the following considerations should apply:

- The specific reasons for the removal
- The impact on the rest of the class if the student were to be kept in the classroom, and if the student were to be removed
- Responsibility for each component of the program, services, or care for this child once they leave the regular class

- The duration of the removal
- The effect of the removal on the advancement of the student's development
- How and when the child will rejoin the regular classroom

It should be noted that in many cases the removal of a student from the regular classroom for educational purposes can be a positive experience for that student, whether or not they have disabilities. The above considerations are designed to ensure that the best educational interests of all students are being considered.

8(i) Any decision to change a student's placement or suspend a student's privileges that is precipitated by ongoing disruptive behaviour or other difficulties should be preceded by a letter to parents indicating the nature of the ongoing difficulty and inviting an opportunity to collaborate in the appropriate response. This provision does not apply if the behaviour poses an immediate safety risk or results in significant class disruption. Contact with the parents in these cases would occur immediately after the fact.

8(j) The Individual Student Plan or Intervention Plan shall give due consideration to promoting "natural supports" by drawing on other students and opportunities in the community whenever appropriate, and would support the attainment of the goals of the Individual Student Plan or Intervention Plan and the values of the *Education Act* and regulations.

8(k) Appropriate professional and para-professional support personnel shall be utilized for the implementation of Individual Student Plans or Intervention Plans where necessary and where appropriate to do so. Decisions regarding the assignment of professional and para-professional supports to individual students as part of an Individual Student Plan or Intervention Plan shall be made by the district multi-disciplinary team in consultation with the school strategic student services team, the student and the student's parents, and in accordance with the best interests of the student. In all cases, due regard will be given to assigning reasonably available human and financial resources, and the impact of providing such supports on all of the students in the school and the district.

## **STUDENTS WITH DISABILITIES**

Specific reference to disabilities is notably absent from the above proposed section 12 of the *Education Act* and related regulations. By broadening the approach to inclusion, the focus on students with disabilities is removed. The system of student supports proposed above is still quite capable of responding to

the needs of those students currently served under section 12 and goes beyond the former section.

Naturally there are still questions about students with disabilities, in particular the extent of guarantees of service delivery and the school's responsibility to provide educational services in a non-discriminatory manner. First, what is a disability that is protected by the equality provisions of the *Charter of Rights* and human rights acts? Excerpts from the *Charter of Rights* and the *New Brunswick Human Rights Act* are provided in Appendix P.

A significant component of the courts' interpretation of these provisions includes the recognition that the construct of disability involves a social component that has no connection to an organic condition. This social component is the "socially constructed handicap" that results from able-bodied societal norms. The concept of the social element of disability is highly significant and underlies much of the analysis of the educational structure in the background research and Review. In the Supreme Court of Canada's words:

"the aim...is not only to eliminate discrimination against persons with handicaps; its goal is also to put an end to the 'social phenomenon of handicapping.'"<sup>169</sup>

The responsibility on social institutions to accommodate and include persons with disabilities is significant. Again, in the words of the Supreme Court of Canada, interpreting the equality guarantee in section 15 of the *Charter*:

Section 15(1) ensures that governments may not, intentionally or through a failure of appropriate accommodation, stigmatize the underlying physical or mental impairment, or attribute functional limitations to the individual that the underlying physical or mental impairment does not entail, or fail to recognize the added burdens which persons with disabilities may encounter in achieving self-fulfillment in a world relentlessly oriented to the able-bodied...<sup>170</sup>

## **Recommendation 9: Students with Disabilities**

**9. The Minister of Education should enact a regulation or create a policy in support of section 12 of the *Education Act*, capturing the following points:**

- **Students with Disabilities may be considered students in need of additional planning and/or support whenever the school strategic**

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<sup>169</sup> *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City)* [2000] 1 S.C.R. 665. per L'Heureux-Dube J.

<sup>170</sup> *Granovsky v. Canada (Minister of Employment and Immigration)* [2000] 1 S.C.R. 703.



student services team confirms that the students needs cannot be met through universal service delivery or other programs available, and the needs arise from a disability as defined under the *Charter of Rights and Freedoms* and/or the *New Brunswick Human Rights Act*.

- A student with significant or multiple disabilities who is considered “medically fragile” or in need of respite care may be a student who requires additional planning and/or support. Such a person should be reasonably accommodated somewhere within the Government service delivery system, and the education system is one option, but not the only one.
- The school’s responsibilities under the *Canadian Charter of Rights and Freedoms* and the *New Brunswick Human Rights Act* would likely be fulfilled if section 12 of the *Education Act* is followed in good faith and opportunities are provided for students with disabilities to reach their potential and to gain the skills they need to achieve self-determination and active participation in society.
- The legal interpretation of the *Charter* guarantee of equality requires a focus on reasonable accommodation of the disabled student in balance with the needs of the rest of the students, while also bearing in mind that no student’s potential can be determined ahead of time.

## **REASONABLE ACCOMMODATION AND UNDUE HARDSHIP**

Meeting the responsibility to reasonably accommodate students with disabilities can seem daunting. Courts and tribunals have given significant direction in this regard as well. The review of the law in the background research points out that the legal test for discrimination under human rights acts is “accommodation to the point of undue hardship”. The exact point of undue hardship is a matter of judicial interpretation. As was indicated in the legal framework component of the background report, the concept has been interpreted to mean that some hardship is reasonable, particularly where the system impedes accommodation or inclusion.

There is a significant threshold to meet in demonstrating that efforts have been made to accommodate a person with a disability. However, the threshold of undue hardship is attainable. Courts and tribunals have shown deference to governments where real fiscal constraints are a factor. They have also considered factors such as health, safety, significant impact on employee relations, and the size of the operation.

The legal interpretation of the Human Rights Act guarantees of service delivery without discrimination requires that students with disabilities be accommodated

up to the point of undue hardship. The courts have emphasized that some hardship is reasonable. Undue hardship may take the form of unreasonable accommodation, impossibility, serious risk to safety or health, or excessive cost. Other factors that go toward a finding undue hardship include<sup>171</sup>:

- interchangeability of work force and facilities;
- the size of the operation (in this case school district), which may influence the assessment of whether a given financial cost is undue;
- the ease with which the facilities can be adapted to the circumstances;
- where safety is at issue both the magnitude of the risk and the identity of those who bear it are relevant considerations;
- significant disruption of a collective agreement.

The union as well as the employer or service provider has a duty to accommodate and both the union and the person seeking accommodation has a duty to act reasonably in cooperation with an employer or service provider's efforts at accommodation. All parties must act reasonably.

More recently the Supreme Court of Canada considered again the factors that go into an assessment of undue hardship adding these factors<sup>172</sup>:

- Cost is a factor to be considered but "impressionistic evidence" of cost is not sufficient. Officials who rely on a cost defense must show serious thought and inquiry into the feasibility of a given accommodation.
- In a case where accommodation is flatly refused there must be some evidence to link the outright refusal of even the possibility of accommodation with an undue safety risk. The nature of the safety risk and the identity of who must bear the risk are relevant to the consideration.

Demonstrating that accommodation would be unreasonable and would constitute undue hardship, serious risk, or excessive cost, is possible. Courts and tribunals show deference to governments facing serious fiscal constraints. Evidence of long term planning to improve the accommodation and inclusion of children with disabilities will greatly assist in supporting a defense of reasonable accommodation up to the point of undue hardship. Recognizing the costs involved in accommodating some physical and mental disabilities, the development of a long term plan to improve inclusion and accessibility is both a good educational and legal strategy. One of the critical questions is whether the

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<sup>171</sup> *Central Alberta Dairy Pool*, per Wilson, J, as modified in *Central Okanagan School District #23 v. Renaud* (1992) 2 S.C.R. 970, at 974, per Sopinka J.

<sup>172</sup> *British Columbia (Superintendent of Motor Vehicles) v. Grismer* [1999] 3 S.C.R. 868.

person making the decision to exclude or not accommodate has explored all other reasonable and less discriminatory options.

In addition to the above discussion on undue hardship and accommodation, section 1 of the *Charter of Rights* (included in Appendix P) may offer guidance on the limits on equality rights – including accommodating those with disabilities. As part of the consideration of what constitutes “reasonable limits in a free and democratic society” the collective interests of the whole community can be considered. The burden of establishing either undue hardship or reasonable limits on equality rights rests with the person responding to the equality claim – be that a District Education Council, the government or a particular individual. The standard of proof is the balance of probabilities.

### **Recommendation 10: Reasonable Accommodation and Undue Hardship**

**10(a) The Minister of Education should prepare guidelines or policies on both the scope of disability and the justification standard of reasonable accommodation up to the point of undue hardship. These guidelines or policies should be prepared within one year of release of this report. The factors to be listed as relevant to demonstrating undue hardship include those in the following non-exhaustive list:**

- **Cost is a factor to be considered but “impressionistic evidence” of cost is not sufficient. Officials who rely on a cost defense must show serious thought and inquiry into the feasibility of a given accommodation;**
- **The health of any members of the school community or larger community;**
- **The safety of any member of the school community or larger community. Both the magnitude of the risk and the identity of those who would bear it are relevant;**
- **Interchangeability of work force and facilities;**
- **The size of the operation (in this case school district), which may influence the assessment of whether a given financial cost is undue;**
- **The ease with which the facilities can be adapted to the circumstances;**
- **Significant disruption of a collective agreement;**
- **The reasonable conduct of other parties such as the union and the person seeking accommodation;**

- The practicality and reasonableness of other less exclusionary options.

Under the section 1 reasonable limits provision of the *Charter of Rights* another factor that can be considered as a possible reasonable limit in equality (including in the form of accommodation), is the following:

- The collective learning environment for all the students in the class (impact on other students). The burden of establishing this limit on equality rights is the high one of “demonstrable justification,” rather than just the balance of probabilities, as is the case with the other factors above. The burden of proof is on the service provider denying the accommodation.

**10(b)** The District Education Councils in conjunction with the Minister of Education should arrange education and training sessions for district superintendents, directors of education, district student service supervisors, principals and any other relevant administrators on the above discussed issues of disability and reasonable accommodation. This training should occur within one year of the release of this report and be part of the development of guidelines and / or policies on disability and accommodation.

**10(c)** The District Education Councils (DEC) should report on their decisions in respect to the delivery of educational services (and particularly the use of the above guidelines) as well as the education sessions referred to immediately above, in the District Education Plans which they submit to the Minister of Education.

## **DELIVERABLE 3**

### **HUMAN RESOURCES AND PROFESSIONAL DEVELOPMENT**

#### **INTRODUCTION**

Having properly trained professionals performing well-defined and well coordinated roles is a key component of successfully implementing inclusive education. The dedication of personnel to doing a good job was evident in the consultation process. A tremendous variation in the effectiveness of personnel was also evident from the consultation process. Skilled and highly qualified people at all levels are the heart of a successful inclusive education system. The “people” who make up the human resources are crucial. The reference in the title to this report to “tapping our human potential” applies at all levels and this package of recommendations is crucial to this realization of potential within the educational staff at all levels. The following recommendations are designed to promote and sustain a commitment to having highly qualified staff who deliver excellent services within an inclusive framework. Some recommendations do have cost implications, but others involve a redefinition of roles and a different deployment of existing resources.

Within this section, covering recommendations 11 to 29, there are several different discussions on personnel to student ratios. Personnel to student ratios are only one indicator of service availability and I do encourage putting personnel ratios in context with other indicators such as waiting times. The ultimate question is the delivery of a more timely service.

The process of defining appropriate personnel to student ratios is mired in difficulty. Some professional associations do propose ideal ratios and these ratios are indicated where appropriate. It is also clear that the number of professionals needed may also be affected by the availability of para-professionals and other supports or services. In addition the actual current ratios in New Brunswick vary widely by school district, as school districts have flexibility in allocating their budgets. A particular district may decide to forego one budgetary item in order to hire more professionals or personnel. All of these considerations should be kept in mind throughout the following section. In particular, I recommend that, in any case where a school district has secured a professional to student ratio that is better than that recommended here, any implementation action pursuant to this report should not adversely affect that school district or that personnel ratio.

## **LEADERSHIP FOR INCLUSIVE EDUCATION**

Leadership within the educational system is a key component to realizing the goal of attracting and retaining excellent human resources and providing excellent service to promote inclusive education.

### **Recommendation 11: Leadership for Inclusive Education**

**11. The Minister of Education in collaboration with Department of Education staff should initiate a leadership development strategy that would target key positions within the education system, including from within the Department of Education staff, District Education Council members, district superintendents and directors of education, district student service supervisors, and principals, as well as others who may be identified.**

**This Leadership development strategy should involve developing and implementing hiring policies and practices that will ensure that people in key positions have sound knowledge of, and a commitment to implementing an effective and accountable inclusive education system within their area of responsibility.**

## **OUTSIDE SERVICE PROFESSIONALS**

The lack of access to appropriate professional services for individualized programs and therapies emerged as a significant theme during the consultation process in New Brunswick. Rural areas in both anglophone and francophone communities in particular have great difficulty attracting to their communities and retaining professionals such as speech language pathologists, audiologists, psychologists, social workers, occupational therapists, and physiotherapists. Attracting and retaining professionals who speak French is an additional difficulty among francophone communities. Wait times to see some professionals are reported to be long: some report waiting periods of six months to three years.

The Government of New Brunswick should strive for wait times of no more than three months for students to see a professional. The following recommendations should be phased in over three years or, at the most, five years. The location of outside service delivery provision and the government department to which these professionals are attached are also important considerations impacting on the effectiveness of service provision and the fluidity of services within the educational structure. This issue is further discussed under the “Integrated Service Delivery” section of these recommendations. Many variations were provided during the consultation process, summarized in Appendix M, proposing

that these professionals be housed and paid under a variety of different configurations.

On the complicated issue of ratios, there was not enough information available to suggest ratios on all categories and only in four categories were ideal ratios suggested by professional associations or government departments. There is also the thorny issue of different ratios in some professional categories in the francophone and anglophone sectors. For example, it is my understanding that the ratio for school psychologists in the francophone sector is far closer to the proposed ideal than the equivalent ratio in the anglophone sector. Thus, when one starts with an existing ratio that combines numbers from both linguistic sectors, advocating one target norm for both sectors may have different impacts in the two language sectors. For example, if the francophone sector is happy with their ratio of school psychologists, they could choose to use their equitable portion of the money assigned for psychologists toward attracting a French-speaking professional from another category – a significant problem identified in the consultations. The anglophone sector would, of course, use their allocation for school psychologists. There is also the complicating issue of the differences between urban and rural schools and the difficulties of attracting outside service professionals to rural areas and keeping them there. To some extent I will have to depend on the Government to implement these recommendations in a way that is equitable to both linguistic sectors. I shall return to these difficult issues of equity in funding on both a linguistic and urban / rural basis in Deliverable 5 which follows later in this report.

Given the magnitude of the many recommendations proposed in this Review, the Minister of Education should not attempt to change the departmental location and configuration of outside service professionals immediately. After five years this issue should be re-assessed to ensure that the most efficient and effective use of human resources is achieved.

## **Recommendation 12: Outside Service Professionals**

**12(a) The Minister of Education in collaboration with her Cabinet colleagues should strike an interdepartmental committee to identify the extent of shortages in the key outside professional services that interact with the education of students. The work of this committee would include analyzing the gap between existing and desired wait times and from this, quantify the needed human resources. The outside professional resources are listed later in this recommendation. This committee should be struck within six months of the release of this report, and the committee should complete its work within one year of its creation.**

**12(b) The Minister of Education in collaboration with her Cabinet colleagues should work to reduce wait times for professionals by**

developing a plan for attracting and retaining outside professionals that will result in an increase in their numbers in the province, and working toward improved ratios in as many areas as possible. The statistics and proposals in the following chart emerged from the consultations and provide some targets for consideration. The list may not be complete and there are gaps in the chart which should be filled in by Departmental officials as an early step in developing a plan.

#### KEY OUTSIDE SERVICE PROFESSIONALS<sup>173</sup>

PROFESSIONAL	CURRENT RATIO:	PROPOSED RATIO:	PROPOSED BY:
Speech-language pathologists	K-12 1:3767	1:1560	Department of Health & Wellness under QLA
School Psychologists	K-12 1:2027	1:1000	National Association of School Psychologists
Social workers	K-12 1:3719	1:3000	School Social Workers Assoc. of America
Nurses (RNA/LPN)	0	1:1400	Department of Education
Autism therapist	Not available	-	-
Mental health professionals	Not available	-	-
Physiotherapists	Not available	-	-
Occupational therapists	Not available	-	-
Audiologists	Not available	-	-

12(c) The Government of New Brunswick should allocate the necessary financial resources to attract, retain and increase the numbers of outside professional service providers within the province over a reasonable period of time. Progress in improving the professional to student ratios should be made during each year after the release of this report.

12(d) Recognizing the significant financial implications implicit in this increase in human resources but also recognizing how vital adequate outside resources are to the delivery of adequate integrated services, I recommend that the Government of New Brunswick establish an interdepartmental committee to design and implement a phased in

<sup>173</sup> This chart which is based on figures that are a little more than a year old, combines the numbers of professionals and students in both linguistic sectors in New Brunswick.



**approach to increasing the numbers and a focus on the most critical positions which, from my impressionistic analysis of the consultations, would include the following. The recommended ratio targets and selection of priority areas are not definitive, and should be a guide to the interdepartmental committee.**

**Speech-Language Pathologists: within one year reduce the ratio to 1:3000; within three years reduce the ratio to 1:2500; within five years reduce the ratio to 1:2000. After five years reassess the needs and the impact of other measures designed to reduce waiting times.**

**School Psychologists: within two years reduce the ratio to 1:1500; within five years reduce the ratio to 1:1000. After five years reassess the needs and the impact of other measures designed to reduce waiting times.**

**School Social Workers: within two years reduce the ratio to 1:3500; within five years reduce the ratio to 1:3000. After five years reassess the needs and the impact of other measures designed to reduce waiting times.**

**Nurses (RNA/LPN): within two years provide nurses to schools on a ratio of 1:3000; within five years 1:2000. After five years, reassess the needs and the impact of these increased human resources.**

**The ratios and availability of other specialized outside service professionals should be monitored in conjunction with wait times. In three years the Government should reassess these wait times and needs, once other measures designed to reduce waiting times have been implemented.**

**The Government should create this interdepartmental committee within one year of the release of this report, and the work of the committee should be completed within five years of its creation.**

**12(e) The Minister of Education in collaboration with Cabinet colleagues should add to the mandate of the above mentioned committee to develop a long term plan to alleviate the lack of access to outside support services. Consideration of the following strategies may reduce the cost of alleviating the lack of accessibility to outside service professionals.**

- Collaboration with universities and community colleges to promote the training of the human resources that are needed (e.g., medical degree program with Sherbrook University<sup>174</sup>).**

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<sup>174</sup> A partnership between the Université de Moncton and Sherbrook University to train medical doctors was mentioned at one of our August consultation sessions.

- **Seeking partnerships with the New Brunswick Community College, UNB College of Extended Learning and other colleges in the province to provide innovative para-professional courses. These institutions have campuses in several rural areas of the province.**
- **Becoming an active participant at job fairs to enhance recruitment in key identified sectors. Job fair participation at New Brunswick high schools, colleges and universities should also be emphasized.**
- **Training and encouraging the people already working and living in rural areas of New Brunswick where many of the shortages exist. This plan could include tuition rebates and tax incentives to encourage post-secondary accreditation and training.**
- **The Government of New Brunswick should ensure that rates of remuneration for these outside support professionals are commensurate with the rates offered in other areas of Canada.**
- **Collaboration with professionals in private practice to increase accessibility in areas where no person in the public system fills the position. The community colleges of New Brunswick should be consulted as they have proven to be a leader in creating partnerships with professionals in private practice.**
- **The use of technology to enhance access to professionals through teleconferencing and other strategies.**

**12(f) Recognizing the special problems of attracting and maintaining outside professionals in rural and especially francophone rural communities, the Government of New Brunswick should set aside a reasonable sum of money to address these problems and allocate the money in a way that reflects the different needs of the two linguistic sectors.**

## **COMMUNITY AUDIOLOGISTS**

During the consultations phase of this review, the importance of good acoustics in classrooms was emphasized in both written and oral briefs. The New Brunswick Association of Speech Language Pathologists and Audiologists (NBASLPA) not only submitted their brief (see summary of submitted recommendations in Phase 2 at pages 160 – 161) and made oral submissions but also provided FM systems for some of the consultation sessions. I was also able to observe classrooms with FM systems in place in an elementary school in Woodstock, New Brunswick. The value of these systems in improving communications and reducing stress is hard to refute. As so often is the case,

the main challenge will be cost and priority. I include this recommendation here not to give priority over other outside professionals, but to emphasize the important role they could play in improving education for all students.

### **Recommendation 13: Community Audiologists**

**13. The Government of New Brunswick should establish the role of community audiologist for designated regions of the province and allocate the financial resources needed to do the job. The role of the community audiologist would have to be developed in some appropriate policy form, and specific training would have to be provided to prepare these audiologists for their role in respect to the schools. The role of the audiologists in the schools could include but not be restricted to the following:**

- **Measuring acoustics in classrooms**
- **Education re: hearing / learning, classroom acoustics and FM systems**
- **Assessment and monitoring of FM systems**
- **Auditory processing disorders: assessment and rehabilitation, education on the effect of APD (Auditory Perception Disorders) on the learner in the classroom and subsequent recommendations for the student and teacher.**

### **CORE SKILLS, ATTITUDES AND KNOWLEDGE THAT PROMOTE INCLUSION**

Based on the background research<sup>175</sup> and the consultation process<sup>176</sup> the following list of optimal skills, attitudes and knowledge will help promote inclusive education within an integrated service delivery framework. This list applies to all personnel and professionals working with children and is considered to be in addition to those skills and knowledge that are more specific to the role or function of the personnel or outside professionals. This may well not be an exhaustive list, and may need to be modified on the basis of appropriate consultation, but it provides my best reflection of what emerged from the consultation.

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<sup>175</sup> Summarized at Phase 1 pp. 53 and 71-72 as well as in Appendices E and H.

<sup>176</sup> Phase 2.

## **Recommendation 14: Core Skills, Attitudes and Knowledge that Promote Inclusion**

**14(a) The Minister of Education should adopt in some appropriate policy form the following list, or appropriately modified list of optimal skills attitudes and knowledge which are critical to promoting an effective inclusive education system.**

**14(b) The Minister of Education should work with her Cabinet colleagues to ensure that these skills, attitudes, and knowledge permeate the Government's service delivery structures.**

**14(c) The Minister of Education should work with her Cabinet colleagues to ensure that these skills, attitudes and knowledge are part of pre-service training and in-service programs for all personnel working with children in the province.**

### **Skills:**

- **Cooperation**
- **Collaboration**
- **Flexibility**
- **Adaptability**
- **Creativity**
- **Team Work**
- **General computer and technological skills**

### **Attitudes:**

- **Cooperation**
- **A desire to continually improve, and for life long learning**
- **Openness to reflective practices**
- **Child centered focus and human empathy**
- **Sense of fairness and equality**
- **Openness to inclusive practices**
- **Cultural sensitivity**

### **Knowledge:**

- **A broad knowledge of child development.**
- **A broad awareness of the range of disabilities**
- **A broad awareness of dominant and minority cultures**
- **A knowledge of gifted learners**
- **Knowledge of assets and opportunities within their communities**
- **Knowledge of the philosophies and practices of inclusion**

## **TEACHER'S STATUTORY ROLE AND PUBLIC CONFIDENCE IN TEACHERS**

The content of professional development depends significantly on the effectiveness of clearly defining the roles of the personnel involved in the system. In the Phase 2 consultation process, the lack of clarity around many roles and responsibilities was identified as a significant barrier to smooth service provision and was a source of frustration within the educational system. The following recommendations are intended to clarify role definition and suggest appropriate professional development. Once again these recommendations are based upon the background research, consultations and my own experiences and reflections.

The role of the teacher is primarily to teach students and to manage their assigned classroom. Implicit in this role is responding proactively to the diversity of students who are in the classroom. Putting aside for a moment the question of students who require significant intervention in order to be present in school or to participate in the courses and programs, there is still a wide variety and diversity in the remaining student population. Inclusive education requires approaches that do justice to that variety and diversity.

Currently teachers in New Brunswick experience high rates of frustration and burnout. They report feeling that the expectations placed upon them are too high given the resources and supports that are available to them. Significant challenges also seem to arise during communications with some parents and students. These proposed recommendations address only some components of these issues, in particular the role of teachers and their preparation or training to fill that role. Many of the stresses that contribute to the above listed challenges for teachers will also be ameliorated by the complex interplay of several other recommendation areas of this Review.

The importance of promoting public trust in public school teachers cannot be underestimated. Many public school teachers are highly trained. Their expertise, experience and knowledge should be widely known and valued by the communities they serve. There are many competent and highly dedicated teachers operating within both language sectors in New Brunswick. There are also some teachers who do the minimum required to continue working in their jobs and who do not take pride in continually improving their knowledge and skills. The following proposed mechanism is intended to provide the opportunity for the community to get to know the teachers, their background and their training, thereby fostering trust and confidence. It is also a mechanism intended to encourage all teachers to continually improve their professional competencies, to participate in available training and professional development opportunities and to be proud of continually striving for excellence. At the October 2005 conference in Finland, pride in the teaching profession and respect for teachers in the broader community were identified as important contributors to Finland's very successful PISA scores.

The duties of a teacher are currently set out in the *Education Act* at section 27(1).

### **Recommendation 15: Teacher's Statutory Role**

**15(a)** The Minister of Education should change section 27(1)(b) to insert the phrase "*their potential and the*" so the section reads:

**"identifying and implementing learning and evaluation strategies that foster a positive learning environment aimed at helping each pupil achieve *his/her learning potential and the* prescribed learning outcomes,"**

**15(b)** The Minister of Education should change section 27(1)(d) to include the phrase "*cooperation, community*" so the section reads:

**"exemplifying and encouraging in each pupil the values of truth, justice, compassion, *cooperation, community*, and respect for all persons".**

**15(c)** The Minister of Education should change section 27(1)(f) to include the phrase "*and continually improving*" so the section reads:

**"maintaining *and continually improving* his or her professional competence"**

### **Recommendation 16: Public Confidence in Teachers**

**16.** To promote public confidence in the teaching profession and to highlight special competencies and professional development, the District Education Councils through their superintendents should maintain and potentially publish up to date information on the professional competencies of individual teachers (and other personnel), including on-going courses, accreditation or in-service training attended. This should be done in conjunction with the relevant teachers' associations and associations for other relevant staff, and the publication should only happen after investigating any possible privacy implications of such action.

### **SKILLS, ATTITUDES AND KNOWLEDGE FOR TEACHERS**

In addition to the core skills, attitudes and knowledge for all personnel identified earlier, teachers need specific skills, attitudes and knowledge to promote inclusion in the school and classroom. Based on the results of the consultation

process, many New Brunswick teachers do not currently possess the optimal sets of skills, attitudes, and knowledge to promote inclusion. A significant capacity to promote inclusion has developed in New Brunswick but more is needed.

A common refrain during the consultations with school personnel was the desire for more training and professional development. Based on the two subcontracted reviews of teacher education programs across the country (Appendices I and H) and the results of the consultation process, pre-service training programs are not adequately preparing personnel with the optimal skills, attitudes and knowledge to promote inclusion. The following recommendations are intended to promote the acquisition of the optimal skills, attitudes and knowledge among teachers both pre-service and in-service.

Section 29(a) (b) and (c) of the *Education Act* requires the Minister of Education to provide a system of teacher education. Since this teacher education is provided by independent universities which jealously guard their autonomy and an arms' length relationship with government, the precise role of the Minister and the Department of Education is a limited one. The vigorous teacher education programs in New Brunswick also prepare teachers for employment beyond the boundaries of the province, so it would be inappropriate to tie requirements too closely to those in New Brunswick. By agreements with some universities there is a special mission to educate New Brunswick teachers in addition to the broader mandate for those education faculties. There is a vital role for the Minister and the Department to inform, cooperate, and offer incentives with a view to assisting the post secondary teacher training institutions to better meet the pre-service needs of New Brunswick's teachers. This cooperative role should be expanded, while still respecting university autonomy and independence from government. This cooperation should begin with the critical selection of the appropriate students for teacher training.

### **Recommendation 17: Skills, Attitudes and Knowledge for Teachers**

**17(a) Working with the faculties of education (St. Thomas University, the University of New Brunswick, Université de Moncton, and Atlantic Baptist University) and the Meighen Centre, Mount Allison University, the Minister of Education should establish a specific requirement listing (both course work and practicum experience) that promotes the acquisition of the optimal skills, attitudes and knowledge to promote inclusion. This list should be included in regulation 2004-8 of the Minister's requirements for Teacher Certification.**

**17(b) The Minister of Education, through her appropriate Department officials, should offer incentives to the teacher training faculties or other related faculties, to encourage particular forms of professional**

development that promote inclusive education competencies and skills, as outlined earlier in these recommendations.

**17(c) The Minister of Education, through appropriate Departmental officials, should cooperate with and engage in a dialogue with teacher training faculties to develop the ideal qualifications needed for admission to programs of university teacher training and for recruiting the best possible candidates for teacher training in New Brunswick.**

**17(d) The Minister of Education should ensure that the province's system of teacher education promotes the optimal skills and knowledge in addition to other identified essential skills and knowledge for all teachers.**

**17(e) In entering agreements under section 29(b) of the Education Act, the Minister of Education should ensure that the terms and conditions stipulate that the following list or some modified form of it, include the optimal teacher skills and knowledge that promote inclusion.**

**Skills:**

- **Class management**
- **Proactive creation of a positive learning environment**
- **Inclusive pedagogy, community building and other skills of inclusion<sup>177</sup>**
- **Ability to teach in a minority language context (at least for those in the francophone sector)**
- **Ability to actively engage parents and other partners**

**Attitudes:**

- **Openness to working in partnership with parents and community agencies, and others**
- **Professionalism**

**Knowledge**

- **A broad awareness of a variety of disabilities**
- **Knowledge of Autism, Learning Disabilities, ADD, ADHD, other disabilities and the many varieties of behavior difficulties<sup>178</sup>**
- **Knowledge about gifted learners and learning styles from different cultures**
- **Knowledge of technology tools**
- **Knowledge of a variety of teaching and evaluation methods that promote inclusion and achievement<sup>179</sup>**

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<sup>177</sup> See Appendix E.

<sup>178</sup> It should be noted that teachers would not be expected to be fully versed in all the ranges of disabilities but rather that they should have an opportunity to be exposed to them as part of



**17(f) In making the schools available for practice teaching under section 29(c) of the *Education Act*, the Minister of Education should ensure that practice teaching be evaluated in part on the basis of the above optimal skills, attitudes and knowledge. The Minister should also ensure that practice teachers are exposed to a variety of settings in which they may gain experience with as wide a variety of students as possible.**

**In support of this goal the Minister and her colleagues in collaboration with First Nations communities should discuss establishing, if it is feasible to do so, a mandatory rotation for student teachers at band operated schools in the province. This would provide additional support for First Nations communities and would provide a broadened experience for new teachers.**

## **TRAINING VOCATIONAL TEACHERS**

As will be apparent in future recommendations, I advocate a return to more vocational options for all students – not just those with disabilities or other possible learning challenges. This vocational stream should not be simply a return to the previous vocational school model, but a creative new one designed to promote marketable skills and to fill voids in the existing job market. This will require an assessment of which skills, knowledge and attitudes would be most appropriate for vocational teachers in an inclusive educational context. This will also involve discussions with, and ultimately funding of, New Brunswick's community colleges and universities to provide qualified vocational teachers for the system. There should also be the exploration of creative options for involving the New Brunswick business sector in both its public and private forms.

### **Recommendation 18: Training Vocational Teachers**

**18(a) The Minister of Education should strike a committee of relevant Education Department officials, university and community college representatives, and members of the business sector to devise a model for training vocational teachers for a revamped vocational structure.**

**18(b) The Minister should ensure that the above committee either address the design, structure and curriculum of the vocational program, or work closely with a body given the mandate to design the revamped vocational program.**

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teacher education. The recommended increase in the range and number of consultants in the section on educational service delivery could also provide a professional development resource for acquainting teachers with the growing range of learning challenges.

<sup>179</sup> See Appendix E.

**18(c) The Government of New Brunswick should set aside adequate resources for the training of vocational teachers to serve the province of New Brunswick. These programs of vocational teacher training should be phased in over the next three to five years, depending upon resources and other reasonable constraints.**

## **IN-SERVICE PROFESSIONAL DEVELOPMENT**

In-service professional development for teachers is critical to ensure the development among teachers of a culture of inclusion, and to increase the competence and capacity of teachers to deliver inclusive education. These programs should also promote what Finland refers to as “reflective teaching” – an approach that requires teachers to model the critical thinking and problem solving that they teach.

In service training is particularly important in light of the looming baby boomer retirements and the growing number of young people in the teaching profession. There also seems to be considerable concern about the extent to which pre-service university training prepares teachers to deal with the challenges of inclusion, behavior management and working in teams. Given limited resources, the in-servicing should be strategic and focused, and offered in a coordinated and coherent fashion. Included among the topics for in-service sessions for the next three to five years in New Brunswick should include the better implementation of inclusion, and responding to the growing challenges of diversity in the province. This will be an important component in developing an education system that can respond to a larger immigrant population, an Aboriginal population, and diversity generally.

### **Recommendation 19: In-service Professional Development**

**19(a) The Minister of Education should continue to provide for regular learning, sharing and networking opportunities dedicated to promoting inclusive education and excellent service provision to students in need of additional planning and /or support. These opportunities can be on a school wide, district wide and province wide basis where personnel come together to dialogue, share successful strategies and discuss difficulties.**

**19(b) The Minister of Education should encourage districts and schools to expand teacher mentoring programs, including drawing on retired teachers where it would be appropriate. utilizing and building on money earmarked in the 2005 – 2006 budget for this kind of mentoring.**

**19(c) The Minister of Education should increase the number of in-service days at a province-wide level by one day per year, and the District**

**Education Councils should increase the number of district-wide in-service days by one day per year for the purpose of building capacity for inclusion in New Brunswick.**

**19(d) The Minister of Education, in conjunction with her Cabinet colleagues, should set aside the necessary funding to allow for this increase in in-service training.**

**19(e) The New Brunswick Teachers Federation, as the bargaining agent for New Brunswick teachers, should make the addition of an in-service day to the teaching year (without extra cost to the province), an agenda item for the next round of collective bargaining. This could be only a temporary measure designed to assist the process of providing better trained staff for implementing inclusion in a more effective way.**

**19(f) The Minister of Education in conjunction with the District Education Councils should develop a strategic plan for developing and increasing the capacity for inclusion and excellence in service provision among the province's education professionals. Drawing on the background research and the consultation process, Appendix Q provides some preliminary ideas, content and focus for this strategic professional development plan.**

**It is recommended that the strategic in-servicing in the implementation of inclusive education in New Brunswick should start with principals and other key administrators, so they can provide the leadership on inclusion. This has been identified as vital during these consultations.**

**19(g) The above strategic plan should include staff at First Nations band operated schools in training and professional development opportunities.**

**19(h) The Minister of Education, working with the province's universities, should explore the development of an on-line learning environment for inclusive education. These courses and programs could be designed for the range of education professionals and para-professionals across the province. A combination of on-line courses and summer or week-end institutes is recommended as the most efficient and affordable model for the province.**

**An interested university could develop and maintain the site, or the Department of Education's E-learning department, including their newly developed Portal for Educators or the WebCT environment (where distance education high school courses are currently delivered) could be used.**

**19(i) The Government of New Brunswick should grant tuition rebates or tax refunds for teachers who undertake advanced study (on a full or part time basis) in areas of study devoted to special education or inclusive**

education, or Aboriginal education. These Masters trained teachers could then act as mentors<sup>180</sup> and assist in training other teachers.

## **ROLE AND PROFESSIONAL DEVELOPMENT OF PRINCIPALS**

The research and consultation sessions confirmed that the principal plays a key role in the implementation of inclusion and supporting an atmosphere of cooperation and community in the school. Given the important role and function of the principal in the implementation of inclusion, the training and professional development of personnel in this position is critical. Please see Appendix Q for more specific suggestions regarding professional development for principals.

The duties of the principal in a school are currently set out at section 28(1) and (2) of the *Education Act*.

### **Recommendation 20: Role and Professional Development of Principals**

**20(a) The Minister of Education should amend the duties of the principal in section 28(1) by changing section 28(1)(b) to 28(1)(c) and by adding as section 28(1)(b) the following section, or a similar section:**

**“as the educational leader of the school, is responsible for the implementation of inclusion and for setting the tone of team work, cooperation, and a positive attitude toward all students in the school.”**

**20(b) The Minister of Education should enact a regulation similar to the Teacher Certification regulation for establishing the requirements for a Principal’s Certificate<sup>181</sup>. This regulation should establish the importance of the following skills, attitudes and knowledge that promote inclusion (in addition to other skills and knowledge necessary for the role of principal)<sup>182</sup>.**

#### **Skills:**

- **Ability to engage community partners for the benefit of the school and all its students**
- **Ability to engage parents as partners in education**
- **Ability to set the tone for team work, cooperation and**

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<sup>180</sup> This could be an extension of the existing teacher mentorship program in New Brunswick, whereby more senior teachers assist beginning teachers.

<sup>181</sup> This would be an extension of the existing Principal Certificate Program, which operates on a modest and informal basis.

<sup>182</sup> No principal is expected to have a full level of competence in all of the items in the following list, but he or she should broadly fit the profile.

**inclusion among the school's staff and students**

- **Ability to mediate and engage in non-confrontational conflict resolution**

**Attitudes:**

- **A positive attitude toward all students**
- **An appreciation for diversity and inclusion**

**Knowledge:**

- **Knowledge of the community's assets and agencies**
- **A broad awareness of a variety of disabilities**
- **Knowledge of autism, Learning Disabilities, ADD, ADHD, behavior difficulties, and other learning challenges**
- **Knowledge about gifted learners and learning styles from different cultures**
- **Knowledge of technology**
- **Knowledge of a variety of teaching and evaluation methods that promote inclusion and achievement<sup>183</sup>**
- **Knowledge of a variety of strategies for behavior management**

## **ROLE AND PROFESSIONAL DEVELOPMENT OF RESOURCE TEACHERS**

Currently this position is funded under special education in the anglophone sector and under "adaptation scolaire" in the francophone sector. These teachers are used to perform all tasks associated with specialized instruction as well as planning, meeting and coordinating. Based on the consultation process, it appears that few resource teachers have a Masters level of qualification. There is a high burnout rate, resulting in a high turnover of staff.

Currently resource teachers' main duties are facilitating the individual intervention planning process and directly teaching students in difficulty. The tension between these two roles can be a source of stress for resource teachers. The pressures of these dual (and sometimes competing roles) will be ameliorated by the outcomes from many of the recommendations throughout this report.

Resource teachers engage in teaching students in a "pull out" from regular classroom approach. This approach may continue to be useful for the resource teacher or other support personnel within an inclusive framework, although it would have to be approached within the context of the process set out in Deliverable 2. In cases where a resource teacher works with small groups of

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<sup>183</sup> See Appendix E.

children, care should be used to ensure that they are groups with similar needs and that benefit can be derived from the small group setting.

The Minister of Education has recently hired teachers to specialize in literacy. Essentially, these individuals are used as resource teachers with a specialty area. It may prove beneficial to encourage this kind of specialization and development of expertise. It is clear that resource teachers cannot be experts in every area. As stated in previous recommendations relating to integrated service delivery, the resource teacher position is best implemented in the context of a collaborative framework for ensuring access to experts where needed.

In addition to the core skills, attitudes and knowledge listed above and any other general skills identified for the resource teacher position, resource teachers need the skills (indicated in the following recommendation) to promote inclusion. In the course of this review resource teachers have been identified as critical players in the process of inclusion and they should be well trained, increased in numbers, and encouraged to remain in their jobs. The critical nature of this role warrants a high priority on incentives to encourage current resource teachers or teachers to participate in training and professional development through tax incentives and tuition rebates as recommended earlier, and advocated in other provinces.

### **Recommendation 21: Role and Professional Development of Resource Teachers**

**21(a) The Minister of Education should establish a plan to ensure appropriate training and professional development of resource teachers, in accordance with the following indicated competencies or some reasonable modification of them, and articulate these competencies in some appropriate policy form.**

#### **Skills:**

- **The ability to create a positive climate and relationships**
- **The ability to make appropriate initial determinations of student needs, referring students with extensive needs or more complex difficulties to a collaborative team where necessary**
- **Skills in operating and teaching the use of a variety of assistive technology devices. The ability to assist students in determining their need of assistive technology devices**
- **Skills in developing objective and measurable goals for a variety of student needs**
- **The ability to actively engage parents and other partners**

**Attitudes:**

- **Child centered approach**
- **Openness to a broad view of inclusion as demonstrated by working to ensure appropriate space for each student in the school's learning community**
- **Openness, non-judgmental toward students**

**Knowledge:**

- **Knowledge of a variety of teaching and evaluation strategies that promote inclusion and all students reaching their potential<sup>184</sup>**
- **Knowledge of a range of disabilities as well as the nature of learning among the gifted**
- **Knowledge and use of various pedagogies and evaluation methods**
- **Knowledge of child development, learning development, learning skills and strategies, test taking skills and strategies**

**21(b) The Minister of Education should engage in direct discussions and negotiations with Mount Allison University and the Meighen Centre for Learning Assistance and Research<sup>185</sup> at Mount Allison with a view to establishing a funded, graduate level program to deliver a made-in-New Brunswick graduate degree in inclusive education.**

**21(c) The Minister of Education should also engage in direct discussions with the Université de Moncton with a view to expanding its funded graduate level program to deliver a made-in-New Brunswick graduate degree in inclusive education. Consideration should also be given to linking the proposed programs at Mount Allison and the Université de Moncton.**

**21(d) The Minister of Education should evaluate the remuneration of resource teachers in the province to ensure that it is commensurate with the level of qualifications expected and the level of responsibility in the job, and is comparable to similar jobs elsewhere. This must be done in accordance with the relevant collective agreements.**

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<sup>184</sup> See Appendix E.

<sup>185</sup> The Meighen Centre at Mount Allison University is a nationally recognized research and resource centre for training and development in learning disabilities at the elementary, secondary and post-secondary levels. The Meighen Centre is well positioned to work with other post-secondary institutions, as well as directly with Department of Education officials, school districts and individual schools in the delivery of in-service training programs for inclusive education, learning strategies, exceptionalities, parent and community education, research programs and monitoring.

**21(e) Within six months of receiving this report, the Minister of Education should create a committee to conduct an inquiry into the need for resource teachers in each district and the available human resources. The committee should complete its mandate within six months of its creation.**

**21(f) Based upon this inquiry, the Minister of Education should improve the ratio of resource teachers to students from the current ratio of 1:238 (K-8) and 1:325 (9-12). There may be some variations in these ratios between the anglophone and francophone sectors. Subject to financial resources the increase in the number of resource teachers should be phased in as follows:**

- In the first year after the release of this report reduce the ratio in K - 8 to 1:200**
- Within three years of the release of this report reduce the ratio in 9 – 12 to 1:300**
- Within four years of the release of this report reduce the ratio in K – 8 to 1:180**
- Within six years of the release of this report reduce the ratio in 9 – 12 to 1:275**

**Once again the precise form of improvement in ratios might vary somewhat between the anglophone and francophone sectors of education. Any proposed changes should always result in improved ratios.**

**21(g) The Minister of Education in conjunction with her Cabinet colleagues should set aside the financial resources to pay for this increase in resource teachers and their proper professional development for these critical components of the education system. The increase in numbers should be phased in over a six year period.**

## **THE ROLE AND PROFESSIONAL DEVELOPMENT OF GUIDANCE COUNSELLORS**

One of the many issues identified in the consultation sessions was the importance of transitions within the education system. Transitions from elementary to junior and to senior schooling, and to post-secondary education and the workforce can be problematic for any student, but especially so for students with disabilities or other learning challenges. Guidance counselors could assist with these transitions as well as provide needed supports on academic, social and psychological issues on an individual and school wide basis. The number of guidance counselors has been declining and the problem is particularly acute in the smaller and more rural areas of New Brunswick.



Guidance counselors play an important role within the school system and are important to effective implementation of inclusive education.

### **Recommendation 22: Role and Professional Development of Guidance Counselors**

**22(a) According to Department of Education sources the current ratio of guidance counselors is 1:787 (K-12). The Minister of Education should reduce this ratio to 1:700 within three years and 1:500 within six years.**

**22(b) The Minister of Education should assign guidance counselors to grades K-8 as well as 9 - 12 in the anglophone and francophone sectors.**

**22(c) Adequate pre-service and in-service training should be made available to guidance counselors and the Minister of Education should facilitate this in terms of financial resources and cooperation with relevant institutions and associations.**

## **THE ROLE AND PROFESSIONAL DEVELOPMENT OF TEACHER ASSISTANTS**

This position currently seems to be used to perform almost any task having to do with exceptional students or students with a disability, including many tasks related to supporting students' health care and other physical needs. The following proposal envisions a much more limited role for the teacher assistant (TA), more in line with a teacher assistant's training and remuneration. Teacher assistants, as the name suggests, should primarily assist the teacher in the delivery of education. It became apparent in the consultation sessions that there was a strong desire among TAs to have more opportunities to learn and become better prepared for their jobs.

Dissatisfaction with the high turnover among TAs was strongly conveyed during the consultation process. The "bumping" or "job opportunity day" provisions under the current collective bargaining agreement create a significant amount of job instability and lost resources in training and re-training personnel. Concerns were also expressed about the working conditions for teacher assistants including concerns about aggressive and violent behaviour that can result in injury to personnel. More details are provided in the written submission from CUPE and the summaries in the compilation of recommendations in Phase 2 at pages 62 – 64 and the summary of consultations in Appendix M. To some extent the provision of TAs can be a quick fix for parental concerns, but one that is not always the best for promoting inclusive education. These people play an important role but they are not a substitute for teachers or other trained professionals.

## **Recommendation 23: The Role and Professional Development of Teacher Assistants (TAs)**

**23(a) The Minister of Education should create and publish role statements and position descriptions for teacher assistants in some appropriate policy form. A teacher assistant should not be assigned to an individual student. Their tasks should not be expressly organized around an exceptional student or special education service provision.**

**Appropriate typical tasks should include the following:**

- **Leading activities with small groups of students under the direction of a teacher**
- **Activities that support a teacher**
- **Good student role modeling (see Appendix E)**
- **Monitoring and supervision during testing, recreation, lunch, etc.**
- **Other tasks that support the general functioning of the school or classroom as directed by a teacher or the principal**
- **Participating as a member of school strategic teams**

**23(b) Working with the community colleges in the province, the Minister of Education should establish specific course requirements for teacher assistants. These course requirements would outline appropriate courses and standards to prepare TAs for their role and to promote inclusion in schools.**

**23(c) The Minister of Education should ensure that the above mentioned courses and other relevant courses are made available to teacher assistants in both a pre-service and in-service basis. The Minister should also work with the relevant CUPE union locals to ensure that the time and resources are available for professional development.**

**23(d) The Minister of Education in collaboration with the human resources team should work with the CUPE union on the “bumping” provisions of the current collective bargaining agreement to provide stability and security for all involved. Given the discussions about this issue during the consultation process this initiative should also involve the Minister of Education working in collaboration with superintendents and district personnel to create stability in teacher assistant hours.**

**As part of the above discussions and negotiations, serious consideration should be given to giving TAs full time hours, which would not only reduce the problem of “bumping”, but would also allow teacher assistants to be part of the school strategic teams.**

**23(e) The Minister of Education should engage in ongoing dialogue with the CUPE union representing teacher assistants to explore issues of working conditions. Among working condition issues are role definition and liability for some of the medically related procedures performed by TAs in the schools. In addition, the safety of TAs who are asked to work alone with students displaying aggressive behaviour or who have a violent history is a significant concern. As part of this dialogue with CUPE, consideration should also be given to the responsibility of the school system in managing these risks.**

## **THE ROLE OF THE STUDENT ATTENDANT**

This position nominally exists in New Brunswick but does not appear to be used regularly. This position is made up of personnel whose main function is to attend to students who need intensive one-on-one assistance in order to be physically present in the school. Teacher assistants currently fill these needs in many cases.

Student attendants are assigned to individual students who require assistance with things such as toileting, tube feeding, suction, glucose monitoring, or other individual specialized support in order to participate in the school or community. Training of the student attendant is required if these services are to be provided in a way that maintains the dignity of the student and promotes inclusion in the school. We were told by the CUPE Union representing the TAs that these teacher assistants who currently perform these types of duties have little or no training. This jeopardizes both safety and inclusion. Many people expressed a significant discomfort with the current situation.

For students with disabilities who require the services of a student attendant, delivery of a high quality service early on can reduce the intensity of the service required at a later date. An appropriate job description, standards, training, and remuneration for student attendants will better ensure that these services are of a high quality and actively promote inclusion.

Whether this position is called student attendant or another name is a minor issue. Some participants at one consultation session thought that this position is similar to the “human services counselor” in the Department of Health and Wellness. Some felt that this title better emphasizes the need for respect and a professional approach to these tasks. Regardless of what the position is called, excellence in service provision and the promotion of inclusion should be the main focus of this position.

The person in this position should also be at least a part-time member of the planning team that sets out and evaluates the Individual Student Plan or

Intervention Plan. In a similar sense, Aboriginal support workers paid from band funds provide support services to Aboriginal students, and play an important role in helping Aboriginal students to achieve success and be valued members of the class. These Aboriginal support workers should also be part of the planning team when it deals with the students that they support.

In addition to the core skills, attitudes and knowledge listed earlier the student attendant should possess the skills, attitudes and knowledge referred to in the following recommendations. Aboriginal support workers who play a role more related to education than student attendants must have additional skills, including a knowledge of and sensitivity to Aboriginal culture.

Because these positions involve other departments such as Health and Wellness, Family and Community Services and the federal Department of Indian and Northern Affairs Canada, the following recommendations suggest that the Minister of Education act in collaboration with others.

#### **Recommendation 24: The Role of the Student Attendant**

**24(a) The Minister of Education in collaboration with her Cabinet colleagues should create and publish position descriptions, standards, training, and remuneration for student attendants in some appropriate policy form. In drafting these, consideration should be given to the following skill sets:**

##### **Skills:**

- **The ability to perform services that support the individual student's needs while promoting maximum independence and inclusion in the community**
- **The specific skills (toileting, tube feeding, suctioning, glucose monitoring, lifting, etc.) could be obtained through courses of study or modules in pre-service training or in-service components**
- **Attempts should be made to match up a student attendant's experience and training with the requirements of the particular student**

##### **Attitudes:**

- **Support for equality, dignity, and inclusion for all students**

##### **Knowledge:**

- **Knowledge of appropriate facilities, equipment and techniques for the performance of these support services**
- **Knowledge of the issues facing this clientele and barriers to their inclusion in the community**

**24(b) The Government of New Brunswick should create a mechanism for shared financial responsibility for these positions, following the recommendations in Deliverable 2: Exceptional Student and Deliverable 3: Integrated Service Delivery. Many students who require this kind of support will continue to have those needs through many transitions and beyond school boundaries. This is an appropriate human resource to be supported by shared financial responsibility.**

**24(c) The Minister of Education in collaboration with Cabinet colleagues and relevant employee representatives should establish measures that promote stability in these positions to allow for continuity of service provision for children requiring these support services.**

## **THE ROLE AND PROFESSIONAL DEVELOPMENT OF LIBRARIANS AND LIBRARY ASSISTANTS**

Librarians and library assistants play an important role in realizing the goals of inclusive education. Ensuring that library facilities and materials are accessible and inclusive is an on-going and highly valuable component of planning for inclusion. Materials that promote a positive image of disabilities and diversity, indeed materials that recognize disability and diversity (rather than simply making it invisible by failing to address it at all) are also important. The skills and attitudes needed to achieve this kind of development in libraries across the province are critical.

The Department of Education has begun a fruitful partnership with the province's public libraries. *The Quality Learning Agenda* (QLA) report *Believing in Achieving* boasts about the number of new library memberships that were taken out as a result of the initiatives. This is a great success and one that could be built upon. The public library system in New Brunswick is potentially an important partner in furthering the goals of inclusion and the *Quality Learning Agenda* in the province.

### **Recommendation 25: The Role and Professional Development of Librarians and Library Assistants**

**25(a) The Minister of Education should work in collaboration with the CUPE union to ensure that school librarians and library assistants have the information, skills, and attitudes necessary to further the goals of inclusion within school libraries.**

**25(b) The Department of Education should continue to develop its partnership with the provincial libraries, tapping the potential for increasing the inclusiveness of the province's libraries. Some initiatives might include exchange programs for alternate format materials and**

**measures to increase schools' access to up to date and interesting materials that promote inclusion.**

## **THE ROLE AND PROFESSIONAL DEVELOPMENT OF CUSTODIANS AND BUS DRIVERS**

The role of custodians and bus drivers in schools is also vital, though they may tend to be behind the scenes. Custodians and bus drivers play a significant role in school safety. The CUPE union representing custodians and bus drivers expressed concerns that many members do not have a sufficient understanding of the importance of their role and the measures needed to protect themselves when they are cleaning up bodily fluids. They also expressed concerns about dealing with behavioral issues exhibited by some students.

### **Recommendation 26: The Role and Professional Development of Custodians and Bus Drivers**

**26(a) The Minister of Education should work in collaboration with the CUPE union locals representing custodians and bus drivers to ensure that sufficient information and training is provided to custodians and bus drivers on the importance of the safe disposal of bodily fluids and other hazards they may encounter in their roles.**

**26(b) This collaboration between the Minister of Education and the CUPE union representing custodians and bus drivers should also address issues of violent and aggressive behaviour on the part of students, and the most effective responses that will serve the best interests of all students.**

**26(c) The above collaboration should also explore ways in which custodians and bus drivers could be further educated about the range of diverse learners in schools and the many challenging conditions that may affect how students behave.**

## **THE ROLE OF MEDICAL STAFF (NURSES)**

Concerns were expressed during the consultations about student assistants and/or teacher assistants performing medical procedures on students. Questions were raised about their competence to do those types of procedures, and the liability of those workers and the school system if a mistake is made. Many lamented the reduction in school nurses and some questioned the inclusion of students with severe medical conditions in the regular classroom setting. Students should not be denied access to education because of their medical

condition, but there are complex questions about what is the best setting within which to provide that education.

### **Recommendation 27: The Role of Medical Staff (Nurses)**

**27(a) The Minister of Education should establish a committee to examine the provision of medical services in schools, with a mandate to address the following:**

- 1. The definition of medical services, as opposed to educational services;**
- 2. The most appropriate educational setting for severely medically fragile students;**
- 3. The role and distribution of school nurses within the province;**
- 4. The role of student attendants and teacher assistants in providing medically related services;**
- 5. Liability for the current delivery of medical services in the province's schools.**

**This committee should report back to the Minister within one year of the release of this report.**

### **THE ROLE OF AUTISM SUPPORT WORKERS**

Currently no position dealing specifically with autism intervention exists in New Brunswick. Autism seems to be a disability that is growing. This growth is a significant concern for governments as the cost implications are tremendous. It is clear from the recent litigation on autism discussed in the background research that services specific to autism are necessary. As part of a provincial autism strategy, the role of an autism support worker should be developed with the input of the many advocacy groups who have an interest in autism, and with other professionals in the field. This support worker might work with an individual student or with small groups of autistic students. This person would most appropriately be assigned through the Individual Student Plan or Intervention Plan process as some students on the autism spectrum will need differing levels of intervention.

## **Recommendation 28: The Role of Autism Support Workers**

**28(a)** The Minister of Education, working with the Community College of New Brunswick, the College of Extended Learning, other appropriate post-secondary institutions and autism advocacy groups, should create courses and standards of care for those who will work with students with autism spectrum disorder. The Minister should consider the use of Applied Behavioral Analysis/ Intensive Behavioral Instruction (ABA/IBI) in the training program and standards of care for autistic students, though this should not be the only approach and should not be done in isolation.

**28(b)** The Minister of Education should create and publish policies setting out the job descriptions, qualifications, training, and the determination of the appropriate remuneration for autism support workers.

**28(c)** The Minister of Education, through appropriate departmental officials, should explore with the Atlantic Provinces Special Education Authority (APSEA) which services, if any, APSEA might be able to provide in respect to autism spectrum syndrome disorders, and whether contractual arrangements should be made for the provision of strategies such as ABA/IBI or other total communication strategies.

**28(d)** If these services are not available in French, and hence not appropriate for the francophone sector, the Minister of Education should explore other options for providing equivalent services in that sector.

## **THE ROLE OF BEHAVIOUR INTERVENTION WORKERS**

Currently funding for these positions appears to have been added through the Positive Learning Environment initiative. Reports about this initiative through the consultation process have indicated that it has been a worthwhile and effective initiative. Behaviour intervention workers have had a positive impact but these initiatives have not been sustained. Very few behaviour intervention workers still remain in the system.

Personnel working in the education system reported through our consultation process that behaviour problems are a major source of frustration and stress. Many people reported spending too much time dealing with behaviour problems in class and on crisis management. In addition it was remarked that crisis management is not formally part of anyone's job description.

The behaviour intervention worker's role would include being part of the intervention team for a student with behaviour difficulties as well as crisis management, mediation, dispute resolution, and safety supervision. They would



also be available to assist the teacher or principal in responding to crisis situations and help to plan preventative measures. They could be an important part of the response to violence in schools.

### **Recommendation 29: Behaviour Intervention Workers**

**29(a) The Minister of Education should recognize the important and unique role of behaviour intervention workers in schools by creating a dedicated personnel budget line in school districts' budgets for these positions, as well as defining an appropriate behaviour intervention worker to student ratio within a two year time period of the release of this report.**

**29(b) The Minister should work with school personnel and administrators as well as the province's accreditation institutions to delineate the roles and responsibilities of behaviour intervention workers and develop an appropriate accreditation program.**

**29(c) The Minister of Education should create and publish policies outlining the roles and responsibilities as well as competencies and qualifications for behaviour intervention workers. In doing so, she would take account of the following skill sets or reasonable modifications of them.**

#### **Skills:**

- **Effective positive behavioral support strategies**
- **Effective crisis management and crisis planning**
- **Non-violent crisis intervention, mediation and dispute resolution**
- **Ability to engage parents and students to work toward positive behaviour**

#### **Attitudes:**

- **Open to positive community relationships on a school wide basis**

#### **Knowledge:**

- **In-depth knowledge of child development and behaviour difficulties in particular.**
- **In-depth knowledge of techniques and implementation of positive behaviour support, non-violent crisis intervention, mediation, and dispute resolution**

## DELIVERABLE 3

### INTEGRATED SERVICE DELIVERY

#### INTRODUCTION AND CONTEXT

Education systems across Canada are struggling with the issue of integrated service delivery. The recognition of the connections between educational performance and underlying welfare issues of all kinds requires that teams of people plan for and deliver student services. There is a widespread desire for co-operation and for a smooth continuum of service. There is no clear answer or consensus about the best structure to achieve co-operation, or about which services from the continuum would support the goals of inclusive education. It also appears that the most appropriate administrative structure is heavily dependent upon the political and bureaucratic contexts of the particular province.

Across Canada a variety of models on various aspects of integrated service delivery have emerged, some of which are described briefly below. Further detail with regard to CAYAC and Saskatchewan's School<sup>plus</sup> model is provided in the background research and Appendix R, prepared for me by Cathy Thorburn.

The CAYAC (Children and Youth Action Committee) model is practiced in British Columbia and Nova Scotia. A more in depth analysis was done of the model as practiced in Nova Scotia. The CAYAC committees in Nova Scotia are composed of groups of high-level administrators who meet regularly and who create their agendas based on issues of common interest to both the regional and provincial levels. Their agendas deal with operational and systemic issues such as ensuring the alignment of policies in each of the different departments. CAYAC does not tend to address individual cases, and this committee in Nova Scotia recently collaborated to produce a report about the state of children's well being in the province.

An additional benefit from the CAYAC model is the "spin off" bi-lateral partnerships that began in CAYAC meetings but moved off to a bi-lateral or multi-lateral approach between or among departments. The only cost of the CAYAC model is the salary, benefits and supports of the CAYAC director, whose office rotates among the participating departments. Based on the experience in Nova Scotia, the effectiveness of the CAYAC model depends on having members with the required seniority to be able to commit the necessary resources.

Saskatchewan has a comprehensive approach to integrated service delivery with its School<sup>plus</sup> model. Some of this model's many significant benefits are elaborated on in Appendix R, prepared by Cathy Thorburn. In particular there are some innovative funding approaches, as well as a focus on services that are

school based or school linked. It is not clear whether it has been fully implemented throughout Saskatchewan. Based upon my November 21, 2005 visit to Saskatchewan, it does appear to have been implemented in a pared down form, with a reduced allocation of financial resources from those proposed by the original Task Force. At its heart, School<sup>plus</sup> appears to be an interdepartmental agreement. As a result of the Task Force Review School<sup>plus</sup> – *A Vision for Children and Youth 2001*, all ministers signed on as providers of integrated service delivery. Our research indicates that practices vary across the province. Although there are some very broad and useful concepts in the School<sup>plus</sup> Report and model, it seems that implementation with an inter-ministerial agreement has some limitations when it comes to front line implementation. Nonetheless, the Saskatchewan model appears to be the most collaborative and best coordinated. These positive impressions were reinforced by my visit to Saskatchewan in November.

While acknowledging that the Saskatchewan model is not perfect, Ms. Thorburn ranks the School<sup>plus</sup> model as the best one of the four she reviewed. She concludes on page 4 of the Appendix to her report:

Keeping the student with needs (an exceptional student under the current *Education Act*) at the center of the model is further enhanced by having a PPP (Pupil Program Plan) that begins as soon as the child is identified as a preschooler and plans for transition out of the public system to post secondary, workplace, etc.

The Figure 1 and 2 diagrams on pages 7 and 8 of the appendix to the Thorburn study emphasize the importance of the integrated service delivery model being student centered.

The limits of inter-ministerial agreements are emphasized in Appendix R by research detailing the approach taken by Newfoundland and Labrador. New Brunswick has experienced similar limitations with the Support Services to Education Agreement. One element of these limitations is the fact that multi-disciplinary teams that once existed as part of this Agreement are largely inactive or nonexistent. Newfoundland is described as being relatively rich in availability of outside professional resources, except in the most remote areas.

Although the vision and values of an inter-ministerial agreement could be articulated in a way which creates more shared responsibility than the current Support Services to Education Agreement in New Brunswick, its status as an inter-departmental agreement may not be sufficient to achieve the desired results. The model must also be student focused and easily accessed by students in need. This is also recognized in Manitoba's single entry approach.

The issue of mismatched regional boundaries presents additional problems for all the jurisdictions examined. This issue is very complex and one that is faced by every government across Canada. This was an issue identified by the people I met in Saskatchewan but one that they felt could be overcome with the appropriate political will. Our research as well as the consultation process revealed that when education officials in New Brunswick have to deal with more than one regional health and community services organization, and vice versa, frustration, loss of resources, and the inability to plan or collaborate effectively results. The Support Services to Education Agreement addresses the boundary issue by stating that if this should become a problem, then it will be addressed. However, this continues to be an ongoing impediment to effective integration of services in New Brunswick, and to my knowledge it has not been addressed.

Indeed education systems in the international context are also faced with the issue of how to achieve effective integrated service delivery. Although beyond the initial scope of this review, I did explore, albeit in a limited way, the education system in Finland. As mentioned in a previous section, the Government of Finland attributes the high scores of its students on the Organization of Economic and Cultural Development's PISA tests (Programme of International Standardized Assessment) to their comprehensive integrated service delivery model that focuses on child welfare as the foundation for learning. As part of this model, every student is entitled to a free, well-balanced meal. Free and well-supervised pre-school and after-school programs are provided in most localities. The Finland model focuses on putting high standards and a learning culture together with student welfare. This model, and their focus on weaker students, have contributed to their students' success on the PISA tests. The Finnish National Board of Education also boasts in its brochure that a multitude of new jobs have been created by the ten-year initiative. This job creation aspect of integrated service delivery is certainly attractive.

Another integral component of the Finland model is the Varpu project. The Varpu project offers a clear and worked out approach to assisting multi-professional and multi-disciplinary teams to be effective through the values of "respect for subjectivity, networking, resource orientation, and dialogism".<sup>186</sup> The model proposes a system of having a pool of regionally available dialogue facilitators for case conferencing, and a system of 'worry scale' to help people articulate their needs.

All of these models offer a variety of responses to the question of how to organize the administrative structure and in particular how to organize the human resources. Who should be under which Ministry and how should they function together? The solutions to human resource issues proposed during the consultations in New Brunswick ranged from having all of the necessary resources under the Department of Education, to one amalgamated "child

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<sup>186</sup> Tom Arnkil and Esa Eriksson, "*Varpu, or Early Intervention and Networks*" (Stakes, national Research and Development Centre for Welfare and Health Research, Finland).

services” Ministry, to having some professionals under the Ministry of Education (such as speech-language pathologists) and others school or school district based while being resourced by another Ministry (much like the current healthy learner nurses). This is a model reflected by Ms. Thorburn’s flowchart on page 35 of her report in Appendix R.

Effective communication between the relevant government departments is a vital component of integrated service delivery. Mechanisms to facilitate communication and the sharing of information in an integrated service delivery environment include the use of an electronic information system and provincial child identifier (with significant checks and balances to ensure that the privacy rights of students are protected). These systems are designed to assist the smooth sharing of information and transfer of records. This issue surfaced as significant in the New Brunswick consultation process. In addition, using Individual Intervention Plans as the basis for the provision of integrated services was suggested in Alberta’s education review and mentioned in our background research. This approach seems to support the kind of shared responsibility that is desired in order to respond to students in need of support or intervention. These mechanisms are promising as measures to assist in smooth communication and collaboration among various service providers, and are presently being done to some extent in New Brunswick in the form of Special Education Plans (SEP).

The courts and human rights tribunals certainly favour government departments working together to provide services; however, they definitely tend to defer to the legislators to determine exactly how to do that. This point is emphasized in the legal portion of the background report. Passing the buck from one department to another is not a good legal or educational response.

There is no one clear model that could be replicated in New Brunswick. The Minister of Education and her Cabinet colleagues should consider all of the models reviewed in this research and consultation process. I agree with Cathy Thorburn’s assessment expressed in the appendix to her study, contained in Appendix R, that Saskatchewan’s School<sup>plus</sup> has the most to offer. In this appendix to her report, Ms. Thorburn ranks Newfoundland, Manitoba and Nova Scotia in that order after Saskatchewan, and her rationale is set out on pages 3 – 6 of that appendix. The richness of the different models studied in Cathy Thorburn’s work offers many good ideas for designing a New Brunswick model. In light of this conclusion, developing links with the Department of Learning in Saskatchewan should be a priority and is a development that I specifically recommend under Deliverable 4.

The uniqueness of New Brunswick emphasizes the need for a made-in-New Brunswick integrated service delivery model. The value of participation in dialogue was demonstrated throughout this review and continued dialogue is the best route to a sustainable integrated service delivery model for New Brunswick.

New Brunswick should develop its own structure through a consultative process and using the research of this Review as a guide.

As part of Ms. Thorburn's report (particularly on pages 30 – 35) as contained in Appendix R, she also emphasizes the importance of integrated service delivery, and makes recommendations for its implementation. Ms. Thorburn's "Flowchart for Integrated Service Delivery" on page 35 of her report suggests a central role for the Department of Education. While the Education Department may need to take the lead in many cases, a model of interdepartmental shared authority is more likely to move educational service delivery needs higher on the priority list for all departments. The shared authority model represented by Figures 1 and 2 on pages 7 and 8 of the appendix to her study are far more appealing to me. The existing Support Services to Education Agreement, which on its face has some appealing features, is not effective in delivering integrated services, and should be replaced.

In the 2002 report by Elana Scraba, *Schools Teach – Parents and Communities Support – Children Learn – Everyone Benefits*, New Brunswick is described as having a caring education system – to a fault. The fault, in Ms. Scraba's analysis, is that caring, in the form of inclusion, is an obstacle to high achievement in New Brunswick schools. I challenge this analysis in the preface to this report, in my report's title "*Connecting Care and Challenge*", and in the recommendations I put forward. Caring for students as manifested in an inclusive education system can be wedded with objectives of "quality schools and high results", as advocated in New Brunswick's ten year strategic plan for education - *The Quality Learning Agenda*. The connection between caring for the welfare of students and achieving high results was fortified during my October 2005 trip to Finland. The Government of Finland is very attentive to the physical and psychological well being of students as the foundation for learning and achievement. While Finland is certainly not as inclusive as New Brunswick by any means, it does exhibit a caring attitude for all students that has advanced their performance at the lower ends of the scale on the PISA results of the OECD.

New Brunswick has advanced the view that a society can be caring and compassionate and, at the same time, competitive and focused on high results. These are views that have been expressed by Premier Lord himself on various occasions. Inclusion is one facet of this expression of caring and compassion and is a core New Brunswick value that is worth advancing. An integrated service delivery model is one of the most effective ways to advance inclusion and the Government wide corporate values of caring and compassion. Thus some of the following recommendations start at the top with the Premier, as he has the authority to direct the kind of inter-governmental cooperation that is necessary to make integrated service delivery a reality. The precise model is less important than the political will to make it work.

### **Recommendation 30: Premier's Interdepartmental Steering Committee on Integrated Service Delivery**

**30(a) The Premier should create an Interdepartmental Steering Committee on Integrated Service Delivery (the Premier's Steering Committee) to be composed of the Ministers of the following Departments:**

- **Education (chair)**
- **Training, Education and Development**
- **Justice**
- **Public Safety**
- **Family and Community Services**
- **Health and Wellness**
- **Aboriginal Affairs**
- **Such other Departments as may intersect with educational service delivery**

**30(b) The Premier should mandate that the above mentioned Departments cooperate in the design and implementation of a made-in-New Brunswick integrated service delivery model that is student centered and collaborative, to replace the Support Services to Education Agreement. In the design of this structure the Committee should consider the recommendations of this report, the work of the researcher contained in Appendix R and the features of the programs in the four provincial jurisdictions that she reviewed.**

**30(c) It is recommended that the design of the integrated service delivery model, overseen by the Premier's Steering Committee, should include clear role definitions for the various departments and a clear statement of the expectations on the various departmental partners.**

**30(d) The Premier should set aside adequate funding for the operation of this Committee and to allow this Committee to acquire from a variety of sources the evidence needed to do its job.**

**30(e) The Premier's Steering Committee should report annually on the progress of the implementation of the integrated service delivery model to both the Premier and the Legislature's Standing Committee on Education.**

**30(f) The Premier should create this Committee within three months of the release of this report, as the development of an integrated service delivery model is vital to the successful implementation of inclusion in New Brunswick.**

**30(g) This Committee should produce a draft model for integrated service delivery for New Brunswick within a year of its creation. The Government should amend legislation, enact regulations, and use any other policy instruments necessary to implement the proposed model of integrated service delivery in all of the partner departments, following the work of the above Committee and within six months of the completion of the draft model.**

#### **Recommendation 31: Student Record and Information System**

**31. The Minister of Education should, in conjunction with her relevant Cabinet colleagues, develop a student record and information system that follows the student through the school system and other departmental systems that intersect with it. This system should be developed in a way that is consistent with legislation protecting privacy, but also allows for the effective sharing of information about students to assist them to receive the support and educational services to advance their learning. This record of information should follow the student from pre-school to post secondary education.**

#### **Recommendation 32: School Based Services**

**32. It is recommended that as much as possible, support services for education should be school based and delivered in the schools as advocated in Saskatchewan's *School<sup>plus</sup>* model. This is part of promoting school-centered communities and making services available in a way that is convenient for students and parents.**

#### **Recommendation 33: Identifying and Managing Student Service Needs**

**33. The Minister of Education should develop a formal policy framework, incorporating evidence based research practices for identifying and managing service needs of students in the educational system. The Premier's Interdepartmental Steering Committee on Integrated Service Delivery, mentioned above, should oversee the development and implementation of this policy framework. Implementation of this policy framework should take account of the elements identified in Deliverable 1.**



### **Recommendation 34: School Based Service Delivery Teams<sup>187</sup>**

**34(a) Interdisciplinary service delivery teams are the most effective mechanisms for delivering integrated services to students. The Minister of Education should set standards for the implementation of interdisciplinary service delivery teams.**

**34(b) As one more detailed example (and not a definitive one) of this aspect of service delivery, it is recommended that the professional staff assigned to students in need of intervention be school based personnel (or shared where the school population is less than 1000 students) in order to provide comprehensive service delivery. These should include:**

- 1 resource teacher per 30 students on intervention plans (excluding students on accommodated plans: see recommendations under Deliverable 2)
- 1 speech language pathologist per 1000 students\*
- 1 occupational therapist per 1000 students
- 1 school psychologist per 1000 students (housed in District Office)
- 1 social worker per District (housed in District office)

**\* Note: this ratio is better than the one suggested earlier in the human resources section under Deliverable 3, and originates with the study by Cathy Thorburn in Appendix R, where she suggests even lower ratios.**

### **Recommendation 35: Service Delivery to Aboriginal Students**

**35(a) It is further recommended that the design and implementation of the integrated service delivery model address the situation of Aboriginal students, with a particular focus on the challenges implicit in transitions from band schools to provincial schools and the unique cultural and health needs of Aboriginal students.**

**35(b) In Saskatchewan's *School<sup>plus</sup>* model the Department of Indian and Northern Affairs Canada (INAC) provides funding for students with special needs who attend off-reserve schools. The Brief of the New Brunswick First Nations Education Initiative Committee indicates that some Federal money already flows through to the province's schools through Band applications to INAC on behalf of students with disabilities.**

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<sup>187</sup> Various versions of this kind of team have been discussed in the background research, the consultations, and in other recommendation areas. Providing the precise formulation of such a team in New Brunswick is beyond the scope of this Review.

**The Minister of Education should negotiate with the relevant parties at Indian and Northern Affairs Canada to advocate that the funding provided for Aboriginal students within the provincial school system be at a comparable level to that provided to students being educated in band schools. This should be done in consultation with the relevant Aboriginal representatives within New Brunswick.**

## DELIVERABLE 3

### EARLY INTERVENTION AND PRESCHOOL

#### EARLY INTERVENTION AND PRESCHOOL

All of the background research supports the view that early attention to children to assess and detect problems or difficulties, as well as to provide support and intervention, is effective. It is effective in reducing the number of children who are identified with disabilities or other needs during school, and it is very effective in reducing the intensity of support or other services later in life. Some researchers suggest that children's ideas are largely formed by age twelve or even earlier, and the earlier at-risk students can be reached, the better the chances of success. Small problems identified and dealt with early are less likely to become big problems later, making early intervention a sound investment.

The research uncovered in this Review shows that among early intervention initiatives, the most effective are those that:

...aim to achieve multiple age-appropriate cognitive, interpersonal, social, physical competencies which protect children exposed to risks by integrating a combination of universal and targeted individual and system focused services which are "on-site" versus "on-call", "reach-out" versus "on-demand" into the daily circumstances of the child through some strategic alliances between school/child care, family, community implemented and sustained in a local context.<sup>188</sup>

The value of early intervention, even at the preschool level, has been widely recognized but not as extensively practiced. Saskatchewan's program, as part of its quality learning plan, includes several initiatives directed at developing standards in preschool teaching, and putting transition programs in place to assist students in the transition to school.<sup>189</sup> Finland provides a publicly funded preschool which, while not mandatory, is used by more than 95% of the population. The National Board of Education in Finland also sets the preschool curriculum at a national level – *Core Curriculum for Preschool Education in Finland* (2000). At the conference in Helsinki in October 2005 we were informed that Finnish children are assessed for learning issues by age five, before they

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<sup>188</sup> Gina Brown, Carolyn Byrne, et al, "Sewing the Seams" see Phase 1 Part III, at footnotes 79-82. This quote emphasizes the importance of networks and cooperation of various agencies in early intervention strategies.

<sup>189</sup> Pierre Dumas's review of provincial programs and reform proposals can be found in Appendix H or in abbreviated form in Phase 1 Part IV "*Review of Practices and Research*".

enter preschool. The formal school starts at age seven in Finland. In my meeting with officials from the Atlantic Provinces Special Education Authority (APSEA) they emphasized the importance of early access to children as laying the best possible foundation for the successful education of students. The value of early intervention is also expressly mentioned in the *Quality Learning Agenda*.

### **Recommendation 36: Early Intervention and Preschool**

**36(a) The Minister of Education in collaboration with her Cabinet colleagues should amend the *Education Act* to make explicit the role of the Department of Education in preschool education and early intervention. The role should be articulated explicitly in partnership with other provincial departments, municipalities, private service providers and the Government of Canada. The role also should recognize explicitly the benefit for the francophone community in terms of the language of service provision, by having the Minister of Education develop an expanded role in pre-school and early intervention. This would mean that the preschool services would be delivered to francophone communities in French.**

**36(b) The Minister of Education in collaboration with Cabinet colleagues should establish an interdepartmental committee with a mandate to do the following:**

- i. prepare an inventory of all current early intervention initiatives for children age minus 9 months (*in utero*) to eighteen years in the province.**
- ii. create a comprehensive plan to increase early intervention efforts in strategic areas. Such strategic areas should include but not be limited to the following:**
  - Assessment**
  - Follow up**
  - Pre-natal, neo-natal, pre-school, and general parenting education**
  - Parental support and community recreation and play opportunities (with little or no user fees)**
  - Pre-school programs in schools**
  - Early intervention strategies designed to be inclusive of children and parents with disabilities**
  - The value of early intervention as a cornerstone of education service provision**
- iii. explore the feasibility of inclusive daycare and preschool settings for children.**

**This committee should be established within one year of the release of this report and the work should be completed within one year of its creation.**

## **INCLUSIVE DAYCARE AND PRESCHOOL**

The background research supports the view that children who attend preschool are better prepared to enter school. In particular, the research of Sharon Hope Irwin et. al.<sup>190</sup> shows that inclusion in preschool programs better prepares students with disabilities to attend school, and better supports their inclusion in the community. The difficulties that parents of children with disabilities have in finding appropriate preschool placements is documented in the recent Participation and Activity Limitation Survey (PALS) and related studies by Statistics Canada.

The New Brunswick Department of Family and Community Services has already undertaken some important initiatives to improve parent – infant bonding and enhance daycare in order to better prepare children for school. These enhancements were intended to do the following:

- reduce the current waiting lists in Early Intervention and Integrated Day Care Services by 275 spaces,
- increase accessibility to integrated day care services for children of working parents who are eligible for ECI services and may require a full time support worker to participate in the activities of the child care facility. The children would have congenital challenges like autism, cerebral palsy, Down’s syndrome, etc.
- Pilot a community-based program in Woodstock which will provide screening and early intervention services to promote secure attachments between at-risk parents and their newborns.

A sum of \$1.4 million was allocated for the above programs and later initiatives were launched in Early Intervention and Integrated Day Care Services and to improve the access to the latter. I applaud these initiatives and the following recommendations are meant to extend them and to define a clearer role for education.

### **Recommendation 37: Inclusive Day Care and Preschool**

**37. The Government of New Brunswick should engage in dialogue with private day care service providers and the Government of Canada to**

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<sup>190</sup> "*Highlights from Inclusion: The Next Generation of Child Care in Canada*" (Wreck Cove: Breton Books, The Special Link: The National Centre for Child Care Inclusion, 2004. It is referred to in Phase 1 at note 49.

**advocate and support access to inclusive day care and preschool settings for children with disabilities in New Brunswick. New Brunswick may be able to benefit from existing and proposed day care initiatives at the federal level.**

## **PRESCHOOL AND EARLY INTERVENTION FOR FIRST NATIONS**

First Nations communities face particular challenges in preparing their children for school. The consultation process pursuant to this review emphasized that First Nations' cultures are based on oral traditions. Reading and writing does not necessarily have the same prominence in First Nations' households. This presents a difficult dilemma for First Nations communities. The desire to preserve and strengthen their own culture requires different considerations than having their children "fit in" to the dominant culture and be successful in another culture. This difficult balancing act applies to members of First Nations' communities living both on-reserve and off-reserve. The importance of the role of the Minister of Education in this regard is strengthened by the observation during the consultation process that many students who attend band operated schools eventually end up attending provincial schools.

### **Recommendation 38: Preschool and Early Intervention for First Nations**

**38. The Government of New Brunswick in collaboration with the Government of Canada and First Nations communities should create a tri-partite committee to develop a plan to provide preschool and early intervention strategies for First Nations children living both on-reserve and off-reserve. The plan and strategies developed should focus on ways to ensure that early intervention initiatives do not undermine or erode First Nations cultures or interfere with the generational transmission of their cultures. The plan and strategies should focus on empowering First Nation communities to direct the programming and services. This tri-partite committee should be created within two years of the release of this report and the committee should report within one year of its creation.**

## **DELIVERABLE 3**

### **EDUCATIONAL SERVICE DELIVERY**

#### **INTRODUCTION AND CONTEXT**

The delivering of educational services is critical to the implementation of inclusive education. The background research uncovered a significant array of research on pedagogy and approaches to delivering education inclusively.<sup>191</sup> There are also several francophone guidelines dealing with “l'école renouvelée” and “le milieu propice à l'apprentissage”. The consultation process was also invaluable for teasing out many ideas and perspectives on shaping the delivery of educational services so that they are as inclusive as possible.

In particular multiple intelligences and learning disabilities were discussed at length during the consultation process. These two issues in particular and strategies to take them into account in the delivery of educational services apply to a wide variety of students who experience difficulty in school but who do not have an easily identifiable organic disability or diagnosis. Several groups including Aboriginals and the Learning Disabilities Association, among others, are very concerned about these issues and feel that teachers do not have sufficient tools to deliver educational services effectively to the diversity of students in a regular classroom.

There was a wealth of good ideas and suggestions in both the consultation sessions and the written submissions to this Review. The limits of space and time dictate that all issues cannot be addressed. This is particularly true in respect to the complex area of educational service delivery. There are also variations on how services are delivered in the anglophone and francophone sectors and what is needed in each system to best promote inclusion. I have tried to be attentive to these differences but will undoubtedly have missed some points. What follows is a selection of some critical issues as identified in Phase 2 of this report dealing with the themes which emerged from the valuable consultation process and the written submissions to this Review.

#### **COMMUNICATING AND CONNECTING**

The “Connecting” term in the title to this report flags the twin virtues of communication and collaboration. Good communication and collaboration are two essential components of inclusive education and delivering inclusive

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<sup>191</sup> See Phase 1 Part III, and Appendices E and H.

educational services. Many different communication relationships were addressed during the consultation process: school and home, teachers and other outside professional service providers, the school and community agencies and organizations, teachers and school officials and students to name but a few of the most important relationships. Many strategies for improving these relationships through better avenues of communication are provided in the background research and consultation summaries in Appendix M.

Some of the communication strategies presented are simple and have to do with the free flow of information, such as pamphlets and brochures intended to clarify procedures, policies and practices. Another mechanism is informing staff about the challenges faced by some of the children they work with. Many districts and student services personnel have begun this kind of valuable communication. In some cases they also need to be informed about the risks involved in some disruptive behaviors that cause risks either to the student or others.

Other communication such as the communication between teachers, teacher assistants, other school staff and other professionals are very much affected by the role definitions within human resources, as well as the orientation and values of the integrated service delivery model. Both of these issues were dealt with in earlier sections as part of Deliverable 3. Their importance is highlighted by the quality of communication and the service delivery that takes place.

The success of collaboration between home and school is also important. Good communication depends on having enough time to communicate. The collaborative process produces the best results but can be time consuming and labour intensive. Measures that facilitate the communication process are highly desirable. This communication often prevents future conflicts and the development of adversarial positions.

Part of facilitating good communication between home and school includes setting the right atmosphere. The facilities should support parents being in the school and school staff should encourage parental involvement. At the highest level the Dialogue on Education Committee already used in New Brunswick is a useful forum for various stakeholders to express their views. The value of this kind of dialogue was demonstrated during the consultation phase of this Review.

### **Recommendation 39: Communicating and Connecting**

**39(a) The Minister of Education should ensure that good communication and collaboration are the cornerstones for the implementation of this report. In particular, the implementation of these recommendations should be done in a consultative and collaborative way.**



**39(b) The Minister of Education in collaboration with Cabinet colleagues should ensure that important information about a student is passed to personnel who will work with that student in a manner consistent with freedom of information legislation, and on an as needed basis.**

**39(c) The Minister of Education should support the implementation of the strategies and best practices with regard to communication and collaboration as summarized in the background research and consultation process, earlier in this report.**

**39(d) The Minister of Education should consider strategies to increase the amount of time for people to dialogue and collaborate. Many of these strategies are also collective bargaining issues, with various school staff.**

**These strategies should be developed in collaboration with the relevant parties and could include the following:**

- **Establishing partnerships with community agencies to organize activities and presentations for classes on a regular basis to provide more opportunity for teachers and staff to meet during the day.**
- **Exploring changes in the scheduling of staff during the school day to allow more time to meet.**
- **Conducting meetings with parents and home and school associations to explore better channels of communication.**

**39(e) The Minister of Education should ensure that the Dialogue on Education Committee (or some modification) be continued and expanded with a mandate that covers inclusive education. Special care should be taken to ensure that all relevant stakeholders are at the table.**

## **VOCATIONAL OPTIONS**

The Government of New Brunswick at one point made the decision that the investment in education should be directed toward academic achievement in literacy, numeracy, science, and technology. This policy, while it does have its merits in terms of creating a culture of high standards and the development of academic skills, has evolved to the exclusion of a whole genre of learning and a range of options that are necessary for all students to be able to participate in a productive and meaningful life.

Many during the consultation process lamented the loss of vocational options (machines, motors, woodworking, textiles, food preparation, hair styling, and other vocational options). These areas of study are critical, not just because a student may want to be a mechanic or a hair dresser but also young people may want to have the opportunity to experience and find out what interests them while

developing basic skills and good work habits. In addition impending shortages of workers in many occupations across the country, as baby boomers retire from the work force emphasizes the need to ensure that the younger generations have training in the skilled trades, as well as more academic pursuits.

Along with vocational training comes experiential learning and job experimentation. When people talked about the co-op programs that currently exist ('stage' to the francophone sector) there was a sense of limits to these programs for some students. There were also some mixed reviews about "alternative sites" in the anglophone educational sector but most felt they offered an important opportunity for students to succeed. A flexible approach that provides for a maximum variety of exposures is needed for some students to help them discover their path. A program that provides rotations in different local businesses and institutions would be more appropriate for some students, than a semester long placement in one work environment. Other students would prefer a longer experience in one setting. Flexibility is the key.

Many, including students, also talked about the need for practical skill development courses to allow some students to pursue their strengths. In this regard people talked about "functional math", small business operation, studying skills, test taking skills, practical citizenship information and skills such as doing taxes, voting, and other skills of daily living.

The return to the provision of vocational options is important for all students and not just those with learning challenges. As retired teacher Clarence LeBlanc (who did an earlier report for the Department of Education) observed at the August 2005 consultation sessions, there is forced inclusion to age eighteen for students who do not want to be in school and who are experiencing failure in the academic stream. Many commented during the consultations about the difficulties faced by students in making the transition from school into the workforce. Vocational options and life skills can be an important bridge. There is a thriving vocational stream in Finland which students can enter after grade nine, but entering this stream does not preclude going to university or community colleges later on. Another interesting feature of the Finnish vocational system is that there is considerable local control in designing the programs, which allows for involvement of the local business community, which is aware of the needed skills and programs at the local community level. There are also national controls imposed by the Finnish National Board of Education. This model could be an interesting one to emulate and modify to fit the local New Brunswick context.

The return to vocational options also raises the possibility of federal funding to support some aspects of the vocational scheme. The following fairly detailed recommendations may be modified if needed, but the important thing is achieving a return to the vocational options by whatever means are most appropriate. This would be a significant enhancement of inclusive education in New Brunswick.

## **Recommendation 40: Vocational Options**

**40(a) The Minister of Education in collaboration with her Cabinet colleagues from Training and Employment Development (TED) and Business New Brunswick should establish a high level inter-departmental committee to oversee the planning and implementation of vocational options within the school system.**

**40(b) The Minister of Education should also create a working sub-committee answerable to the above overseeing inter-departmental committee to plan and implement a strategy for a return to offering vocational options within the New Brunswick school system.**

**40(c) It is recommended that the composition of this working sub-committee include the following members:**

- **Curriculum and evaluation staff from the Department of Education.**
- **Relevant personnel, dealing with curriculum at the district level.**
- **Representatives of teacher training institutions and community colleges.**
- **Staff from Training and Employment Development (TED)**
- **Staff from Business New Brunswick.**
- **Representatives from the public and private sectors.**
- **Representatives of retired vocational teachers**

**40(d) It is recommended that the mandate of this working sub-committee be to design a new and creative package of vocational options for New Brunswick schools that are innovative, practical, and inclusive. While the previous vocational school experience can be a point of reference it need not in any way restrict the design of the new options.**

**40(e) It is recommended that both the overseeing inter-departmental committee and the working sub-committee be created within one year of the release of this report. It is further recommended that these two committees complete their work within two years of their creation.**

**40(f) The Minister of Education should use the work of these committees in implementing vocational options within the New Brunswick school system by four years after the release of this report at the latest.**

## **THE IMPACT OF FRENCH IMMERSION**

The impact on inclusion of the French Immersion program in New Brunswick has been the subject of much controversy. The value of having as many students as possible develop abilities in French and English in Canada's only officially bi-

lingual province is tremendously clear. The best way to go about achieving this is not quite as clear. Both the anglophone and francophone sectors are struggling with the best way to promote the French language, although from their own distinct perspectives. The francophone sector has a second language program for all students, while they are also concerned with maintaining a minority culture. The anglophone sector has a two-tiered approach with the French Immersion and Core English programs.

The differences between French Immersion and Core English are that French Immersion is more intensive, and that it involves learning all subjects in the second language. The impact of the French Immersion program (and I do acknowledge a lack of consensus on just exactly all the factors leading to this outcome<sup>192</sup>) is to produce a higher concentration of students in difficulty in the Core English program. There also tends to be fewer behavior issues in French Immersion classrooms, providing another reason for parents to opt for that stream.

This means that the class composition of Core English classes is less favorable than in French Immersion classes, a phenomenon that is exacerbated in areas where French Immersion is particularly popular. This was also a major observation of the *Scraba Report* and one that evoked considerable controversy.

There are several different ways to approach this issue, many of which were suggested during the consultation process.

- Greater access to resource teachers and speech-language pathologists that speak French for French Immersion students.
- Lower class sizes for Core English classes.
- More opportunities for common activities and instruction between French Immersion and Core English classes.
- Co-operation in the use of outside professional resources between the francophone sector and French Immersion.
- Reading and literacy support programs similar to ones already established for the English Core program.

There is no question that the impact of French Immersion on class composition in Core English programs is a serious problem and one that causes frustration, stress and anxiety for many parents, students and teachers. It may be that the important bilingual goals of French Immersion can be achieved in a way that is less problematic for inclusion in the Core English program. The design of such a new approach to French Immersion is beyond the scope of this Review but it is a vital and pressing matter for further study as advocated in the following recommendation.

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<sup>192</sup> See the Phase 2 Themes at p. 137.

## **Recommendation 41: The Impact of French Immersion**

**41(a) The Minister of Education should commission a study on the delivery of French Immersion within the province of New Brunswick. This study should address the impact of French Immersion on inclusion, as well as an exploration of the most effective ways to promote French within an officially bilingual province. This study should begin within one year of the release of this report.**

**41(b) The Minister of Education should designate appropriate officials within the Department of Education to engage in a dialogue with relevant parents, teachers and associations to explore ways of making the existing French Immersion program more inclusive and alleviating the concentration of students with learning challenges in the Core English program. This dialogue should be initiated within six months of the release of this report and the designated Department officials should report to the Minister within one year of the beginning of the dialogue.**

## **APSEA AND EDUCATION IN NEW BRUNSWICK**

The Atlantic Provinces Special Education Authority (APSEA) is an interesting model for the delivery of services to hearing and visually impaired students in Atlantic Canada. It is a high quality education service delivery vehicle that was much applauded during the consultations. Supported by trust funds and funding from the member governments, this organization provides a variety of services. The APSEA model is well known and highly regarded in North America for its range and quality of services.

APSEA's direct services to children follow a "pull out" model in that itinerant teachers shared between schools travel to individuals or small groups of students providing specific instruction in remedial or other skills. APSEA provides sign language interpreters for students in regular classes. APSEA also provides more intense instructional programs called "short programs" at its Halifax center. These short programs deliver specific programs and goals to groups from across the Atlantic region.

One of the benefits associated with APSEA are the cost benefits of economies of scale. None of the provinces that participate in the APSEA model could on their own afford to run the high quality and rich breadth of service for the small number of students spread throughout their provinces. None of the provinces would on their own, have the critical mass to run the short term programs that APSEA provides.

Another benefit of APSEA, one that is very meaningful to the visually and auditory challenged students is the opportunity, through APSEA, to participate in

programs with others like themselves. The opportunity for solidarity and group membership is important, despite the tension it creates with notions of equality and inclusion. This was a point emphasized by some of the students in our consultations, who felt isolated as blind or deaf students in the regular class.

Exclusion happens when a person is prevented from participating by a rule or other mechanism of the system. Exclusion does not necessarily result from pull out sessions organized around ability or like needs of students as long as the purpose is clearly related to the development of necessary skills and competencies of the children and it is part of a larger program that includes opportunity to interact and have relationships with peers. The APSEA model strives to achieve this for visually and hearing impaired students.

The francophone sector has to a large degree abandoned its relationship with APSEA due to services and resources not being available in French. This reasonable and defensible policy decision leaves the francophone sector on its own for providing these services. The APSEA directors informed me that the francophones do use some APSEA services, particularly for the purchase of technology and some resources. The francophone itinerant teachers in their submission desired more access to APSEA due to their expertise in the field. There are also some differences of philosophy between the anglophone and francophone sectors on responding to the hearing impaired (see the summary of consultations in Appendix M).

APSEA is currently undergoing a review of its own related to its administration and structure.

#### **Recommendation 42: APSEA and Education in New Brunswick.**

**42(a) The Minister should continue to support APSEA for the delivery of the services it currently provides. The Minister should ensure that the current review process assessing APSEA continues in a fair, transparent, and consultative fashion.**

**42(b) The Minister of Education in collaboration with the francophone sector of the Department of Education should enter negotiations with APSEA to determine whether there is any acceptable way for the francophone community to benefit from what APSEA has to offer and whether there are opportunities for APSEA to provide some services in French. One area mentioned in the APSEA consultation was the opportunity to share a database or provide library services for Braille and other resources in French. It may be possible for the francophone sector to benefit from the services offered by APSEA without sacrificing the important objective of having services delivered in French.**

## **SIGN LANGUAGE IN SCHOOLS**

The expansion of sign language in schools would advance the process of inclusion. Reserving sign language in schools for students with hearing impairments may be a barrier to inclusion. Several people during the consultation sessions commented on the usefulness of sign language as an aid to communication among all students, including those with other disabilities. Down syndrome and autism are two specific disabilities mentioned during the consultation process as capable of benefiting from sign language.

In addition, the current manner of including students with hearing impairments can leave them feeling isolated with no one to communicate with but the interpreter, who is assigned only during class time.

### **Recommendation 43: Sign Language in Schools**

**43(a) The Minister of Education should encourage principals to engage in partnerships with community agencies to provide sign language instruction in schools as an elective or general interest course, in addition to offerings at recess, lunch, etc. This should be particularly encouraged for schools with children who use sign language as their main mode of communication.**

**43(b) The Minister of Education should direct Department of Education officials to explore ways to encourage the use of sign language for any student who would benefit from it.**

## **PROVINCIAL LEARNING DISABILITIES STRATEGY**

There is a wide range of learning disabilities and the mechanisms for identifying and addressing them are growing. Because of the individualized nature of learning disabilities, it is clear that different responses are required for different kinds of disabilities. One size does not fit all. The nature of many learning disabilities is such that they may require additional attention from resource teachers or specialists either in the regular classroom or sometimes outside it. The invisible nature of many learning disabilities is such that they are not detected in an early and timely fashion. Early identification and early intervention are crucial to long term success.

Some advocates for children with learning disabilities feel that these children are often ignored or poorly serviced. Dyslexia, a gamut of speech language difficulties and auditory processing disorders are among the more classically defined learning disabilities. There are other learning challenges such as Attention Deficit Disorder (ADD) and Attention Deficit Hyperactivity Disorder

(ADHD) which also pose challenges for the education system. The New Brunswick Ombudsman, Bernard Richard, is investigating the treatment of ADD and ADHD in New Brunswick schools and met with me as part of the consultation phase of this review to discuss this and other matters. The possible over-prescription of ritalin is an issue at a national level and a complex one that is beyond the scope of this Review. However, the issues raised by both the range of learning disabilities and challenges such as ADD and ADHD need further attention, and could benefit from a province wide strategy aimed at better serving these students within the school system. The following recommendation is intended to trigger this examination.

#### **Recommendation 44: Provincial Learning Disabilities Strategy**

**44(a) The Minister of Education in collaboration with her Cabinet colleagues (as appropriate) should initiate a Provincial Learning Disabilities Strategy to be completed within two years of the release of this report. This strategy should focus on better and earlier identification of learning disabilities and providing the appropriate support services within the integrated service delivery framework proposed earlier.**

**44(b) As part of formulating the above policy the Minister of Education and her relevant Cabinet colleagues should designate appropriate departmental officials to study the responses to learning disabilities and ADD and ADHD in other provinces, starting with Pierre Dumas' review of provincial reform proposals across Canada (contained in Appendix H to this Review). This study should be completed within one year of the release of this report.**

**44(c) In formulating the Provincial Strategy on Learning Disabilities the Minister of Education and relevant departmental officials referred to above should consult with the Meighen Center for Learning Disabilities at Mount Allison University as well as relevant people at the teacher education institutions within New Brunswick, in order to draw upon this expertise. There should be an examination of whether the techniques employed by the Meighen Center could be modified to fit within the primary and secondary school context.**

**44(d) It is recommended that the development of the Provincial Learning Disabilities Strategy be conducted in an open and collaborative process that includes broad consultation with the various learning disabilities associations in New Brunswick, and with other interested parties.**



## **PROVINCIAL ENRICHMENT STRATEGY**

An often neglected group within the education systems across Canada is the gifted. There is considerable debate about what is meant by the term “gifted” and it can be argued that all students are gifted in various ways. There is also a larger range of students than just “gifted” in the narrower sense, who could benefit from enrichment. The term “gifted” children usually applies to students with particularly high intellectual abilities. It has been suggested that most gifted children will succeed in spite of the system, and that nothing else has to be done in this area. However, I heard many people during the consultation phase of this Review calling for attention to the gifted within the New Brunswick school system. I am recommending the evolution of an enrichment strategy at the provincial level, in relation to gifted students and other students who could benefit from enrichment.

### **Recommendation 45: Provincial Enrichment Strategy**

**45(a) The Minister of Education should designate departmental officials to study educational responses of other provinces to gifted children (and any student who could benefit from enrichment), and to identify the essential elements of a provincial educational strategy to fully tap the potential of New Brunswick’s gifted students. This group of officials should report back to the Minister of Education within one year of the release of this report.**

**45(b) As part of this study the designated departmental officials should develop a working definition of “gifted” students, including all students who could benefit from enrichment. There should also be a clarification of the term “enrichment”.**

**45(c) As another part of the above study the departmental officials should examine the availability of the International Baccalaureate Program within New Brunswick and advise the Minister of the feasibility of expanding its availability throughout the province.**

**45(d) Prior to articulating a provincial enrichment strategy in some appropriate policy form, the Minister of Education should consult with the District Education Councils in both the francophone and anglophone sectors to get their views on the desirability and priority of this strategy. If after the study and consultations the Minister deems that a provincial strategy is appropriate, it should be put in policy form within two years of the release of this report.**

## **PROVINCIAL AUTISM STRATEGY**

Autism or Autism Spectrum Disorder is one disability that has recently been receiving a lot of attention, both in the media and in the courts. This is also a

disability that appears to have a fairly significant growth trend. Autism and Autism Spectrum Disorders require expensive and life long public expenditures. They also require legal attention using provisions that are carefully worded and balanced.

The courts have recently dealt with a particular treatment, ABA/IBI (Applied Behavioral Analysis / Intensive Behavioral Instruction) and have gone in several directions. The treatment or approach is expensive as it relies on a one-on-one relationship with a highly trained practitioner. From the court decisions to date we can reasonably say that autism is a disability recognized in section 15 of the *Charter* and protected under human rights acts. Governments will have to provide their services in a way that does not discriminate against autistic children. This is an issue of major concern to public service providers because of the high response costs and the growing identification of students on the autism continuum.

Early intervention and high quality services are vital when addressing autism. Justice Kiteley in the *Wynberg*<sup>193</sup> decision reviewed evidence of significant cost savings over the long term from early intervention with high quality services for autistic children. Not everyone is convinced that ABA/IBI is the best or only response to autism and as with most things, it would not suit every child. In the earlier Supreme Court of Canada ruling in the health sector on autism, ABA/IBI was described as an emerging and not fully tested therapy.<sup>194</sup> There are many responses which could be explored, including the ones I recommend.

#### **Recommendation 46: Provincial Autism Strategy**

**46(a) The Minister of Education in collaboration with Cabinet colleagues should initiate a Provincial Autism Strategy, to be completed within two years of the release of this report. The strategy should focus on collectively providing the resources for appropriate support services to autistic children within the integrated services delivery framework proposed earlier.**

**46(b) As part of formulating the above autism strategy the Minister of Education and her Cabinet colleagues should designate appropriate government officials to review the responses to autism in other provinces and assess the pros and cons of the different models used to respond. This study should be completed within one year of the release of this report.**

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<sup>193</sup> *Wynberg v. Ontario*(2005), 2005 Carswell Ont 1242 at 35 (Ont.S.C.J.). I note that this case is currently on appeal to the Ontario Court of Appeal.

<sup>194</sup> *Auton (Guardian Ad Litem) v. British Columbia (Attorney General)* [2004] S.C.C. 65.

**46(c) It is recommended that the development of a provincial autism strategy be conducted in an open and collaborative process that consults broadly and co-operates with the various autism organizations in New Brunswick and other interested parties.**

## **PROVINCIAL CONSULTANTS**

It is my understanding that at the moment there is a provincial consultant on autism but none for the other areas of the growing range of learning challenges and student diversity. To the best of my knowledge, there are also no consultants on the delivery of integrated education services or the challenges and stresses of responding to behavioral problems in the classroom. The following recommendations are designed to expand both the number and range of consultants who can both assist with implementing the above mentioned provincial strategies as well as other matters. These consultants could also serve as an important resource for the professional development of both teachers and resource teachers.

### **Recommendation 47: Provincial Consultants**

**47(a) The Minister of Education should hire provincial consultants to assist with the implementation of the provincial learning disabilities and autism strategies referred to above, as well as for the general implementation of inclusion and integrated service delivery.**

**47(b) Consultants on general implementation of inclusion and integrated service delivery (two persons per sector) and behaviour management in schools (one other person per sector) should be hired within one year of the release of this report.**

**47(c) Within one year of the completion of the above provincial education strategies on learning disabilities and autism, one provincial consultant per sector should be hired in each of these areas to guide the implementation of these strategies.**

**47(d) The above provincial consultants should make themselves available to assist in the professional development of teachers, resource teachers and other staff in the education system.**

## **INCLUSIVE CURRICULUM**

Curriculum content and curriculum development are important components of inclusive education. Curriculum content is an area where students with

disabilities, Aboriginal students, and other cultural groups offer particular perspectives which should be reflected in the curriculum. An Aboriginal perspective expressed to me during the consultation process is that the New Brunswick curriculum does a poor job of promoting respect and understanding for First Nations communities. There have also been other calls for greater cultural diversity, such as the need to pay more attention to the holocaust and the Jewish experience. Those from the disability communities have many diverse perspectives on curriculum content – including how the individual disability intersects with other perspectives such as Aboriginal, other cultures, gender, etc. This is an important aspect of the broader view of inclusion. A full analysis of the existing curriculum content in New Brunswick is outside the scope of this Review.

The background research and consultation process also highlight that the curriculum structure is related to the quality of teaching and learning. The process of packaging the content so that it promotes the best and most effective learning for students is an area worth developing. John Mighton, Canadian mathematician and playwright has achieved amazing results with a newly developed approach to math curriculum in his math program JUMP<sup>195</sup>.

Teachers and resource teachers at the consultations also called for specific assistance in the delivery of curriculum at the local level. The teachers' idea of curriculum support as expressed at the consultations would include: providing suggestions for accommodations, alternatives, enrichments, and supporting curriculum with ready made materials and resources. There needs to be a better recognition within the Departmental curriculum staff of the diversity of learners.

The consultation process also produced a dialogue around the accessibility of curriculum documents for teachers, the size and format of such documents, etc. One suggestion was that an electronic curriculum would allow teachers to access in one place only what they needed. An electronic curriculum would also cut down on printing costs.

The consultation process provided for by this Review revealed that curriculum development currently occurs differently in the anglophone and francophone sectors. The francophone sector seems to have achieved some successes in curriculum development by creating dialogue among the Department's curriculum, evaluation, and student services staff. Nonetheless, the consultation process with the Department of Education staff in both sectors demonstrated that the dialogue on inclusive curriculum is at its beginning stages. There also needs to be more dialogue with teachers and relevant staff at the district level.

With regard to curriculum implementation other differences appear in the way that francophones and anglophones approach services for students in difficulty. The francophones have "adaptation scolaire" which triggers assessment and adaptation services. The anglophone approach has several layers of categories:

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<sup>195</sup> See background research Phase 1 Part III: Best Practices and Appendix E.

accommodated, modified and individualized special education plans. Both sectors reported using a prioritization system in allocating resources for special education or adaptation scolaire. This prioritizing often occurs at the district or school levels with resulting problems of differing practices throughout the province.

#### **Recommendation 48: Inclusive Curriculum**

**48(a) The Minister of Education should direct curriculum officials within both linguistic sectors of the province to engage in a dialogue with teachers, district staff, advocacy groups and parent associations to explore ways of developing curriculum materials that are more inclusive and better reflect the diversity of New Brunswick learners. This dialogue should begin within six months of the release of this report.**

**48(b) These Departmental curriculum officials should report back to the Minister of Education within one year of the release of this report with concrete proposals for making New Brunswick curriculum materials more inclusive. After the Minister responds to the proposals, the process of designing the more inclusive aspects of the curriculum should begin immediately.**

#### **RESOURCE CENTERS**

There was much recognition in the background research and the consultation process of the variety of ways that students can be supported. A better way of delivering and establishing the student support system is a critical consideration. Universal service delivery, discussed at length in other recommendation sections, offers a good starting point for designing support and resource service delivery. The concept of a resource center open to all students in a school, through which any student could access relevant supports and a range of information, services and resources, is an important one to consider.

The proposed concept of a resource centre in high schools where students could “self-serve” access information and resources is an interesting one to consider. This information could include information and assistance with post-secondary applications, study and test taking tips, support groups, counseling, and access to computers or other assistive technology. Further possibilities for the extension of universal service delivery through resource centers also exist. This concept is closely linked to the roles of guidance and resource teachers in the school. There is also a clear connection to librarians and libraries in the schools.

I recognize that a proposal to establish fully developed resource centers in all New Brunswick schools, or even all districts is a daunting task and a significant

financial item. Most schools would probably find that some element of this has already begun. A process of identifying what is already begun and working toward expanding it, is an important step towards delivering inclusive education.

#### **Recommendation 49: Resource Centers**

**49(a) The Minister should ensure that resource centre facilities are included as part of the audit of school facilities recommended later in this recommendation section and as part of the school improvement plan policy recommended under Deliverable 4.**

**49(b) It is recommended that committees be established by the District Education Councils with representatives from all of the districts in both linguistic sectors, to explore ways of expanding and improving existing resource centers at both the district and school levels. This could also be an agenda item for the superintendents in both linguistic sectors. The exploration should involve consultations with teachers, resource teachers, librarians, advocacy groups, parents and students. These committees should be created within six months of the release of this report and report back to the District Education Councils within one year of the creation of the committees.**

#### **POST-SECONDARY TRANSITIONS**

The transition to life after secondary school is an important one to consider. This transition involves many more complexities than transitions earlier in the student's life. This transition involves the graduated student entering the workplace, university or college world, where he or she is expected to work more independently than in schools. Supporting a successful transition to the post-secondary level has a lot of potential value, including assisting students in not wasting large amounts of money on post-secondary education that is either inappropriate for them or that the student fails to complete.

This transition planning begins in school with guiding students to the right path for them. Transition planning also extends into the world of work that awaits students after post-secondary education. There are many reasons to support improved dialogue between the Department of Education and those who receive students after secondary school (workplaces, colleges, and universities). Promoting a good fit between the skills, attitudes, and knowledge students acquire and what they will need later is a very important component of successful transitions for students.

Dialogue with post-secondary education institutions on the accessibility and inclusiveness of their programs will also support successful transitions for

students. The Meighen Centre at Mount Allison University is a leader in the area of post-secondary accessibility for students with learning disabilities<sup>196</sup>. The New Brunswick Community College also seems to be taking strides in areas of accessibility. Other post-secondary institutions in the province are leaders in other areas, and are making some progress on issues of inclusion, albeit slow progress.

## **Recommendation 50: Post Secondary Transitions**

**50(a) The Minister of Education should designate appropriate Departmental staff to engage in broad dialogue with post-secondary institutions in the province to encourage the further development of accessibility and inclusiveness in post-secondary education, in respect to both physical and some other disabilities.**

**50(b) The Minister of Education should in collaboration with Training and Employment Development, the Human Rights Commission and any other appropriate partners, engage in a dialogue on how employers across the province could be supported to improve accessibility in the work place.**

**50(c) The Minister of Education should commission a study within the next five years from the release of this report on inclusiveness and accessibility in New Brunswick's post secondary universities and colleges. Such a study might be part of a larger review of the role of universities and colleges in New Brunswick.**

## **THE PARENTAL ROLE IN EDUCATION**

Parents and guardians are very important actors in a child's development. It is important in the context of this Review to pause and recognize the significant role of parents and the limits of what education can do for child development, particularly if parents do not fulfill what is expected of them. The New Brunswick *Education Act* in sections 13(1)(2)(3) and 14(1)(2) contains significant statements already outlining parent and student roles and responsibilities. While the *Act* sets out official statements of responsibility, parents may not necessarily be aware of these expectations, or their importance. The responsibilities of students to play a part in their education as well as those of their parents should be better publicized.

The province of Ontario recently has demonstrated one approach to ensuring clarity in all of the roles, expectations and responsibilities of different actors in the

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<sup>196</sup> It should be noted that the Meighen Center is largely supported by endowed private funds and this exemplifies a role for the private sector in inclusion as well. The Michael and Kelly Meighen Foundation is to be lauded for its philanthropy on this important cause.

school such as principals, staff, volunteers, students, parents, the police and community members by publishing an extensive Code of Conduct for Ontario schools<sup>197</sup>. The Code of Conduct sets out standards of behaviour and fairly comprehensive, clear descriptions of roles and responsibilities. This approach supports and promotes clearer expectations about who should do what in respect to education, laying the foundation for good communication. It is also consistent with the clearer role definitions proposed in Deliverable 3: Human Resources.

The parent or guardian's role is also a very complex one, significantly shaped by the particular situation of the individual parent. Stresses on the family from the pressures of modern work, lifestyles, family status, illiteracy, and learning disabilities or other disabilities among parents should also be recognized in strategies for communication with parents. The establishment of a clear statement outlining all of the roles, responsibilities and expectations, remains a productive strategy, as a first step.

### **Recommendation 51: The Parental Role in Education**

**51. The Minister of Education should direct relevant Departmental staff to publish the relevant statutory and policy provisions explicitly setting out roles, responsibilities, and expectations of all parties in the school in an Ontario type of Code of Conduct. The Minister of Education should then direct the wide distribution of such material in appropriate forms to parents, students, and school staff.**

## **FRANCOPHONE AND ANGLOPHONE COLLABORATION**

The consultation process provided an important perspective on the francophone and anglophone educational communities in New Brunswick. The rich and complex details of the relationships and dynamics between anglophone and francophone communities generally in New Brunswick is clearly outside the mandate of this Review. Some aspects of this relationship and dynamic did however become apparent through this Review process.

First, there are problems with accessibility to resources in French that might be alleviated through better cooperation between the anglophone and francophone schools in a particular geographic area. Cost sharing for providing resource personnel and materials in areas that could serve both the francophone community and French Immersion students is a significant opportunity to extend and improve service delivery. It is also a valuable opportunity for the two language sectors to continue to work together.

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<sup>197</sup> "Ontario Schools Code of Conduct: *Ontario Education Legislation* (Aurora, Ont: Canada Law Book Inc., 2005) at 747



Second, the similarities in both the francophone and anglophone communities in their desire to have their students learn the other New Brunswick official language are encouraging to note. The objective of the *Quality Learning Agenda* to produce students who are fluent in both official languages is an important and laudable one. Education would appear to be an area ripe for collaboration between francophone and anglophone communities, administrators, and Department of Education staff. Engaging in dialogue on the critical education issues may produce interesting results. This was my experience during the consultation phase of this Review, which was marked by positive, respectful and constructive dialogue between members of both linguistic sectors in the New Brunswick education system. Student exchanges among francophone and anglophone communities in different parts of the province is only one proposed idea that could further the depth of fluency in the other official language and exposure to the other culture, as well as foster a better understanding among the next generation of citizens. I recognize that many positive initiatives to promote collaboration already exist and my aim in the following recommendation is to applaud these and urge that they be expanded.

#### **Recommendation 52: Francophone and Anglophone Collaboration**

**52. The Minister of Education should continue to encourage Department of Education staff, as well as district and school administrators to engage in dialogue with their counterparts in the francophone and anglophone communities respectively to explore the possibilities for collaboration in areas of mutual concern and benefit.**

## DELIVERABLE 3

### SCHOOL FACILITIES AND TRANSPORTATION

#### SCHOOL FACILITIES AND TRANSPORTATION

The research and consultation process of this Review have reinforced that the goals and operations of inclusive schools are greatly assisted when the physical facilities and transportation services are designed to support these goals. Other physical accessibility issues in New Brunswick schools also emerged as an important issue in the research and consultation process. Physical accessibility for students in wheelchairs and facilities for students who require other accessibility or specialized support services is seriously lacking in New Brunswick schools, as is the case with schools in many other provinces as well. This situation has to be improved.

Many different stakeholders at the consultation sessions also indicated that there are insufficient and inappropriate facilities to deal with students in crisis or with behaviour problems. There are inadequate facilities for individualized instruction, and meeting rooms required for collaboration among professionals or for the delivery of integrated service are not adequate.

It is important that over time, the structures and physical design of school buildings should reflect the goals and teaching methodology in schools and not the reverse. School design should be flexible, or in current architectural language, “active” so that buildings can be adapted to the needs of an evolving learning environment. In this context this means that the school buildings should promote inclusive education in the sense of being accessible and inviting to a diversity of learners as well as to the broader community. The concept of school centered communities may literally mean knocking down school walls and designing more inclusive physical facilities.

The capital improvement program outlined in the “*Believing in Achieving*” 2005 report from the Minister of Education as a progress report on the *Quality Learning Agenda* indicates that the budget is not sufficient to respond to “priority 1” capital improvement projects. “Priority 2 and 3” improvement projects were not addressed at all in the seven years that are reported in “*Believing in Achieving*”. Although it is difficult to assess what constitutes priority 1, 2, and 3 as they were defined by individual districts, it is clear that the current capital commitment does not adequately meet the needs.

The consultation sessions also revealed that many children with disabilities currently must be transported using “special needs” buses. The bus routes are often longer than other routes because pick ups do not tend to follow geographic

determinants. Consequently there is often a denial of full access to school programs and services for students who take the 'special needs' bus. This can also raise problems in terms of participation of students with disabilities in extra-curricular activities and after school activities. The role of school bus driver and their educational needs were discussed earlier in the human resources section of Deliverable 3. School buses were also identified by my research and consultations as an area where bullying, intimidation, other behaviour difficulties, and medical emergencies arise. Bus drivers indicated that they are often the only adult on a bus. They also said that they receive little training and little or no information about the students on their bus. The transportation of students in a safe and inclusive way is an important aspect of providing a positive educational experience for all students.

The following recommendations are intended to encourage the design and use of school facilities and transportation services that promote effective strategies for integrated service delivery, cooperation, and collaboration, and all of the goals of inclusive education.

### **Recommendation 53: School Facilities**

**53(a) The Minister of Education should commission an immediate audit of all school facilities in New Brunswick assessing the availability of the following:**

- **Facilities for specialized service provision (toileting, lifting, diapering, other health services)**
- **Physical accessibility for wheelchairs and other mobility disabilities.**
- **Facilities for students in crisis.**
- **Meeting space for collaboration.**
- **Facilities for specialists and integrated service delivery.**
- **Resource centre facilities.**
- **Infrastructure for communication within the school (e.g., phones in strategic locations such as hallways and bathrooms), computers (large print and other accommodations)**
- **Regular classrooms appropriate for inclusive pedagogy.**
- **Resource centers for parents.**
- **School facilities with good acoustics: Looking for barriers for students with hearing impairments as well as quality of listening and other acoustic concerns –see audiologist submissions (classrooms, public address systems, auditoriums, cafeterias, gymnasiums, libraries, hallways, etc.)**
- **School facilities with good optics and visibility: Looking for barriers for students with visual impairments as well as other indicators of the visual atmosphere, such as visual cues, cultural symbols, wall colour, art, etc. (classrooms, public address systems, auditoriums,**

- cafeterias, gymnasiums, libraries, hallways, bus identification numbers, etc.)
- Appropriate rooms for dealing with students “pulled out” of class and for dealing with aggressive and disruptive behaviour (time out room, etc.)
  - Any other facilities that can be used to provide a service or meet students’ needs.

The audit should be completed within two years of the release of this report.

**53(b)** Following this audit, the Government of New Brunswick in collaboration with school districts, schools and communities, should establish a broad-based committee to develop a plan to move toward school facilities that support and encourage inclusive education, collaboration, and community. This plan should include an evaluation of current schedules and usage to increase the effectiveness of existing facilities. The plan should also include renovation and building options. This committee, in which the Minister of Education should take a lead role, should be struck within one year of the release of this report, and complete its work within two years of its creation.

The plan to improve school facilities will necessarily be different in different communities. The process and the plan must involve consultation and participation by the school (students, teachers, administrators) as well as the community. In general the plan should aim toward facilities that are flexible or “active”, provide for “universal service delivery”, are free and open to the community to the extent possible. The facilities should be focused on meeting the needs of people.

Rural communities may be well served with new facilities, or renovations of existing facilities to produce community centers with medical/dental clinics as part of the school. “Multi use” facilities offer great potential to bring the community together and help facilitate integrated service delivery.

**53(c)** The Minister of Education should further emphasize safety features, physical accessibility, environmental design and energy efficiency as part of any designing, building or renovating of school facilities. Regard for these elements at the design stage can save significant resources in the future. In particular environmental and energy efficient design can save in operating costs and maintenance. Attention to the growing issue of environmental sensitivities in both the design and renovation of school buildings can be an excellent investment and save money in the future.

#### **Recommendation 54: FM Systems in Schools**

**54.** The Minister of Education should designate a portion of the funds for capital improvements for schools to increase the number of FM systems in New Brunswick classrooms. The increase in the availability of this auditory technology should be progressively phased in over a five year period on a basis of equity and identified needs in both the anglophone and francophone sectors of education.

#### **Recommendation 55: School Transportation**

**55(a)** The Minister of Education should commission a timely audit of all school transportation vehicles to assess the state of transportation for students with disabilities. This audit should be completed within one year of the release of this report.

**55(b)** The Minister of Education should develop and implement a plan to ensure that school bus transportation becomes more fully accessible within five years, including the provision of appropriate attendants where necessary. In the meanwhile, the Minister should ensure that students' modes of transportation are not the cause of lost educational or extra-curricular opportunities.

#### **Recommendation 56: School Transportation Safety**

**56(a)** The Minister of Education in collaboration with school districts and schools should develop a plan to proactively improve safety and security on school buses. Measures should include the following:

- amend regulation 2001-51 by adding a section setting out that school bus drivers are entitled to student information for students riding on his or her bus, if that information relates to a safety hazard or other potential emergency. This provision should be drafted in accordance with relevant privacy protections.
- amend regulation 2001-51 by adding a section that requires the superintendent to assign a safety attendant to a bus if that bus transports a student or students with a physical, emotional, intellectual or behavioral or other disability that poses a safety risk while on the bus.

- amend regulation 2001-51 section 11(1) to include 11(1)(a)(i) “cooperation and collaboration with safety attendants where one is assigned.”

**56(b) The Minister of Education should create a committee in collaboration with the CUPE local representing bus drivers, school districts and schools to develop a plan of proactive strategies that respond to aggressive behaviour and bullying on the bus. Strategies could range from peer mediators on each bus to proactive activities that can be done on the bus that would promote positive and respectful relationships.**

## DELIVERABLE 3

### DISCIPLINE, SAFE SCHOOLS AND INCLUSION

#### INTRODUCTION

In New Brunswick discipline in schools is governed by the *Education Act*. Section 21 gives general authority and responsibility for order and discipline to teachers. Principals do have the responsibility for creating and maintaining a “safe, positive and effective” school environment under section 28(2)(c) of the *Education Act*. Principals also have the power to suspend students, as discussed later in this section. Section 22 of the *Education Act* gives teachers the authority to exclude a person from the school for improper conduct. Section 22 also creates two category C offences under the *Provincial Offences Procedure Act*. The first offence is for refusing to leave when a teacher has excluded a person under section 22. The second offence is where a person, in or on school property, (a) uses threatening or abusive language, or (b) speaks or acts in such a way as to impair the maintenance of order and discipline.

This section gives teachers in the school a wide degree of statutory authority in dealing with students, parents and others who enter the school. The creation of offences here supports teachers in their safe communications with people (other than students or as this act calls them ‘pupils’) who enter the school. As was discussed in the background research, and confirmed during the consultation process, teachers do experience instances where parents or other adults entering the school act in harassing ways. By creating these offences, legislators gave teachers access to statutory protections.

In reality, few teachers exercise statutory powers of exclusion, and in many cases it would be impractical to do so. Furthermore, many teachers would not be aware of these statutory provisions. What most teachers desire is the minimizing of conflict with parents and other adult visitors to schools and to engage in more positive conflict resolution. These skills and techniques could be part of the proposed professional development of teachers in respect to class management and student behaviour but different issues arise in dealing with adults and problems of parental harassment.

#### **Recommendation 57: Protection for Teachers**

**57(a) The Minister of Education in collaboration with the District Education Councils, district offices and other appropriate partners, should publish information pamphlets for teachers on the existence of the offences created by section 22 of the *Education Act* and appropriate procedures to**

**be followed by a teacher in a situation where a parent or school visitor acts in a harassing manner.**

**57(b) The Minister of Education, in conjunction with the District Education Councils, should provide opportunities for teachers and administrative staff to learn skills and techniques of conflict resolution as part of their strategic professional development, discussed earlier.**

## **STUDENT DISCIPLINE**

The balance between order and discipline in schools is brought into sharp focus in matters of discipline. As discussed in the background report in Phase 1 of this document, violence and bullying in schools is a serious problem all across Canada, including in New Brunswick. In order for schools to be safe for all students, there must be maintenance of order that necessitates some restriction on students' rights.<sup>198</sup> In order for schools to be inclusive of the diversity of students, they should be safe places where bullying and intimidation are minimized. As discussed in the legal framework of this report, there must also be a respect for student rights, by example as well as by words, in order to produce good citizens for a democratic society. The challenge is finding the right balance between order and students' rights, because both are important.

Discipline in the form of suspensions exclude students from schools and sometimes this process can have a disparate impact on disabled, Aboriginal or students from a racial minority. However, a school without order and discipline is fertile soil for bullying, intimidation and aggressive behaviour that can also exclude students from a positive learning environment. The victims are sometimes the most vulnerable<sup>199</sup>. The difficult challenge of striking the balance falls to teachers, principals and superintendents on the front lines. It is a tough task.

With regard to the discipline of students, Section 23 of the *Education Act* prohibits the use of corporal punishment as discipline. Section 24 gives principals and superintendents wide powers to suspend students "for cause". Cause is not defined in the *Act*. Section 24(3) of the *Act* requires that notice in writing be given to the superintendent following any suspension from school. Section 24(4) sets out an entitlement to appeal suspensions. The appeal mechanism set out in regulation 97-150 is only available after a student has been suspended for more than 5 days in a school year. Even then only the most recent suspension is eligible for appeal. Section 25 of the *Act* makes a child and his or her parents

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<sup>198</sup> R v. M(MR) [1998] 3 S.C.R. 393.

<sup>199</sup> Faye Mishna, "Learning Disabilities and Bullying: Double Jeopardy" (2003) 36 J. of Learning Disabilities (No. 4) at pp. 336 – 347. The consultations also indicated that students with "invisible disabilities" were more likely to be the victims of bullying.



jointly and severally liable to the Minister for any damage, destruction, or loss to school property resulting from the intentional act of a child.

These sections of the *Act* can cause some tensions with the New Brunswick Department of Education Policy 703 “Positive Learning Environment”. Part of having a positive learning environment is having a safe school environment as well, so there is no conflict in goals but some different approaches to means. The policy and its appendices set out a values statement, research and practical suggestions supporting a positive learning environment and proactive, education based discipline. The policy also recognizes the important links between discipline, repeated misbehavior, underlying problems and the need for coordination and integration of services to support children’s continued learning in school. The *Education Act* has a greater focus on suspensions.

Policy 703 represents an important component of the values proposed in Deliverables 1 and 2. In many ways this policy represents a significant step toward inclusive education. The feedback from teachers and administrators during the consultation process was that the Positive Learning Environment initiatives are useful and that these initiatives make a difference. Other feedback confirmed that there continue to be instances where the ideals of Policy 703 are not met. In these instances discipline tends to follow more closely the model set out in the *Act*. That is not to suggest that suspensions would never be appropriate. They would be if there is violence or a threat to student safety in at least some extreme case.

In recognition of the fact that the positive learning environment described in Policy 703, and in the background research report do help improve the climate of a school and in recognition of the fact that suspensions from school are a form of exclusion with serious consequences, I propose the following:

#### **Recommendation 58: Student Discipline**

**58(a) The Minister of Education should elevate some of the key value statements in Policy 703 (Positive Learning Environment) to the status of regulation. The full Policy 703 should also remain in place.**

**58(b) The Minister of Education should continue her commitment to a positive learning environment by sustaining funding for appropriate human resources, training, and integration of services to support the application of Policy 703. Some specifics such as behaviour intervention workers are recommended earlier.**

**58(c) The Minister of Education should enact in policy form a Code of Conduct for New Brunswick Schools, defining the limits of discipline and “cause” for suspension, and outlining the roles and responsibilities of**

students, teachers, and parents in the school as well as the core values of education. This code should then be widely publicized and made available to school staff, students and parents.

**58(d)** The Minister of Education should require that notices of suspension sent to the superintendent are also sent to the Department of Education (The Nova Scotia Department of Education requires discipline incident reports to be filed directly with the ministry)

**58(e)** The Minister of Education should require as a matter of practice that any decision to remove a student from a class or from a school, that is precipitated by ongoing behaviour or other difficulties, should where feasible be preceded by a letter to parents or guardians indicating the nature of the ongoing difficulty and inviting an opportunity to collaborate in finding a solution. If no timely response or solution is found, the suspension can proceed. The above letter requirement would not apply to matters of urgency or school safety. An immediately after-the-fact letter would then be appropriate.

**58(f)** The District Education Councils should create a policy on discipline consistent with the *Education Act*, relevant regulations, policies and the above Code of Conduct for New Brunswick Schools, that directs district administrators and principals to explore alternatives in keeping with the letter and spirit of the Positive Learning Environment Policy, prior to suspending a student, where feasible to do so.

## **DISCIPLINE AND DISABILITY**

The Positive Learning Environment, Policy 703, touches briefly on the difficulties that arise when behaviour and discipline must be balanced against the needs of students with disabilities or other difficulties. The occupational health and safety issues scanned in the background research are significant and important. Teachers as well as students deserve to have a safe school environment. Having appropriate facilities and a crisis response plan worked out ahead of time is also an important step to ensuring appropriate and effective responses to difficult situations.

Discipline of students with emotional, behavioral or other forms of disability raises complex practical issues. Order in the classroom must be maintained and disruptive behaviour, whatever its source, cannot be ignored. Yet if the disruptive behaviour is an involuntary manifestation of the disability or an action which the student cannot control, then to impose discipline seems unfair. Eric Roher and Anthony Brown suggest that one part of a discipline hearing should be a “manifestation hearing” to determine whether the offending behaviour is within

the student's control or a manifestation of the disability<sup>200</sup>. In the latter case discipline is not appropriate, although the behaviour still needs to be controlled.

The Toronto District School Board (Mr. Roher is legal counsel to the Board) has adopted a helpful new manual to guide administrators in handling some of these difficult discipline issues. The manual is *Safe School Procedures Manual / Students with Special Needs – Sections B17 and B18* (2005). This manual emerged after workshops with school administrators and while not providing all the answers, is worth examining to see if it could be modified to a New Brunswick context. The concept of manifestation hearings is particularly useful, as is the process of developing policies and practices by conducting workshops with the people who have to make the tough discipline decisions. A general reform of the discipline process is beyond the scope of this Review but a few recommendations follow to offer some guidance.

### **Recommendation 59: Discipline and Disability**

**59(a) The Minister of Education in conjunction with the District Education Councils should ensure that principals, superintendents and other front line administrators are given professional development in respect to the following:**

- **Class management and positive behaviour management**
- **Disciplining disabled students**
- **Conducting “manifestation hearings” for the disabled**
- **Discipline and cultural sensitivities**

**59(b) The Minister of Education, through appropriate Departmental officials, should ensure that the proposed Code of Conduct for New Brunswick Schools includes a section on issues of disability, cultural heritage and Aboriginal origin.**

### **Recommendation 60: Manifestation Hearings**

**60. The District Education Council as part of a revised policy on discipline and suspensions should include a section on “manifestation hearings” in respect to students with disabilities. This document should also explore options for responding to behavioral disruptions from students who cannot fully control their behaviour. This should be completed within two years of the release of this report.**

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<sup>200</sup> Eric Roher and Anthony Brown, “*Special Education and Student Discipline*” (2004) 14 *Education Law Journal* 51

## **Recommendation 61: Workshop on Discipline and Disabilities**

**61. The Minister of Education in conjunction with the District Education Councils should organize a workshop or conference addressing issues of discipline and challenged students as part of the strategic professional development on inclusion, discussed as part of Deliverable 3 on human resources.**

## **DISCIPLINE AND ABORIGINAL / FIRST NATIONS STUDENTS**

Discipline is one area in particular where First Nations communities expressed concern during the Review process. They were concerned about their children who attend public schools. During the consultations at Eel Ground some Aboriginal people reported that a disproportionately high number of First Nations children are suspended from school on a regular basis.

There are several factors to consider in this complex matter. It is possible that there are instances of cultural insensitivity in applying discipline policies (e.g., if a student were suspended for missing school during a community moose hunt). It is also possible that the more subtle elements of the culture of the school and its degree of exclusiveness create a climate where some First Nations and Aboriginal students are unable to cope. This latter possibility has a far broader applicability and consequence for the school system. An important part of the response to effectively integrating Aboriginal students involves creating ongoing space for First Nations' cultures in public schools. A third possibility involves the existence of other underlying factors that contribute to behaviour difficulties among students from First Nations and Aboriginal communities that should be addressed.

The recent *Believing in Achieving* progress report on the *Quality Learning Agenda* reported on the number of cultural festivals held at schools in the province. This type of initiative is a good start but can be seen as tokenistic. Real space for cultural identity should be fostered in New Brunswick schools as one component of responding to the needs of First Nations and Aboriginal students, and other students from diverse cultural backgrounds.

## **Recommendation 62: Discipline and Aboriginal / First Nations Students**

**62(a) The District Education Councils in collaboration with First Nations and Aboriginal communities and other appropriate partners should devise a way of gathering statistics on the discipline patterns used with vulnerable populations, such as Aboriginal and First Nations students and other cultural groups. The New Brunswick Human Rights Commission may be able to provide guidance on the non-discriminatory way to gather such**

**statistics. This process of data collection should be completed within two years of the release of this report.**

**62(b) The Minister of Education should direct the relevant Departmental officials to address the issues of cultural inclusion, discipline and pedagogical styles and approaches as some of the components to be addressed in the shaping of an Aboriginal education strategy for New Brunswick. This strategy should be developed and implemented with broad consultation and collaboration with Aboriginal and First Nations communities. This process, which I understand has already started, should be completed within two years of the release of this report.**

## DELIVERABLE 4

### ACCOUNTABILITY FRAMEWORK

#### THE CHALLENGES OF ACCOUNTABILITY

Accountability and developing the proper framework for accountability are important topics for any organization and educational institutions are no exception. Not only does the *Quality Learning Agenda* focus on the need for measurable results within New Brunswick but also the topic of accountability and the challenges that it poses have attracted national attention in the education setting.<sup>201</sup> Frameworks of accountability raise legal and equality questions as well as questions of administrative efficiency.<sup>202</sup> The details of the legal and educational limits on frameworks of accountability and standardized testing in particular, are beyond the scope of this Review but they do provide an important context to be considered in designing an improved accountability framework for New Brunswick.

Janice Stein, who delivered the 2001 Massey Lectures on “*The Cult of Efficiency*”, is skeptical about the high value attached to accountability in most modern organizations. In an interesting article on accountability in the educational context she makes the following observation.

What precisely do we mean by accountability? It is an elusive concept. Someone who works for a large public agency recently said to me: “I know exactly what it means. When I do something well, nothing happens. When I screw up, all hell breaks loose!” Those who hold others accountable, he continued, “don’t have to do anything particularly right. They just have to catch other people doing things that are wrong.”<sup>203</sup>

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<sup>201</sup> Law and Education: The Practice of Accountability: Proceedings of the Fifteenth Annual Conference of the Canadian Association for the Practical Study of Law in Education (ed. R. Flynn) Markham: Bluestone Print, 2005. Not only was accountability the theme for the conference as a whole but it was the specific focus of a number of the contributors – Rod Dolmage “*Accountability and Long Term Consequences of Mandated Standardized Testing*”, pages 113 – 171; Reva Schafer, “*Achieving Accountability in Education Through a Paradigm Shift From a Medical and Economic Model to an Ethical and Moral Model Focusing on Human Dignity*”, pages 333 – 378 and Nadia Tymochenco and Robert Keel, “*Privacy Law and Accountability*”, pages 483 – 535.

<sup>202</sup> Ibid., particularly Rod Dolmage at pages 113 – 171 and W. MacKay and P. Rubin, Study Paper on Psychological Testing and Human Rights in Education and Employment Toronto: Ontario Law Reform Commission, 1996

<sup>203</sup> J. Stein, “*Law and Education: The Practice of Accountability*” (2004) 14 Educ. And Law J. 2.

It is hard to argue that accountability in this negative and sanction-focused form can be corrosive, so the challenge is to devise a more constructive and positive accountability framework.

Later in the same article Dr. Janice Stein highlights the danger of emphasizing quantitative results above all others, and the need to focus on qualitative assessments that cannot always be reduced to numbers and charts.

Accountability favours measurable and comparable accounts – numbers that we can add and subtract. We see only what we measure and miss what we don't, and much of what is important in education cannot be measured and compared. A focus on accounting, on the ledger, channels our conversation into the concrete, the tangible, and leaves little room for the intangible, for what we cannot measure. Taken to the extreme, a culture of accountability transforms the conversation about education to a discussion about the business of education. It impoverishes our public conversation.<sup>204</sup>

There is much truth to the adage that you cannot see what you do not measure. Thus while not everything can be reduced to numbers, it is important in setting the indicators for good and inclusive education that we go beyond academic standards of literacy and numeracy to also include social skills, good citizenship, caring attitudes, tolerance, and the value of diversity. There are creative ways in which achievements in the above areas can be measured and valued and that is a significant challenge that must be met. An inclusive education system should be evaluated within an inclusive and flexible accountability framework. To do otherwise is to attempt to fit square pegs into round holes.

Many teachers express concern about accountability not as a concept but rather as a time-consuming addition to an already busy and stressful job. Many school administrators would have the same view. Clearly there needs to be some degree of accountability but too much time and focus on it is a major source of stress on school personnel. During the consultation phase of this Review many teachers and school administrators complained about too much “red tape” and the time spent on filling out forms, designing student plans and accounting for every aspect of their jobs. Many concerns were also expressed about the lack of clear objectives and expectations within the New Brunswick education system. This is improving and hopefully the implementation of the recommendations in this report will enhance this progress.

In a final reference to the article by Janice Stein, she captures the concern about too many rules and the threat that they can pose to creative education.

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<sup>204</sup> Ibid., at page 4.

Even then, as the burden of rules increases, leaders in every sector of society will become even less willing to take risks, to innovate, to create, and to experiment. They will become timid, rule bound, and reactive, afraid to challenge and to dissent. The auditor, the accountant, the comptroller, and the regulator loom ever larger in the lives of those who seek to provide for the public good. Indeed, education threatens to become the accounts that they render. We live within the tyranny of rules. One committed teacher, strangling in the paperwork she now has to do, recently told me that she feels like Gulliver, tied by the thousands of Lilliputian reports, unable to move, unable to think, unable to try something new, If we allow procedural accountability to grow unchecked, we will truly have the educational system that we deserve.<sup>205</sup>

We do not want an education system that stifles creativity and where teachers are rewarded for teaching to the test.

Notwithstanding these concerns and cautions about accountability, I feel that an appropriately designed accountability framework can be developed for New Brunswick's inclusive education system. It will take time and effort but it can be done. Consultation with teachers and other personnel within the education system is vital to developing a credible and effective accountability framework. The concerns expressed about accountability by New Brunswick teachers and administrators during the Review consultations are also reflected at a national level. There is also some optimism about developing and evaluating a more inclusive education system as reflected in the following two quotes from the Canadian Teachers' Federation publication Perspectives.

High degrees of social inclusion and diversity in schools were associated with better academic results and smaller gaps between high and low achievers

...

Rather than making it incumbent on the individual to fit the program, social inclusion starts from the experiences of the individual and challenges society to provide a meaningful place for everyone<sup>206</sup>.

This same article from the Canadian Teachers' Federation publication also expresses concerns about accountability similar to those raised by Janice Stein. It also averts to the use of standardized tests to rank and sanction schools rather than improve the educational product. That need not be the case as indicated in

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<sup>205</sup> Ibid., at page 6.

<sup>206</sup> Bernie Froese – Germain, "We're all born 'In': Perspectives on Inclusive Education" (2004) Vol. 4 (No. 3) (summer) at pages 8 and 11 respectively.



the following passage from Rod Dolmage's critical assessment of the role and limits of standardized tests.

In language eerily reminiscent of the argument of manufacturers of tobacco products and guns, the Ontario Education Quality and Accountability Office (1998) stated:

“Remember: province-wide tests are not about passing or failing students, or about comparing schools. The primary purpose of the tests is to improve students' learning – to identify areas of strength and to address areas where improvement is needed (n.p.)”.<sup>207</sup>

While there are limits to standardized tests that should be acknowledged there can be some positive uses as well. They can be used to improve education and not just compare and sanction. The inevitable question arises of what to do if a school or school district does not on its own reach the standards of service delivery or is not following Departmental policy. Some during the consultation process who discussed this question proposed that remedial rather than punitive action be taken, when a school or school district does not meet expectations.

### **Recommendation 63: Consultative Process for an Accountability Framework**

**63. It is recommended that the Minister of Education in conjunction with the numerous stakeholders in the New Brunswick education system consult broadly in devising an accountability framework and the tools necessary to measure the effectiveness of inclusive education that benefits all students.**

## **PROVINCIAL ACCOUNTABILITY STRUCTURES**

Monitoring and enforcing policies is an important aspect of a coherent and effective education system. Throughout the consultative phase of this Review I heard concerns about the lack of adequate monitoring and enforcing of policies at both the provincial and district levels. While some good policies have been developed in New Brunswick, and the process for such policy evolution has been increasingly consultative, there has been little effective follow through on these policies. This shortcoming was largely explained in terms of a lack of financial and human resources to properly implement policy. The result is a high degree of cynicism about the value of policy as a vehicle for change.

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<sup>207</sup> Rod Dolmage “*Accountability and the Long Term Consequences of Mandated Standardized Testing*”, in R. Flynn (ed.) *Law and Education: The Practice of Accountability* Markham: Bluestone Print (2005) at page 161.

Other provinces have had to grapple with this problem as well, as is reflected in the review of legislation and reform proposals in other provinces. These are reviewed in the Phase 1 background report and in more detail in Appendices G and H, prepared for me by Pierre Dumas. Nova Scotia has recently addressed this accountability issue and the role of policy enforcement as have the provinces of Manitoba, Saskatchewan and Alberta. While all of these provinces have useful lessons to teach, Saskatchewan appears to offer the richest source of ideas that might be modified to fit the New Brunswick context.

On November 20 and 21 2005 I visited with a broad array of educational officials in Regina Saskatchewan including representatives from schools and districts as well as from the Saskatchewan Department of Learning. To further enrich the discussions representatives from other departments such as health, public safety and community services were also involved. A Department of Education official accompanied me on this visit to establish links with her Saskatchewan colleagues and to share ideas about matters of common concern such as the delivery of integrated education services and developing accountability frameworks.

Saskatchewan was selected for this visit because of its innovative approach to integrated education service delivery, as originally articulated in School<sup>Plus</sup>, as discussed earlier in respect to integrated service delivery under Deliverable 3. In Cathy Thorburn's research for me on this topic, she rated Saskatchewan as the best of the four provincial structures that she studied. Her research and conclusions are contained in Appendix R to this report. In her report to me she expresses some concerns about the full implementation of School<sup>Plus</sup> which in its original Task Force form had a heavy financial price tag. Part of the purpose of the visit to Saskatchewan was to explore the issue of cost and practicality for a New Brunswick context.

It appears on this brief but broad based exposure that School<sup>Plus</sup> is being implemented in various degrees throughout Saskatchewan, but on a revised and pared down form. There is also a heavy focus on outcomes and results in order to produce a better educational system in the province. New initiatives within the School<sup>Plus</sup> (integrated service delivery) framework are evaluated on the basis of three major criteria:

- Relevant needs
- Response to the community
- Results orientation

These "3 R's" of the education system are the focus for delivering integrated education services that are effective and school based.

A fourth "R" of the Saskatchewan education system that was discussed during my November 2005 visit was the importance of developing "relationships" among all stakeholders and community members. This provided the critical foundation

for cooperation between various government departments and with other members of the larger community. This time consuming but vital consultative process of relationship building allowed for a broad based buy in for principals of the School<sup>Plus</sup> and the government priorities in respect to education and learning. This Saskatchewan experience reinforces my conviction about the value of wide based consultation, as articulated in the previous recommendation.

Some of the partners in the Saskatchewan School<sup>Plus</sup> dialogue suggested that the program should really be called Community<sup>Plus</sup>, as the focus has shifted to providing community capacity and empowerment. Schools are a vital part of the community and services are school based, but the ultimate result is stronger and more vibrant communities. These principles are expounded by some Saskatchewan education researchers, as well as front line officials.<sup>208</sup> The Saskatchewan experience provides an interesting model of the need to balance provincial centralized leadership and empowered local communities to implement on the front lines.

The essence of the School<sup>Plus</sup> program as currently being applied in Saskatchewan is captured in the following three quotes from the website for the Department of Learning<sup>209</sup>.

In attaining this vision School<sup>Plus</sup> will be more than program responses . . .

It will be a cultural change in the way we work together as community partner, school personnel and human service providers to improve developmental, learning and life success outcomes for all children and youth.

. . .

It means opening our doors and windows to invite the larger community in . . .

. . . sharing responsibility

. . . co-planning and decision-making

. . . sharing power

. . . taking risks

. . . making School<sup>Plus</sup> more powerful than the sum of its parts.

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<sup>208</sup> C. Mitchell and L. Sackney, Profound Improvement: Building Capacity for a Learning Community The Netherlands: Swets & Zeitlinger, 2000.

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[http://www.sasklearning.gov.sk.ca/branches/cap\\_building\\_acct/school\\_plus/ppt/leadership\\_pres.ppt](http://www.sasklearning.gov.sk.ca/branches/cap_building_acct/school_plus/ppt/leadership_pres.ppt)

## What Have We Learned From Our Past Successes?

### Principles We Must All Practice In the Way We Conduct Our Business

1. Partnerships and Shared Responsibility
2. Holistic Integrated Approaches
3. Empowerment & Capacity Building
4. Equity and Excellence
5. Accountability and Continuous Improvement
6. Sustainability

Building upon these above principles Saskatchewan appears to be focused on outcomes and accountability as the best route to implementing the School<sup>Plus</sup> concept. Priorities are developed at the provincial level in a broad consultative process and they are then implemented in a local context in a flexible but accountable way. As a policy framework for accountability (with no statutory base), the Saskatchewan Department of Learning has developed a continuous improvement framework to assess schools on the basis of:

- Learning
- Support
- Governance
- Finances

As a set of criteria or rubric for these school assessments, the Department of Learning in Saskatchewan has just developed Saskatchewan Learning: Pre K-12 Continuous Improvement Framework Guide – Draft November 14, 2005. This is an addition to Saskatchewan Education Indicators: Kindergarten to Grade 12 (2002) and other policies and manuals. Saskatchewan appears to have a more developed version of the New Brunswick School Improvement process, to be discussed in the next set of recommendations.

There are many parallels between New Brunswick and Saskatchewan, including a large rural population, and a declining school population (except in the Aboriginal and immigrant contexts). Both also have poor PISA results, and a strong governmental commitment to improve on the provincial educational performance. Some common challenges to reform are also shared – limited resources, privacy restrictions on information flow and the lack of a full statistical base upon which to base decisions. The parallels are not perfect and Saskatchewan does not have all the answers, but it is certainly a useful point of reference.

## **Recommendation 64: Liaisons and Contacts with Saskatchewan**

**64(a) The Government of New Brunswick should promote and facilitate liaisons between its departmental officials and corresponding relevant officials in Saskatchewan to explore the concept and implementation of integrated education service delivery and other aspects of School<sup>Plus</sup> in that province.**

**64(b) The Government of New Brunswick should strike an interdepartmental committee to examine the applicability of Saskatchewan's School<sup>Plus</sup> in a New Brunswick context, and to explore the accountability frameworks developed in Saskatchewan or any other provinces deemed appropriate to study. This interdepartmental committee should be struck within one year of the release of this report, and should report to the Premier within two years of the release of this report.**

**64(c) The Minister of Education in conjunction with her relevant Cabinet colleagues and the District Education Councils, should organize a joint New Brunswick and Saskatchewan symposium to explore effective models of service delivery and educational accountability within an inclusive school context.**

**This would be a mutual learning experience with Saskatchewan benefiting from New Brunswick's experiences with inclusion, and New Brunswick learning more about School<sup>Plus</sup>. The symposium could also be expanded to include more provinces as deemed feasible. This symposium should be held within two years of the release of this report.**

**64(d) The Minister of Education should ensure that sufficient human and financial resources are allocated to the monitoring and implementation of policy and the development of accountability frameworks at both provincial and district levels.**

## **ACCOUNTABILITY AND SCHOOL IMPROVEMENT: POLICY IMPLEMENTATION**

I stated in the introduction to the Phase 1 background research that inclusive education is more of a process than a destination. I recognize that the road to inclusion is one that will take time and consistent efforts on the part of all stakeholders. Many of the recommendations that are proposed require time for dialogue, planning and funding. One of the existing processes that has promise and should be extended is the school improvement process. Both linguistic sectors in New Brunswick already conduct various types of evaluation processes both in terms of accountability for certain types of expenditures under the *Quality Learning Agenda* and by conducting school surveys or other evaluation

mechanisms. A precise analysis of the content of each of the surveys currently in use across the province is beyond the scope of this Review. One example of an accountability mechanism submitted to me during the consultation process is the “Standards for the Educational Review of New Brunswick Schools” used in the anglophone sector of the Department of Education. This example demonstrates descriptive standards and goals to evaluate many elements of a school’s inclusiveness. The areas that this tool evaluates are:

- School Climate
- School Leadership
- School Management
- Management of Staff Performance
- Partnerships with Parents
- Growth and Improvement
- Teaching and Learning

This evaluation tool could be very useful in ensuring that the policies that flow from this report are being followed. Many of the criteria and descriptive standards found in this evaluation form support the findings of this Review. There is still room to improve and expand this current checklist even further, based on many of the findings in the background research and consultation summaries contained in this report. One area in particular where researchers in New Brunswick have shown leadership is in identifying inclusive teaching strategies and their impacts, leading to the identification of a new “pédagogie de l’inclusion”.<sup>210</sup>

Another example of an evaluation or accountability measure including more traditional empirical studies is the one published by Sharon Hope Irwin, et. al.<sup>211</sup> There are two empirical studies presented in this work. The first study examines the effect of leadership demonstrated by day care center directors. These researchers found a positive impact on inclusive practices and on staff attitudes, training and efficacy, as a result of the leadership of these day care center directors. The second study examines the essential resources for quality inclusion using questionnaires, interviews and observations of thirty two child care centers in four provinces. This second study examining the essential resources for quality inclusion evaluates various configurations of support

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<sup>210</sup> Raymond Vienneau, “De l’intégration scolaire à une véritable pédagogie de l’inclusion « C. Dionne et N. Rousseau, eds., *Transformation des pratiques éducatives : la recherche sur l’inclusion scolaire* (Sainte-Foy, QC : Presses de l’Université du Québec) ; Raymond Vienneau, « Pédagogie de l’inclusion : fondements, définition, défis et perspectives » dans R. Landry, C. Ferrer et R. Vienneau, eds., *La pédagogie actualisante. Éducation et francophonie* 30(2) (2002). Angèle AuCoin and Leonard Goguen, « "L'inclusion réussie: un succès d'équipe" » in Nadia Rousseau et Stéphanie Bélanger, eds. *La pédagogie de l'inclusion scolaire* (Sainte-Foy : Presses de l’Université du Québec, 2004). These are but a few of the examples of some of the vibrant work on inclusion in the francophone academic community in New Brunswick.

<sup>211</sup> *Inclusion: The Next Generation in Child Care in Canada* (Wreck Cove, NS: Breton Books, 2004)

services such as an “in-house resource teacher” as compared with resources that “follow the child”.<sup>212</sup>

Schools are already required to engage in a process of improvement planning by section 28(2) of the *Education Act*. District Education Councils are also already required to engage in a process of improvement planning by section 36(9) of the *Act*. These existing processes represent a significant opportunity to further advance inclusive education, child centered schools, and school centered communities. Positive dialogue has emerged in New Brunswick as an important contributor to furthering the goals of inclusive education. The school improvement and related processes are a simpler version of the continuous improvement framework of Saskatchewan discussed previously. They provide a base upon which to build.

These recommendations reflect a degree of centralizing of authority but still leave room for the local contexts of different districts to be recognized. The process should also encourage flexibility and creativity and the process of ministerial consideration should involve dialogue between the Department of Education and the District Education Councils. Leadership must come from the Minister of Education but implementation has to occur at both the provincial and district levels.

### **Recommendation 65: School Improvement Process**

**65(a) The Minister of Education should amend the *Education Act* or enact regulations to make the elements of inclusive education a mandatory component of school improvement plans currently required by section 28(2) and the district improvement plans required by section 36(9) of the *Education Act*. These regulations should require initiatives in key strategic areas while also encouraging the development of new areas and components of inclusive education.**

**65(b) The Minister of Education should publish policy guidelines identifying key strategic areas for school and district improvement plans to advance inclusion. Based on the background research and consultation process summarized in this report, the key strategic areas include but are not restricted to the following:**

- **School culture, cultural symbols, and an educational climate that support the goals of education and inclusive education.**
- **School buildings, classroom designs and capital improvements that support the goals of education and inclusive education.**
- **Human resources.**

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<sup>212</sup> See Appendix E to this report, at page 14 for further results.

- Flexibility and fluidity in program and service delivery that supports the goals of education and inclusive education, including the use of para-professionals
- Safe schools: proactive discipline, alternative dispute resolution, and restorative justice programs for dealing with student misbehavior, safe school measures such as functional crisis plans and facilities, and much more.
- Technology that supports the goals of education and inclusive education

65(c) The District Education Councils should require that more dialogue occur as part of the school improvement process by directing their superintendents to host district-wide school improvement symposia every two to three years. At these symposia school improvement plans, strategies and dialogue could take place in a constructive and non-threatening environment. Participation could include principals, teachers, parents, Parent School Support Committees, Home and School Associations, District Education Councils, students, other professionals, service providers and government agencies, municipalities community groups and the broader community.

65(d) The Minister of Education should amend the *Education Act* or enact regulations requiring District Education Councils to report to the Minister that school improvement plans were reviewed under section 28(2)(b.1) and that strategic areas in inclusive education were addressed in those plans.

65(e) The Minister of Education should amend section 36.9(2) of the *Education Act* by adding (e) “strategies to ensure the promotion of inclusion as enunciated in the preamble to this Act”. Section 36.9(3) of the *Education Act* also should be amended by adding the words “for examination and dialogue” after “A District Education Council shall submit” in that section.

## **PROVINCIAL EDUCATION PLANS, DISTRICT AND SCHOOL PERFORMANCE REPORTS**

Under section 6(a.1) of the *Education Act* the Minister of Education shall establish provincial education plans for both linguistic sectors and these plans are identified as follows:

“education plan” means a detailed plan establishing priorities for the improvement of pupils’ educational performance towards the achievement of prescribed learning goals for the official linguistic community.



The duties of school principals under section 28(2) of the *Education Act* include the following:

(a) preparing, in consultation with the Parent School Support Committee and the school personnel, a school improvement plan and coordinating its implementation

(b) preparing, for parents of the pupils enrolled in the school, an annual school performance report, and ensuring that that report is communicated to those parents and the school community

(b.1) submitting annually to the District Education Council concerned, through the superintendent of the school district, a copy of the school improvement plan and a copy of the annual school performance report.

Finally, the duties of superintendents as set out in section 48(2) of the *Education Act* include the following:

(d) having primary responsibility for the preparation of a district performance report, in such format as may be determined by the Minister, for submission annually to the District Education Council and the Minister.

To enhance the process of inclusion and the implementation of the recommendations of this report I advance the following recommendations.

#### **Recommendation 66: Provincial Education Plans**

**66(a) The Minister of Education should extend the existing priorities in the provincial education plans for both linguistic sectors to add elements for the promotion of inclusion pursuant to this report.**

**66(b) In developing and revising these provincial education plans for both linguistic sectors, the Minister of Education should take account of the District Education Plans and balance the need for province-wide priorities and the differing needs of each of the districts.**

#### **Recommendation 67: District and School Performance Reports**

**67. The Minister of Education should issue a policy directive indicating that both the school performance reports prepared by the principals, and the district performance reports prepared by superintendents, must include**

**an assessment of the enhancement of inclusion and the implementation of the recommendations of this report.**

## **SCHOOL REVIEW PROCESS**

Over the years there have been various assessments of schools by both external and internal teams and the processes have varied by linguistic sector. School reviews have great potential for improving the delivery of quality education and inclusive education if used not just to rank or sanction schools. A properly researched and responsive school review process could be a useful mechanism for monitoring and enforcing the policy framework needed to implement the recommendations contained in this report.

### **Recommendation 68: School Review Process**

**68(a) The Minister of Education should ensure that sufficient human and financial resources are allocated for a proper review of schools in both linguistic sectors to determine among other things their degree of policy compliance in respect to the responses to the recommendations of this report.**

**68(b) The Minister of Education should use the mechanism of school reviews to ensure that provincial priorities in respect to inclusive education and education generally are being implemented as appropriate in local contexts. This process of review also provides an opportunity for demonstrating leadership, clarifying priorities and receiving feedback.**

## **TRACKING INDICATORS OF SUCCESS**

The *Quality Learning Agenda* sets out important goals of achievement on international assessments and provincial exams. High standards are important to help create a culture of learning and excellence. Achievement scores on standardized tests alone do not tell the whole picture of quality education. There is a need for both quantitative and qualitative indicators of success.

In order to measure success in provincial, national or international levels, the indicators of success must be identified. In the New Brunswick context that includes indicators of successful inclusion. The consultation process of this Review produced a long list of indicators of successful inclusive education. These indicators propose a mix of qualitative and quantitative measures. A more complete list can be found in the Phase 2 of this report in the emergent themes in Part II (4) and in the consultation summaries in Appendix M. I have boiled that list down to some priority indicators as set out in the following recommendations.

## **Recommendation 69: Tracking Indicators of Success**

**69(a) The Minister of Education should develop a plan to incrementally track the following indicators (or a modified and extended list) and include them in the summary statistics published by the Education Department's policy and planning branch, where feasible and where it does not already do so.**

### **Qualitative measures proposed:**

- **Parent, student and school personnel happiness and satisfaction, measured using surveys.**
- **Tracking graduates' success using follow up surveys (particularly for students of vulnerable populations such as Aboriginals, students with disabilities, immigrants, etc).**
- **The functional effectiveness of inter-departmental/multi-disciplinary cooperation. This could be measured through outcomes from Individual Student Plans or Intervention Plans in conjunction with satisfaction surveys.**
- **Accessibility of after-school programs to a wide range (ideally all) students.**
- **Enhanced student self esteem and a sense of belonging to the community.**

### **Quantitative measures proposed:**

- **Achievement on PISA and provincial curriculum assessments and the accompanying exemptions and accommodations for individual students.**
- **Rates of basic literacy, numeracy, and computer skills upon graduation.**
- **Drop out rates, retention rates, suspension rates, and school transfers (these statistics could also be broken down by vulnerable populations, such as Aboriginals, students with disabilities, etc.)**
- **Rates of behaviour problems, disciplinary incidents, and bullying.**
- **Number of students that attempt or succeed at suicide.**

**69(b) The Minister of Education in collaboration with District Education Councils should use the data collected in respect to the above indicators to help determine priorities in both professional development and resource allocation.**

**69(c) The Minister of Education should direct the relevant departmental officials to explore education indicators in other provinces to discover how and to what extent they measure success in responding to students with special challenges and needs. This examination should also include the**

**provincial reform proposals reviewed in Appendices G and H to this report and should be completed within two years of the release of this report,**

## **EVALUATING SCHOOL PERSONNEL**

Evaluation processes for school and other educational personnel are critical to promote excellence and continued growth and development in the advancement of inclusion. As long as evaluation processes are fair and transparent their results should be constructive. Currently the principal is responsible under section 28(2)(f) of the *Education Act* for evaluating the performance of teachers and other school personnel employed at the school. The principal in turn is to be evaluated by the superintendent with input on certain matters from the Parent School Support Committee (PSSC). There appears to be little consistency on this level of performance evaluation.

The consultation process highlighted that the practice of evaluating school personnel is quite variable across the province. Evaluations for teachers seemed more regular on the francophone side but not necessarily so for the other staff such as resource teachers and guidance counselors. Some anglophone districts use a professional development format for staff growth, development and evaluation. Some teacher assistants felt that evaluations were used as a disciplinary tool. Performance evaluation should be about improving performance, not sanctions.

Principals and teachers claim that the responsibilities facing principals and the lack of adequate support personnel to assist with paperwork, answering phones, and coordinating meetings, etc. forces personnel evaluations to the bottom of the priority list. Too many times conducting performance evaluations or being subjected to them, is seen as an “add on” to an already busy schedule, rather than a natural part of the job.

### **Recommendation 70: Evaluating School Personnel**

**70(a) It is recommended that the evaluation and performance appraisal of all school personnel be in relation to clearly defined job descriptions, which include the skills, attitudes and knowledge referred to in the recommendations under Deliverable 3: Human Resources, in respect to the promotion of inclusive education.**

**In particular it is recommended that the promotion of inclusive education as defined in the recommendations under Deliverable 1 should be a significant component of the evaluation process.**

**70(b) The Minister of Education should amend section 28(2)(f) of the *Education Act* to include a requirement that principals submit personnel**

evaluations to the District office. For some areas this would be merely codifying the current practice in statutory form.

**70(c) The Minister of Education should strike a committee composed of departmental officials and representatives from the various personnel sectors with a mandate to provide appropriate evaluation forms and processes for each type of personnel working in the schools, including teachers, teacher assistants, resource teachers, guidance counselors, and others. As part of its mandate, the committee should examine best practices used within New Brunswick as well as practices in other provinces. This committee should be struck within six months of the release of this report, and should report back to the Minister within one year of its creation.**

**70(d) The Minister of Education should amend the *Education Act* to include the evaluation of the performance of principals in each district.**

**70(e) The job descriptions of both principals and superintendents should include this evaluation role if they do not already do so. Efforts should also be made to give time to superintendents, principals and the relevant staff to engage in dialogue around evaluation to make it a more constructive process.**

## **STUDENT EVALUATION**

The evaluation of students is also critical to providing for accountability in the school system. Our background research highlights several different purposes for evaluating students and the need to ensure that the measures used can achieve the intended goals and that they report indicators that are relevant to student growth and development. (See Phase 1 Part 3 at page 53 footnotes 93-95).

It is important to remember that students should be evaluated in relation to the broad goals of education as described in the recommendations in Deliverable 1, which should already be reflected in the curriculum, Special Education Plan (SEP) or Individual Education Plan (IEP). To be fair and meaningful the evaluation should be linked to the goals and objectives set for the students by the school personnel. Included within these goals should be the development of social skills and good citizenship, as a couple of examples that go beyond the traditional academic skills. In the summer of 2004 edition of *Perspectives* published by the Canadian Teachers' Federation the following quote appears at page 5 of an article entitled "*We're all Born 'In': Perspectives on Inclusive Education.*"

Accountability policies built around narrow academic standards, mass standardized testing and competitive rankings have enormous potential to exclude (intentionally or not).

It is important to challenge students to be the best they can be and this requires setting high standards for all students. The hope is to maximize every student's potential – whatever that potential might be. However, as I suggest in the title to this report and in many other places, the challenge can and should be connected to care. The caring component which is evident in the New Brunswick education system is the attempt to include all students regardless of challenges and disabilities and to make them part of the learning community.

Educational researcher Judy Lupart (whose work is referred to in the background research as well as Appendix E of this report) delivered a paper at the November 18 2005 conference entitled "*Building Inclusive Schools: In Search of Solutions*", which was sponsored by the Canadian Teachers' Federation. In her presentation she questioned whether equity and excellence could be put together in Canadian schools.<sup>213</sup> She concludes that they can and I agree with this conclusion. My own conviction on this stems from my experience as the founding director of the Dalhousie Law Programme for Indigenous Blacks and Mi'kmaq (IB and M) as well as my research and work in education law. Equity and excellence do go together. By challenging all students in our schools to achieve high standards (including those at the lowest levels of academic achievement), there will be better results for the education system as a whole on indicators such as PISA scores.<sup>214</sup> By raising the bottom you can raise the whole system.

The mode of evaluation of students with particular learning challenges is very important and should reflect the diversity of the inclusive education process as a whole. However, that does not mean that standardized tests have no role to play and at the end of the day graduating from school should indicate some basic skills and levels of attainment. This will be further discussed in a later recommendation. In the recommendations that follow I want to emphasize that students should be evaluated broadly not only on academic skills, but on other goals of education as well.

The consultation process revealed a wealth of evaluation strategies in different localities throughout the province. However, some students and parents expressed a frustration with the current report cards, claiming that they are not descriptive enough, do not identify student's strengths and weaknesses, and do not indicate how a student can improve. Teachers on the other hand expressed frustration on spending so much time preparing report cards.

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<sup>213</sup> Judy Lupart, "*Excellence and Inclusion: Can Canadian Schools Achieve Both?*" Paper presented at *Building Inclusive Schools: In Search of Solutions*, (sponsored by the Canadian Teachers' Federation), November 18, 2005 in Ottawa, Ontario.

<sup>214</sup> Part of Finland's key to success is focusing resources on students at the lower academic levels and while some challenged students are exempted in both Finland and New Brunswick many are counted as well.

## **Recommendation 71: Student Evaluation**

**71(a) The Minister of Education should ensure that students are evaluated in relation to the broad goals of education as outlined in the recommendations in Deliverable 1, which include academic achievement, but also social skills and citizenship. As part of achieving this goal, the Minister of Education in conjunction with the District Education Councils, should ensure that there is professional development for all relevant personnel on appropriate student evaluation in the context of an inclusive education system.**

**71(b) The Minister of Education should direct departmental officials from both linguistic sectors to gather and publish a single inventory of the variety of different student evaluation tools that are being used in New Brunswick. The inventory should also outline the best practices for student evaluation, identified in the background research of this report and elsewhere. The inventory should clearly indicate the purpose of the evaluation tool and its usefulness. The link between the evaluation tools and the identified goals and outcomes is critical. Once compiled, this inventory should be distributed to teachers. This inventory should be completed within one year of the release of this report.**

**71(c) The Minister of Education, building upon the above inventory, should create a policy on student report cards that would ensure that students receive a descriptive evaluation that focuses on identifying student's strengths as well as areas for improvement, and aims at being as specific as possible about how students can improve. These report cards should assist both students and parents in contributing to a better educational experience.**

## **GRADUATION DIPLOMAS**

High standards of excellence and quality results are both critically important to inclusive education. I stated in a previous section that it is not intuitive that excellence and inclusive education are mutually supportable concepts, but in my view they are.

There is no issue that brings this more into focus than the high school diploma. How do we achieve inclusive education, reward good effort and attendance while also producing graduates with a diploma that “means something”? In New Brunswick the anglophone and francophone sectors have different approaches to this issue. The anglophone sector has a single diploma; the francophone sector offers a regular diploma and a “diplôme en adaptation scolaire” for those on a “plan d’adaptation scolaire”.

This dialogue about the graduating diploma brings into sharp focus a concept I started off with in the introduction to the background research report (Phase 1.) That is a two part notion of educational equality made up of both academic and social inclusion. The high school diploma has elements of both. The graduation diploma represents continued effort toward a goal, attendance at school and participation in the graduation ceremony: a social rite of passage. The graduation diploma also represents academic achievement.

The issue of the “social pass”, that is, passing children along even though they may not meet the academic requirements, also emerges in this context. Some parents as well as educators have questioned the desirability of the “social pass” and it is timely to reconsider this practice.<sup>215</sup> The “social pass” issue also has both social equality and academic equality dynamics about it. Academic achievement measured against an objective standard is important in keeping track of student progress. Passing from “grade to grade” also has a significant social element because the grades are organized around age groups of peers. There are also important questions of self esteem. Part of the difficulty with the social pass is that the societal norm is based on the assumption that all children in an age group will advance academically at roughly the same rate, pace, and order. This is often not the case, especially in an inclusive education system. The performance that justifies passing to the next grade should be tied to the goals set for the particular student, but included in those goals should be some level of literacy and numeracy – even if it is a level that is below the rest of the class.

We know that there may be social harm to the student by being “held back” but in the long run, the honest indication of academic progress is also very important<sup>216</sup>. Many districts in New Brunswick have begun to experiment with mixed age groupings, block scheduling, alternate scheduling, team teaching, and other strategies to try to bring the needs of social inclusion and academic excellence together. It is a major challenge, but one that can be met by being flexible and employing creative strategies of differentiated learning.

## **Recommendation 72: Graduation Diplomas**

**72(a) The Minister of Education in collaboration with relevant stakeholders (e.g. District Education Councils, teachers and others) should develop a single provincial diploma indicating that the New Brunswick high school diploma stands for the values guiding the education system. The high school diploma should also have a mechanism to indicate the individual**

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<sup>215</sup> Heather Sokloff “*Family Fights to Allow Son to Repeat Grade 6*”, *National Post*, July 5, 2005.

<sup>216</sup> *Germain v. Ontario (Minister of Education)* (2004) O. J. No. 1977 (Ontario Superior Court), upheld literacy tests being applied to students with special needs as well as other students, as a means of reflecting actual achievement levels of students.



**graduate's levels of academic achievement (be they the highest provincial math and literacy tests passed or some other indicators).**

**In developing this provincial diploma regard should be had for the potential benefit to gifted students in indicating elevated levels of achievement, as well as providing a fair way to portray disabled students' levels of achievement.**

**72(b) In the mean time, the Minister of Education should also explicitly allow students to be "held back" rather than receive what is called the "social pass" in certain circumstances, where this is preferable to advancing without adequate supports and the minimal skills needed to achieve at the next level. The student should not be held back because of the lack of adequate supports, but because pushing him or her through the system would result in a student, deemed capable of meeting graduation requirements, graduating from the school without basic skills needed to cope with life after school.**

## **ACCOUNTABILITY TO PARENTS AND STUDENTS**

In addition to the various internal systems of accountability, there needs to be accountability to the parents and students, whom the educational system is designed to serve. Under the existing *New Brunswick Education Act* there is a significant role for Parent School Support Committees (PSSC) as set out in section 33. This Committee has a role (albeit a limited one) in the hiring and evaluating of principals, upon the request of the superintendent. This group also advises the principal on a host of matters and plays a role in the school improvement process. There is also still a role for home and school associations at the school level.

There is of course room for improvement in terms of parental involvement in the education of their children. Vianne Timmins, Vice President Academic of the University of Prince Edward Island made a presentation at the November 2005 Canadian Teachers' Federation on "Building Inclusive Schools: A Search for Solutions," in which she emphasized the need to treat parents as partners in education, rather than agents of the schools. This is a theme that is emphasized by the written recommendations submitted by the New Brunswick Association for Community Living contained in the Phase 2, Part III at pages 150 - 157 of this report.

As part of the need for better communications throughout the system there is also a need for improved information flow and connection with parents. This has to do not just with the amount of information available but also the form in which it is made available. Newsletters, on-line mechanisms and clear and understandable language are all important.

Another area of concern both to parents and students is the importance of a safe school environment in which problems of bullying and school violence are minimized.<sup>217</sup> The issue of school safety and violence usually focuses on the students and the need to respond to bullying and other manifestations of violence that interfere with the safety, well-being and educational experience of students. These are real and important issues as some of the students indicated to me during the consultations in Phase 2 of this Review. However, concerns about school violence and safety are also prevalent among New Brunswick teachers. The Canadian Teachers' Federation conducted a 2005 teacher survey in which New Brunswick teachers expressed the most concern about safety in the classroom. The following summary table of results sent to me by the New Brunswick Teachers' Association emphasizes this high level of concern.

Question (paraphrased)	NB Avg.	Canadian Avg.
Compared to 4 years ago has the incidence of encounters with abusive parents increased?	42%	37%
Do you ever fear for your physical safety at school?	20% (highest in Canada)	15%
In the last year have you witnessed student – student assault?	92%	78%
In the last year have you witnessed a student assaulting or intimidating a teacher?	43%	35%
In the last year have you witnessed a parent assaulting or intimidating a teacher?	32%	23%
In the last year have you witnessed verbal abuse (student – student)?	88%	75%
In the last year have you witnessed student – teacher verbal abuse?	80%	60%
In the last year have you witnessed parent – teacher verbal abuse?	55%	46%

Some issues of parental harassment of teachers were addressed in some of the recommendations under Deliverable 3, as were some of the concerns around discipline and behavior problems in schools. The following recommendations on school safety are also aimed at making schools a safer place for all members of the school community. This is important to all students and staff.

<sup>217</sup> Saskatchewan has developed a good strategy on school safety in Caring and Respectful Schools: Toward School<sup>Plus</sup> (2004). Other provinces have developed similar strategies.

### **Recommendation 73: Communication with Parents**

**73(a) The Minister of education and the District Education Councils should ensure that communications with parents is in clear and accessible form and that the information flow be as extensive as possible in the context of existing privacy laws.**

**73(b) The Minister of Education and the District Education Councils should ensure that the Parent School Support Committees are fully involved in the process of responding to the recommendations in this report, and promoting the implementation of a more effective inclusive education system.**

### **Recommendation 74: Safe School Environment**

**74(a) The Minister of Education should expand upon the Positive School Environment Policy by engaging in broad consultations with stakeholders (including parents) to develop a more extensive policy to respond to problems of school violence and bullying. These consultations should be completed within two years of the release of this report, or such earlier time as is feasible.**

**74(b) Once the above consultations are complete the Minister of Education should enact an expanded and updated policy on school safety building upon the strong base of the current policy. Once the policy is complete it should be broadly publicized in a range of different formats. This process should be completed within two years of the release of this report.**

## **PARENTAL CHOICE AND VOUCHERS**

Although the issue of parental choice or vouchers is largely outside the scope of my terms of reference (see Appendix A), a significant number of related comments were received in the written submissions to this Review. The issue is very complex and can be more about parental input into their child's education than merely about receiving a voucher to pay for private school education. It brings up issues of religion or spirituality in schools in many cases. Claims for school vouchers are more common in western Canada, and British Columbia has legislated a degree of parental choice in education. In other cases it may be the parent's desire to be involved and help shape and direct their child's education. There are ways other than school vouchers to address and support parents whose ideology is not reflected in the public school. Dialogue and collaboration are useful tools in the approach to this delicate but important issue.

## **Recommendation 75: Parental Choice and Vouchers**

**75(a) The Minister of Education should, in collaboration with stakeholders, brainstorm and develop constructive and mutually satisfactory ways to incorporate more parental input and responsiveness into the public school system.**

**75(b) The Minister of Education, in conjunction with her relevant Cabinet colleagues, should continue to expand the ways in which the delivery of educational services builds upon the input of parents and provides avenues of accountability. This is consistent with Canada's international commitments to education under the *Universal Declaration of Human Rights* and related documents.**

## **FAIR AND ACCESSIBLE OPPORTUNITIES TO CHALLENGE**

Accountability for educational decision making is another area requiring its own set of mechanisms. Decision making at the local level is difficult for the Minister of Education to keep track of, and this brings up that tension between governance at the local level and centralization. There do need to be mechanisms to ensure that there is equality in the provision of educational services across the province. There also needs to be a fair process for students and parents to challenge decisions about education.

There are several existing mechanisms for some accountability in decision making. Currently New Brunswick's Ombudsman receives complaints about the education system. The New Brunswick Human Rights Commission is another avenue for parents to make a complaint. This avenue has been used in a number of cases. There is also an appeal process under the *Education Act* and regulations. There is always the possibility of court challenges based upon breaches of common law, statute or the constitutional provisions of the *Charter of Rights*.

During the consultation phase of this Review there were several suggestions for better ways to have the voices of parents and students heard within the school system. One suggestion was for the creation of a separate Department of Youth within the New Brunswick government structure. Another was for a student or parent advocate or ombudsman to operate within the school system. During the course of this Review child advocate legislation was considered by the New Brunswick legislature but it did not propose to deal with students within the school system. A proper exploration of these issues is beyond the scope of this Review and I have instead focused on a new appeal and review process under the *Education Act* in accordance with the extended terms of reference included in Appendix A. It is this package of recommendations for a Mediation Review and Appeal Process that is contained in the next package of recommendations.

## DELIVERABLE 4

### MEDIATION, REVIEW AND APPEALS PROCESS

#### PLACEMENT, PROGRAMMING AND SERVICES

The following recommendations are the result of an extensive research into the appeals processes of all thirteen Canadian provinces and territories. This research demonstrated a variety of different approaches to the process of appeals generally, as well as appeals relating to programming, placement and services in the realm of special education. This research was undertaken as a result of concern expressed with respect to the time and money currently being spent on human rights complaints and court challenges stemming from special needs programming, placement and services as it is now practiced in New Brunswick. Parents as well expressed dissatisfaction with the existing process. The overarching goal of the following recommendations is to render the appeals process more efficient, user-friendly, objective, and ultimately, effective for parties involved in programming, placement and services for exceptional students. In addition, the process that we are recommending will save time and money compared to human rights complaints, court challenges and complaints to the ombudsman. While these will not be expressly supplanted, I am confident that most disputes can be handled by an improved appeals process within the education structure.

I acknowledge that the implementation of the following recommendations will most likely result in an influx of cases being dealt with at the outset. People will be curious as to how the new system works and will be eager to try it out. This increase will also come because of the addition of services to the mandate. Our research indicates that in provinces such as Nova Scotia, where amendments have been made to educational appeals processes, the initial influx diminishes rapidly. I feel that the overarching benefits of implementing the following recommendations are worth the short-term incursion of a larger number of cases.

#### **Recommendation 76: Placement, Programming and Services**

**76. The recommendations that follow should apply to all matters of placement, programming and services that are undertaken pursuant to sections 11 and 12 of the *Education Act*. This applicability should be expressly stated in the regulations.**

## **THE MEDIATION PROCESS**

In the introduction to the User's Guide to the current appeal process (available to the anglophone sector), it is stated that the appeals process is a last resort for the parties involved in the dispute. It recommends that "all [parties] concerned should make reasonable efforts to resolve issues as a first course of action." It goes on to indicate that "initial steps may include continuing discussions between the parties involved, discussions with appropriate supervisory personnel, negotiations and mediation." On page 7 of the User's Guide, some indication as to the form and process of such negotiations is given when it is stated that "the school principal or a district supervisor of instruction, made available through the office of the superintendent, may be helpful with discussions that may lead to a resolution." This language is somewhat vague and does not express the importance of the mediation process preceding the appeals process.

The creation of a mediation process and the Minister's support for this process by providing training for the mediators will demonstrate a commitment to positive, beneficial interaction between the parties. This environment will differ from the potentially adversarial appeals process. Furthermore, in the event that mediation is unsuccessful, the parties will have a better idea of the position of their counterpart and therefore will be able to prepare themselves accordingly for the appeals process. This would lend a certain element of efficiency to the appeals process, should mediation fail.

The criteria for the mediation process are of critical importance for the purposes of ensuring efficiency and consequently for resolving disputes before they reach the potentially adversarial appeals process.

### **Recommendation 77: The Mediation Process**

**77. The Minister of Education should enact regulations setting out the mediation process using the following criteria as a guide.**

- **The mediation process is formalized and independent of the school system.**
- **There is structure to the process, and mediators receive training on the process.**
- **The mediation process is a neutral one. This neutrality is reflected by the participation of the various parties in the selection process of potential mediators, which is covered in the next recommendation. A formal expression of neutrality will instill confidence in the parties involved in the mediation process, which will consequently affect positively their approach to the process.**

- **If a dispute should arise, either party has the right to request a mediator. At that time the parties will attempt to agree on a mediator from the provided list.**
- **If the parties are unable to agree on who the mediator shall be, the mediator will be designated by the Minister.**
- **In the event that the chosen mediator is not available, the parties will attempt to agree on another mediator from the list. If no mediator on the list is available the District Education Council will seek the list of mediators from a neighboring district.**
- **A roster of mediators should be hired on a contract basis to mediate disputes on the issues of placement, programming and service delivery. Remuneration rates should be determined by the Minister but should reflect competitive rates for professional mediators in order to offer sufficient incentive for persons to become involved in the mediation process.**

## **SELECTION AND TRAINING OF MEDIATORS**

The first step is the establishment of a roster of potential mediators for each district. There is always the possibility that the chosen mediator would not be available or that none of the mediators is available at the time of the dispute. Alternatively, there may be a lack of agreement between the parties as to who should mediate the process. There is a need for a contingency plan in the event that either of these situations arises.

The parties involved in the process of selecting mediators for a particular district may choose a professional mediator or any other such person that they feel is capable of performing the duties of a mediator in an efficient and objective manner. In either case, the mediator chosen may require training in mediation and dispute resolution, or instruction in the nuances of the education system of New Brunswick. The effectiveness of the mediators relies significantly upon their skills in mediation and knowledge of the education system.

### **Recommendation 78: Selection and Training of Mediators**

**78(a) The District Education Councils (DEC), pursuant to their power in section 36.9(6)(c) of the *Education Act*, are well placed to organize the mediation mechanism. The DEC should consult with the Parent School Support Committee, the superintendent and the Department of Education in order to gather and select candidates for the position(s) of district**

mediators. There should be a total of three or four mediators selected for each district. The above parties to the mediator selection process will have the choice of selecting professional mediators from such sectors as the provincial Labour Department, or any other person that they feel will be qualified to fill the position in an efficient and objective manner. For the sake of objectivity, a person who mediates a dispute cannot be involved in the appeal process of the same case.

**78(b)** The Minister of Education should provide for and fund training in mediation and dispute resolution for the mediators who do not have prior mediation experience. Alternatively, if a mediator is chosen who is not familiar with the New Brunswick education system, this mediator should be given instruction in the nature of the education system generally, as well as the subtle nuances of placement, programming, and services decision making. This will promote a process of more efficient and effective mediation.

**78(c)** The Minister of Education should allocate resources for the mediation of disputes at the district level.

## **THE TIME LIMIT FOR FILING APPEAL**

In order for there to be successful mediation of the issues involved in the dispute, sufficient time must be provided for the parties to negotiate. Within the current process, an appeal under the regulations must be filed within ten teaching days of notification of the disputed decision.

### **Recommendation 79: Time Limit for Filing Appeal**

**79.** The current regulatory time limit of ten teaching days for appeals should be extended to at least 20 teaching days. This will allow for the parties to engage in meaningful mediation.

## **SEPARATE APPEAL PROCESS**

The current appeals process for any decision made under sections 11 and 12 of the *Education Act*, as outlined in sections 39 to 42 of regulation 97-150, is so complex and informal so as to interfere with an interested party's ability to appeal the decision in question. The appeal of decisions made under sections 11 and 12 of the Act are referred to the District Education Council (DEC), which then convenes a district committee to hear the appeal.



Although the district appeals committee is the first avenue of appeal for decisions made under section 11 and 12, it is the *second* avenue of appeal for appeals of suspensions of pupils and of pupils' transportation services. The current structure sets out the District appeal as a second stage appeal. Only very careful reading of the regulation and accompanying handbook identifies that the second stage of appeal is in fact the first stage for an appeal of a decision under sections 11 or 12 of the Act. This confusion arises in part from using the same appeals process for general discipline issues and more specialized decisions in respect to exceptional students. In addition, the sensitive and involved nature of the decisions under both the current and the proposed sections 11 and 12 dealing with issues of placement, programming and service delivery do warrant some degree of specialization in the appeal process.

### **Recommendation 80: Separate Appeal Process**

**80. The New Brunswick government should enact regulations that create a separate appeals process for decisions made under sections 11 and 12 of the *Education Act*. Appeals made under this process would relate to the placement, programming and service delivery to students. This process should have as its focus the best interests of the student who is the subject of the appeal as well as the larger student population in general. This separate appeal process will acknowledge the distinct nature of the appeals involved in section 11 and 12 decisions.**

### **APPEAL BOARD**

Another concern arising out of the appeals process as it now exists is the structure of the district appeals committees that hear the section 11 and 12 appeals. Under Regulation 97-150, appeals are currently registered with the superintendent, who is the same person who makes the decision. The superintendent then refers the decision to a decision making body. The appeals committee may be made up of the District Education Council as a whole, only three members of the District Education Council, or a committee consisting of a superintendent, a director of education, a district supervisor of instruction or other teacher (section 42(1)(a)), a parent of a pupil enrolled in a school in the school district (s. 42(1)(b)), and a member of the District Education Council. There is a significant appearance of bias in this process. This process is inconsistent with processes in other jurisdictions such as Nova Scotia and the Northwest Territories, where school boards (who make programming and placement decisions in those jurisdictions) and parents play an equal role in naming members to appeals committees.

## **Recommendation 81: Appeal Board**

**81(a)** The Minister of Education should enact regulations creating a three member appeal board for the appeal of section 11 or 12 (placement, programming or services decisions) in individual cases. These regulations should allow for the participation of all parties involved in the relevant issue. They should direct the creation of a three-person appeal board where one member is chosen by the parent of the student (or the student him or herself if he or she is over 19 or living independently of his or her parents), one member chosen by the superintendent, and a chair chosen by the District Education Council. This will ensure that there is a balance of interests in the appeal process.

**81(b)** The regulations should expressly mandate objectivity in the appeal process by stating that the member of the appeal board chosen by the parent cannot be a relative of the student to whom the appeal applies and the member chosen by the superintendent cannot be an employee of the school district involved in the appeal. Furthermore, the appeal process should be confidential, with disputes not being played out in public as in human rights tribunals. The process must also allow the parties to be heard and state their views. Lastly, in reaching its decision, the appeal board should provide each party with written reasons for its decision.

## **QUALIFICATIONS OF THE APPEAL BOARD**

The best interests of all of the students should be the foremost consideration in the process of choosing members of the appeal board. Oftentimes appeals in relation to sections 11 and 12 will involve extremely delicate issues that will require a certain element of educational expertise on the part of (at least some of) the people hearing the appeal.

## **Recommendation 82: Qualifications of the Appeal Board**

**82.** The Minister of Education should enact regulations indicating that, where possible, the qualifications of the chair, as chosen by the District Education Council, be related to the matter under consideration by the appeal board.

To facilitate this process, the Minister, in consultation with Cabinet colleagues, Education Department officials and parent groups, should prepare a list of potential candidates for the position of appeal board chairpersons, drawn from various professions whose area of expertise could potentially be relevant to these kinds of educational appeals.

## **FAIR HEARING**

It is important that both the parent of the student (and/or the student) affected by the decision under appeal, as well as the decision-maker, be given full opportunity to present any evidence which they deem necessary in order to set out the facts and persuade the appeal board.

### **Recommendation 83: Fair Hearing**

**83. The current provisions, as set out in the “Notice of District Appeals Committee Hearing” document, should be maintained, allowing for both sides to make an opening presentation or statement, call witnesses and submit evidence. Both parties should also be allowed to present oral or written summaries at the conclusion of the hearing. This practice confirms the common law guarantees of fair hearing that are an integral part of a proper administrative process.**

## **SUPPORT FOR PARENTS**

The preparation of opening statements, the determination of which witnesses to call and the determination of what evidence to submit can be a daunting task for a parent or a student. In current practice, the parent or student may be assisted in this process by a personal friend, an advocacy group, or a lawyer. Some parents, of course, will not have the financial means to pay for the services of a lawyer. Some parents will not have friends who will understand the situation and be able to help them in their preparation for the hearing. Some parents will not know of any advocacy groups that will be able to assist them. The following recommendations are designed to address these kinds of concerns.

### **Recommendation 84: Support for Parents**

**84(a) District Education Councils (DEC) should prepare documents that advise parents of specific advocacy groups that may be able to assist them in the appeal process. The wording of the current “User’s Guide for the Appeals Process” implicitly assumes that parents know of the existence of such advocacy groups. Therefore the District Education Council should include in the documents the names of advocacy groups, the address where the group is located, a telephone number for the group, an e-mail address if available and, where possible, a contact representative for each group.**

**84(b) In addition, the Minister should enter into discussions with the faculties of Law at both the University of New Brunswick and l'Université de Moncton, with the goal of creating an advocacy centre, composed primarily of students, within these universities. It should be required that students who participate in this advocacy process have fulfilled the requirements of an Administrative Law course. These advocacy centers could potentially advise the parents of their rights as well as offering guidance as to choosing potential witnesses and presenting evidence. This would offer accessible consultation for parents from persons with a certain amount of expertise in the legal field, while also offering the students of the respective faculties the benefit of practical advocacy experience, on a pro bono basis.**

## **JUDICIAL REVIEW**

In current practice, the decision of the district appeals committee is final and binding on all parties. This leaves parties who feel that they have been aggrieved with little recourse. The current User's Guide indicates that the aggrieved party has a residual right to file a complaint with the Office of the Ombudsman or apply for judicial review in the Court of Queen's Bench of New Brunswick. The jurisdiction of the Court upon hearing the review is not specified.

When considering the following recommendation, it should be kept in mind that there are valid arguments both for and against the implementation of this recommendation. I am not aware of the current workload of the New Brunswick Court of Appeal, and the timeframe for this review has not allowed for consultation with the courts. Granting jurisdiction for appeals based on both law and jurisdiction will place an increased burden on the Court of Appeal. Consultation with the Minister of Justice should precede the enactment of this regulation.

Conversely, however, there are benefits to circumventing review in the courts of Queen's Bench. Legal fees will be saved by not having to argue a case at both judicial levels if the case should go to appeal. Furthermore, the granting of jurisdiction to the Court of Appeal will allow for a more speedy process, with time potentially being saved as a result of not having to argue the case at the Court of Queen's Bench. Of course, not all cases are appealed from the Court of Queen's Bench and the comparative wait times of the two levels of court would be an important factor. Another factor in favour of the New Brunswick Court of Appeal is that one court would be dealing with reviews from these appeal boards, increasing the chances of a consistent approach to review. Allowing the Court of Appeal to judicially review the legal and jurisdictional aspects of decisions of the appeal boards will still allow a two-tiered appeal process from the original decision. In Nova Scotia, the Court of Appeal is the relevant body for such reviews.

Ultimately, the potential detriments have to be balanced against the practical benefits when the Minister of Education implements these recommendations.

The Minister would want to consult with the relevant judicial authorities and her Cabinet colleagues in the Department of Justice before making a final decision as to whether the reviewing court should be the Queen's Bench or the Court of Appeal. A review in one of these bodies is vital.

#### **Recommendation 85: Judicial Review**

**85. The Minister of Education should enact regulations indicating that the decisions of the appeal board are subject to judicial review in the New Brunswick Court of Appeal. The Court of Appeal should be given jurisdiction to conduct this review and consider the appeal on questions of law and jurisdiction based on a record of proceedings forwarded to the Court from the appeal board. Issues of fact are for the appeal boards alone.**

#### **USER'S GUIDE**

It is crucial that information concerning the option of mediation, as well as the separate appeal process, be delivered to all parties involved in the dispute in a timely manner.

#### **Recommendation 86: User's Guide**

**86(a) The current User's Guide should be expanded. This task should be undertaken by the Department of Education in conjunction with the District Education Councils. The new User's Guide should clearly explain, in a succinct and understandable manner, the following changes:**

- **The importance of the mediation process preceding the appeals process**
- **The existence of a roster of mediators, who are trained in the field of mediation and dispute resolution, and have received instruction as to the nature of the New Brunswick education system**
- **The existence of the separate appeal process for disputes arising out of sections 11 and 12 of the *Education Act***
- **The parent's (or student's) right to choose a member of the appeal board that will hear the appeal**
- **The existence of various advocacy groups, including the advocacy resources that may exist within the faculties of Law at University of New Brunswick and l'Universite de Moncton at some future date**

- **The right to seek review of certain aspects of decisions of the appeal board directly to the courts**
- **The time limits within which a party may bring an appeal before the appeal board and the time for seeking judicial review.**

**86(b) The Minister should provide resources to allow wide distribution of the User's Guide through the District Education Councils.**

## DELIVERABLE 5

### FRAMEWORK FOR A FUNDING MODEL

As it turns out, funding is not quite as simple as the one line explanation of this deliverable given in the Terms of Reference. My inquiry into funding issues led in several different directions. Deliverable 5 calls for a funding model to be proposed. A modest recommendation on a framework for a funding model is made based on the analysis of the background research, the consultation process, and the subcontracted accountant's report in Appendix S. I claim no special expertise in respect to funding models and this section and the accountants' analysis in Appendix S only begin the process of developing a better funding model. Some other funding issues were persistent throughout the consultation sessions and merit mention in this section. These other funding issues, such as the level of funding, broader based funding, and funding equity are addressed in this section prior to addressing the framework for a funding model.

Ultimately, I cannot decide for the Government of New Brunswick how to allocate and spend resources. Resource allocation is always difficult. Funding is not just about adding new resources but also reallocating existing resources. Based on the results of the background research and the consultation sessions, some aspects of the New Brunswick education system are under-funded. Difficult re-allocation decisions may need to be made. New Brunswick's laptop pilot program is still under evaluation according to the recent "Believing in Achieving" progress report. This program too should be evaluated for its fit with an inclusive education system. Government initiatives in education should be coordinated to ensure the most effective use of public funds to advance the quality of education in New Brunswick.

#### INCREASED LEVEL OF FUNDING

I cannot provide a definitive answer on what level of funding is needed for New Brunswick education. I will also not provide a definitive answer about how much new money as compared to re-allocation of existing resources is needed in New Brunswick. I believe some of both are needed. Governments across Canada face similar challenges in responding to student needs. According to their 2005 websites, many provinces are responding with significant commitments of both human and financial resources.

The 2005 "*Nova Scotia Budget Highlights*"<sup>218</sup> indicate that Nova Scotia has committed to increasing its primary to 12 budget by \$53.7 million to:

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<sup>218</sup> <http://www.gov.ns.ca/finance/budget05/BudgetHighlights2005.pdf>

- reduce class sizes
- hire more teachers / specialists
- buy more books and teacher resources
- help at-risk students
- pilot a new preschool program
- introduce new healthy living initiatives.

The same budget highlights also indicate that over \$40 million in additional money will be used to service a range of needs. The stated purpose of this allocation is to:

- service the needs of Nova Scotians with disabilities
- subsidize daycare spaces
- make more buildings wheelchair accessible
- increase accessible transportation
- increase funding for the early treatment of autism

Prince Edward Island boasts 227.5 million in new educational investments including: \$15.8 million in the health and social services budgets, \$3.3 million for increased health and social services operating costs, a \$2.4 million increase in the education budget, \$837,000 for the “Disability Support Program” and \$600,000 for the “Early Learning and Child Care” initiative.<sup>219</sup>

Newfoundland and Labrador have committed \$26 million for school infrastructure, \$250,000 for long-term facilities planning, \$3.1 million annually for teaching units, \$3 million annually for an art and culture strategy, and a \$2.5 million increase to the base budget for the purchase of learning resources.<sup>220</sup>

Saskatchewan increased its Education spending by 6.8% or \$74.4 million (\$1.33 billion when including teachers’ pensions and benefits) and \$6.5 million in new funding for youth initiatives.<sup>221</sup> Some of these resources have been directed towards School<sup>PLUS</sup> and integrated service delivery.

Alberta also reports a 7.1 per cent or \$287 million increase in its support for kindergarten through grade 12. This support over three years represents a 16% increase.<sup>222</sup> These increases are for hiring and retaining teachers, textbooks and classroom resources. As well Alberta Infrastructure and Transportation will provide \$644 million over three years for school capital projects, as well as \$350 million per year for operation and maintenance of school facilities. Alberta reports that in 2005-06 \$323 million is allocated to support early childhood services for children with special needs and \$40.5 million is allocated for English as a second language support. Further allocations include \$26 million in

<sup>219</sup> <http://www.gov.pe.ca/budget/2005/highlights.pdf>

<sup>220</sup> <http://www.budget.gov.nl.ca/budget2005/highlights.htm>

<sup>221</sup> [http://www.gov.sk.ca/finance/budget/budget\\_05/budgetilites.pdf](http://www.gov.sk.ca/finance/budget/budget_05/budgetilites.pdf)

<sup>222</sup> [http://www.gov.ab.ca/budget\\_2005/index.cfm?page=1122](http://www.gov.ab.ca/budget_2005/index.cfm?page=1122)



curriculum development, \$6 million in one time teacher professional development, and \$6 million for LearnAlberta.ca.<sup>223</sup>

British Columbia reports Education spending increases of \$139 million geared toward providing new intervention and support services including cognitive behavioral intervention, positive behavioral support, reducing wait lists for direct intervention services and enhancing supported child development programs. The Government of British Columbia also promises to spend \$134 million by 2007-08 to provide enhanced services for children who have developmental and behavioral conditions including Fetal Alcohol Syndrome Disorder (FASD), providing interpreters and counseling services, and enhancing early intervention and inter-agency collaboration for students with complex needs.<sup>224</sup>

Another indicator of funding levels is the dollars spent per student in a given province. According to the *Summary Public School Indicators for the Provinces and Territories, 1996-97 to 2002-2003*,<sup>225</sup> New Brunswick is towards the bottom of the list of provinces in terms of spending per student, and is well below the Canadian average.

The reality is that New Brunswick will need to commit some significant additional financial resources to fully implement the recommendations of this report. Not all of the recommendations will cost extra money. Many of the recommendations involve using current resources differently. Care has been taken to indicate some cost saving approaches that still support the objectives of inclusive education. Many more will become evident as the process unfolds. Committing additional resources to a better and more inclusive education system is a good investment in New Brunswick's future.

### **Recommendation 87: Increased Level of Funding**

**87(a) The Minister of Education should, in collaboration with Cabinet colleagues, the Premier, and other appropriate partners allocate significant additional financial resources for the implementation of these recommendations.**

**87(b) Over a five year period after the release of this report, the Government of New Brunswick should increase its per capita funding to bring it toward the middle rank of Canadian provinces in respect to funding education.**

### **BROADER BASED FUNDING**

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<sup>223</sup> LearnAlberta.ca is an initiative providing online curriculum-based resources, and licensing to resources developed by other organizations.

<sup>224</sup> <http://www.bcbudget.gov.bc.ca/bfp/Budget%20and%20Fiscal%20Plan.pdf>

<sup>225</sup> François Nault, Statistics Canada Catalogue no. 81-595-MIE2004022 at 11, 29.

Many of the recommendations contained in this report, supported by the findings in the background research and consultation process, emphasize the need for a broad based view of the importance of child welfare and development, as the foundation for learning. This integrated societal mandate is important, and impossible for education to fulfill on its own. This government-wide view of the mandate requires a broader based support and resources than can be provided to school districts by New Brunswick's Department of Education.

I have made several references throughout these recommendations to considering the federal government as a valuable funding partner. Although Constitutional law makes it clear that education is strictly within provincial jurisdiction, the broad based nature of these recommendations is not constrained by the boundaries of the education silo, particularly in the areas of integrated service delivery. The holistic view of child development that resonates through this report requires taking a broad and creative view of the available resources. The New Brunswick Department of Education cannot on its own respond to all of the needs of children. A multi-lateral partnership is needed to provide the resources and services that will help children develop to their full potential. This is the essence of integrated service delivery.

The Federal Government of Canada does have a role in this multi-lateral partnership, although it is not strictly required to support education nor does it have jurisdiction in the education realm. The federal government's interest through many of its departments on issues such as day care, early intervention, Aboriginal welfare, people with disabilities, and justice intersect with many of the recommendations of this review. Including the federal government in an appropriate way as a partner in the implementation of these recommendations may prove to be beneficial for the Province of New Brunswick, and relieve some of the financial burdens.

Private sector fundraising is not usually considered a significant source of resources for public education in Canada. Provincial governments provide almost all of the funding for education. In some provinces municipalities and/or elected school boards secure funding through property taxation, but this is not the case in New Brunswick. Private sector fundraising does occur in a variety of forms in New Brunswick. Private sector funding in New Brunswick involves mainly parent initiated fundraising efforts, school food and vending machine sales, and grant writing. The consultation sessions in New Brunswick revealed that this can be effective in supplementing the funds provided by the Government. Suggestions about this private fundraising were always accompanied by the expressed concern that if it was too effective, the Government would reduce its funding even further.

Caution should certainly be exercised when pursuing funding from private sources. There are often strings attached, such as television play rights<sup>226</sup> and promoting unhealthy eating habits. The negative effects of the latter has recently been recognized in New Brunswick as the new healthy eating policy requires schools to remove junk food vending machines and forego the income associated with these machines. Nonetheless, private sector fundraising should not be ruled out as a source of finances and support. Appropriately done, the private sector can be a source of community input into education and can support the implementation of these recommendations.

Numerous times in these recommendations partnerships with community agencies are recommended. This is a critical component to ensuring community input into schools and is a potentially significant source of support for schools and children. It is critical that community organizations be recognized for the important role they play. Targeted financial supports can assist communities to fulfill their roles. A beginning list of the ways that community organizations can be supported is: free and comfortable community meeting space, web and email hosting, and publication support. These kinds of mechanisms can also be supported by various government sources and this will help to ensure that communities are in the best position to provide valuable financial support and human resources to schools.

Partnerships and collaboration should also be sought among colleagues in the Cabinet. The broad concept of child development and child welfare as important foundations for learning and ultimately the future of New Brunswick, draw on the mandates of other provincial departments as well as education. An example of cooperation at the Cabinet level is found in the Alberta budget highlights noted above as Alberta Infrastructure and Transportation is to provide \$644 million over three years for school capital projects as well as \$350 million per year for operation and maintenance of school facilities. This kind of cross-ministerial support should be encouraged. The province of Saskatchewan's School<sup>PLUS</sup> initiative also strives to achieve this kind of inter-ministerial partnership in respect to funding. Integrated service delivery is one area that is ripe for inter-ministerial funding collaboration. This co-operation between departments has also been lauded in various court decision discussed in the legal part of the background report.

On page 10 of the *Quality Learning Agenda* (QLA) the Government of New Brunswick's prosperity plan and strategic framework is set out. Many of the recommendations in this final report touch on a variety of elements in this strategic framework. New Brunswick has already demonstrated innovation with regard to inclusion. Provincial support for the recommendations presented here

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<sup>226</sup> Some schools in other provinces have signed contracts with media corporations who provide computer and other equipment in exchange for allowing the media corporation time during the school day to broadcast to students, including advertising. Paul Cowan, "Schools net deal/free computer arrangement has teachers union upset" *The Edmonton Sun* May 6, 2000 at p. 3.

would advance building strategic infrastructure, strategic partnerships, community economic development, and innovation capacity. Only by working together can the funding be found to move forward on these recommendations.

### **Recommendation 88: Broader Based Funding**

**88(a) The Premier and the Government of New Brunswick should formally acknowledge the importance of inclusive education and the implementation of these recommendations to the strategic framework of the Government's Prosperity Plan. The stated intention to increase immigration levels is but one example of the value of a more effective and inclusive education system.**

**88(b) The Minister of Education should emphasize the shared responsibility for educating children and the need for a broader resource base for schools and children by seeking partnerships within and without Government to support the implementation of the recommendations in this report.**

**88(c) The Minister of Education through the appropriate departmental officials should examine interdepartmental funding of education in recognition of the links between education and other related supports (such as health and social services) in producing an effective and holistic education for children. In this regard attention should be given to Saskatchewan and Finland (as well as other jurisdictions) where some creative ideas have emerged.**

### **EQUALITY AND EQUITY IN FUNDING**

The background research report, particularly the legal section, spends a significant amount of time outlining the concept of equality in Canada. Critical to this concept is the idea that equality does not always mean identical treatment. Treatment that takes account of difference to promote equality of opportunity and equality of outcome is an important part of equality in Canada.

The background research and consultation sessions strongly support the conclusion that the provision of education services in rural areas is more costly than in urban areas. Many examples were provided during the consultation process. Rural areas have higher travel costs for all staff in the district. The distance from school to home increases pupil transportation costs. The distance between schools increases the cost in both travel and time lost when personnel are shared between schools. The farther a district is away from Fredericton, the more expensive are the travel costs when representatives must go to the

Department of Education. Deliverable 3: Human Resources also highlights the difficulty rural areas have in attracting outside professionals.

The Canadian School Boards Association recently began an initiative that addresses the challenges of providing and sustaining high-quality public education in rural communities.<sup>227</sup> The recommendations of the Canadian School Boards Association include a five-year action plan and an offer to work in partnership with the Canadian Council of Ministers of Education. These initiatives should be explored.

Providing educational services in a minority situation such as francophone and Aboriginal sectors also increases the costs in many areas, including the availability of appropriate resources and attracting qualified personnel. In New Brunswick, both of these minorities also share the added challenge of living in primarily rural settings. The issue of equity in funding francophone communities is not new to New Brunswick.

Some of the funding mechanisms used in Saskatchewan are examined in greater depth later in this section. Saskatchewan also has a few interesting initiatives with regard to Aboriginal communities. The “Indian and Métis Education Development Program” provides funding for schools on a grant application basis to stimulate and support the development of innovative, responsive and culturally-affirming Aboriginal education programs, curricula, resources, language instruction and extra-curricular activities. This funding has also been used to support “Aboriginal Elder/Outreach” programs to encourage the building and enhancement of relationships between school divisions and the Aboriginal community. Aboriginal elders, cultural advisors and other Aboriginal resource people play a vital role in creating a culturally-affirming school environment on an ongoing basis.

Saskatchewan also incorporates an equalizing factor for rural / urban communities in its initial operating grants. In addition, education divisions in Northern Saskatchewan and divisions with significant Aboriginal populations receive 30% more funds. In this regard Finland also uses a form of equalization in that schools with an immigrant population of greater than 30% receive more funding which is reflected in lower class sizes of only 10 to 12 students. Equality and equity may require funding that varies depending upon particular needs. That is a well established principle in respect to disabled students. This concept should expand in a more broadly inclusive system.

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<sup>227</sup> “Rural Schools: Centres of Community Performance Partnerships”, Action Report Prepared for Council of Ministers of Education Canada (January 2005).

## **Recommendation 89: Equality and Equity in Funding**

**89(a) The New Brunswick Minister of Education should encourage the Canadian Council of Ministers of Education to accept the Canadian School Boards Association's offer to work together on a five-year strategy of improving the delivery of educational services in rural areas.**

**89(b) The Minister of Education should develop a funding mechanism to recognize the rural context. This funding mechanism could involve:**

- **increased funding in strategic areas such as transportation and other identified strategic areas for districts with predominantly rural communities**
- **increased funding for individual rural schools**
- **a rural multiplier, an increased rural base rate, or some other mechanism that takes account of the rural context in the distribution of provincial financial resources**

**89(c) The Minister of Education should explore creative funding mechanisms to address the additional educational challenges faced by areas of the province with low adult literacy and/or high unemployment and low socioeconomic status. This could be in the form of specific program funding that could draw upon other departments such as Family and Community Services, Training, Education and Development, Business New Brunswick and even federal departments in areas such as employment and immigration.**

**89(d) The Minister of Education should engage in dialogue aimed at further defining an equalization factor between the anglophone and francophone educational sectors, in recognition of the added difficulties and costs of providing services in the minority language.**

**89(e) The Minister of Education should engage in dialogue with Aboriginal communities and the First Nations Education Initiative committee, with a view to establishing funding mechanisms that will support improved outcomes for Aboriginal students. The dialogue should include but not be limited to discussion of the proposals outlined above from the province of Saskatchewan. The dialogue should involve the federal government as well as other provincial departments, who should be seen as substantive and financial partners.**

**89(f) The Government of New Brunswick, in consultation with relevant federal departments and the affected parties, should strike a committee to explore equality and equity in educational funding in respect to:**

- **rural communities**

- francophone communities
- Aboriginal communities
- immigrant communities

**This committee should be struck within one year of the release of this report and within two years of its creation it should file a report with the Premier and the Legislature’s Standing Committee on Education.**

## **FRAMEWORK FOR A FUNDING MODEL**

The analysis of the framework for funding models begins in the background research report<sup>228</sup>. There are several approaches and considerations outlined there. Some feedback on funding models was also received during the consultation process. However, most participants in the consultation process wanted more money for education but did not care too much about the funding model. In addition, a sub-contracted report by Grant Thornton chartered accountants, performs an analysis within the parameters I identified, as set out in Appendix S. The work prepared by the accountants along with my observations in this report can provide the foundation for the evolution of a funding model framework. I am not an expert in funding matters. This fairly extensive research and consultation process have, however, revealed several critical issues with regard to the funding mechanism currently in use in New Brunswick.

The McBride report reviewed in the background research, “Funding Students with Special Needs” is the most recent and most comprehensive look at the funding of special education in Canada.<sup>229</sup> This report produces the results of a survey of how special education services are funded in all thirteen Canadian jurisdictions. This survey reveals that a variety of mechanisms are used to distribute resources to students with disabilities. The scheme in each province or territory is very specific to the overall administrative and bureaucratic structure in that jurisdiction.

This survey does have its limitations. For example it does not appear to include the francophone sector in its survey of New Brunswick. In addition a more in depth analysis of both New Brunswick and Saskatchewan reveals that the survey results are not very detailed and represent a rather general and high level look at each individual province. However, the results of this survey are useful for a comparative analysis. The survey finds that most jurisdictions use a variety of mechanisms to fund special needs. This study lists the different mechanisms as “targeted by overall amount”, “targeted by program”, or “targeted by individual student”.

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<sup>228</sup> Phase 1, Part IV, “school funding”.

<sup>229</sup> Dr. Shirley McBride, “Funding Students with Special Needs: A Review of Pan-Canadian Practices”, Prepared for Western and Northern Canada Protocol, November 2004. Also see Phase 1 at footnote 108.

In the overview of funding systems by jurisdiction at page 9 of the McBride report, the survey indicates that Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan use a type of per special needs student supplement called “flat grant/straight sum”. This is listed as “targeted by individual student”. This is what is known as categorical funding in which a student with a particular diagnosis equates to a certain amount of grant money, with little evaluation of the actual needs beyond the label of the diagnosis. Throughout the background research and consultation summaries in this report this categorical model is contrasted with the census model which allocates resources on the basis of the total student population. In the McBride report the census model is listed as “targeted by overall amount”. This census based system fails to take account of the special financial burdens imposed by certain categories of disability and the varying patterns of disability in different districts. However, the background research, the New Brunswick consultations and my recent trip to Saskatchewan confirm that there are serious problems with the categorical funding mechanism “flat grant/straight sum”. Many provinces are steering away from this categorical model or are at least modifying it. Funds that are targeted to individual students need not be “flat grant / straight sum.” A benefit to targeting individual students is an improved ability to respond to the needs of a particular student.

The McBride study also documents many of the common difficulties reported by governments in distributing resources for students with special needs. These difficulties include an increasing number of students with high needs as well as issues of equity across various student needs and across school districts/divisions. This McBride study concludes that there is a predominant theme across most jurisdictions towards increased flexibility for local jurisdictions. This flexibility is accompanied by enhanced mechanisms for accountability for student outcomes and adherence to provincial/territorial standards for programs and services. The proper balance between provincial and more localized control is a central challenge in devising any framework for funding.

The McBride report indicates that Saskatchewan uses a categorical, straight sum grant approach to funding students with disabilities. The recent “Funding and Documentation 2005-06: A Guide for School Divisions”<sup>230</sup> prepared by the Saskatchewan Department of Learning confirms this and outlines several other very interesting funding allocation mechanisms. Saskatchewan actually has a type of hybrid funding model incorporating both census and categorical components. For example the basic rates calculated on a per pupil basis for administration, instruction, operation, etc. have a separate rate for urban and rural areas. The rural rate is slightly higher than the urban one. Another example is the “diversity factor recognition,” which is allocated on a census basis of \$304 per student intended to support all aspects of student diversity including learning disabilities, mild and moderate designated disabilities, gifted learners, speech and language disabilities, social, emotional, and behavioral disorders, and

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<sup>230</sup> Children’s Services & Program, Saskatchewan Learning, September, 2005.



students living in vulnerable circumstances. This is in addition to the “designated disabled program funding recognition” which is the categorical per pupil funding described above. In addition to both of these amounts another fund for technical aid cost recognition assists school divisions with the purchase of technical aids in specific circumstances. Saskatchewan Learning retains ownership of equipment purchased through these funds. Saskatchewan Learning also provides for several “community education” programs, including a pre-kindergarten program and an early intervention program targeting preschool children and their families who are living in vulnerable circumstances. In addition the community schools program is a comprehensive, innovative and flexible initiative designed to support students in vulnerable circumstances, based on shared responsibility and partnerships.

Currently the distribution of resources to fund services for students with disabilities in New Brunswick follows what is called a “census” or “global” funding mechanism that allocates a certain number of dollars per student based on the total student population. The precise allocation and category of global funding is different in the anglophone and francophone sectors of New Brunswick. This structure allows centralized decision making for the broad allocation decisions and maximum flexibility at the district level for more local distribution. In addition to this amount, there are several lines of the budget directives reviewed in the background research report that would qualify as funding that is “targeted by program” as outlined in the McBride report noted above, although none are identified in that study. These “targeted by program” initiatives include the healthy learners initiatives positive learning environment and early intervention in literacy initiatives, among others. The “targeted by program” mechanisms outlined in the McBride report are very consistent with what I earlier in these recommendations refer to as universal service delivery.

Part of the downfall of the census or global funding mechanism in New Brunswick as was pointed out in the *Comptroller's Report* is that while the allocation is simple and all districts receive an equal amount of special education funding based on the number of students in the district, some districts have a higher proportion of students with special needs and so must service those needs with fewer resources. Districts claimed to spend all of the money allocated for special education or “adaptation scolaire” on supports for students with disabilities but that even then they are not able to service all of the needs that are present. Indeed many district officials indicated that they rob from other budget lines to supplement funding for the “exceptional” students. Money allocated for exceptional students cannot be used for any other student group. In particular some low incidence disabilities that come with some high cost specialized needs make allocating resources at the local level very difficult. These “low incidence, high cost” special needs, if serviced adequately, can require a large proportion of the resources available. Some districts and even some schools rank their priority needs and do not get beyond responding to the top couple of priorities. Beyond

level one or two priorities there are often no remaining funds to respond to legitimate needs.

There are always needs left unmet and districts are forced to put in place a priority system for allocating resources. Although these priority systems appear to be relatively informal, some version of this approach appears to be practiced in every district. Generally speaking children with severe disabilities (many “low incidence, high cost” disabilities) are given the highest priority in allocating resources. Students with learning disabilities and other milder needs, particularly if they are not disruptive in class, are often at the bottom of the priority list and in some cases receive no support services at all. Funding follows the priority label.

Another difficult priority decision that arises under the current financial distribution structure in the anglophone sector (it was less clear whether this happens in the francophone sector) is a result of resource teachers and teacher assistants all being funded out of the special education budget line. Having these personnel funded out of the same pot that funds specialized equipment, materials, and other supports, creates a difficult competition for resources. At the consultation sessions, I was told that administrators will often forgo hiring a resource teacher with a Master’s degree (and the accompanying higher pay) in order to stretch the special needs budget farther. How widespread this is and how often this happens is unclear.

The lack of resource teachers with a Master’s degree may also be a result of a lack of people with that level of qualification. It is also unclear whether the same stresses exist in the francophone sector, as “enseignants/es en adaptation scolaire” are funded out of the regular teaching allocation<sup>231</sup>. Some suggested that budget allocations for resource teachers be a separate budget line. Resource teachers should also be budgeted at the qualification level set out in government policy and standards (which currently requires a Master’s degree for resource teachers).

Another factor described as problematic during the consultation sessions in New Brunswick is that resources allocated by census are allocated based on last year’s numbers, which do not always suit this year’s needs.

Serious questions are also raised about who should make resource allocation decisions and at what level. As mentioned above, currently in New Brunswick the initial allocation is centralized at the Department of Education level. Districts have flexibility with how to allocate their budgets to meet the educational needs, but there are constraints. For example a district can augment the special education budget but they cannot decrease that budget. There appears to be very little flexibility to allocate resources, at the school level. During the consultation process in New Brunswick district administrators and District Education Councils

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<sup>231</sup> Ministère de l’Éducation, “Directives Budgétaires” le 16 mai, 2005.

called for greater flexibility in allocating budgets as well as greater input into the initial budget allocation.

One researcher identified in the background research cited the effectiveness of an approach used in Manitoba through which staffing dollars are given to school principals to allocate. Principals and school staff decide what their needs are and allocate the resources accordingly. These researchers claim that this approach is much more responsive to changing school dynamics.<sup>232</sup> Of course, such an approach would detract from consistent service delivery throughout the province.

The approach to inter-departmental cooperation and integrated service delivery proposed in an earlier section of these recommendations also raises serious questions about how resource allocation decisions are made. Striving for shared responsibility implies that a shared decision making structure is also needed. Saskatchewan has initiated an inter-ministerial fund (although they admitted during my recent visit that so far it is mostly funded by Saskatchewan Learning). There are some costs that seem more appropriately funded through an inter-ministerial mechanism rather than solely out of the education portfolio. Health related needs and assistive technology in particular are good candidates for a broader funding and support mechanism. An added benefit to removing these costs from the census amount for special education or student services is that these costs currently represent a high proportion of the expenditures in this budget area. Some form of hybrid model between a census and categorical approach appears to be the way to go and where other provinces are heading.

#### **Recommendation 90: Framework for a Funding Model: A “Hybrid” Model**

**90(a) The Minister of Education should continue to fund education and student services for all students primarily on the basis of a census or global allocation based on the total student enrollment, rather than embrace a fully categorical model. The statistical base for a full categorical model for funding disabled students is not available and funding a label requires the student to bear the burden of that label. There are also concerns about the manipulation of labels to get more funds.**

**90(b) The Minister of Education and her relevant Cabinet colleagues should strike an inter-departmental committee to progressively develop a hybrid framework funding model. This hybrid should include but not be restricted to the following components:**

- (i) The framework for a funding model should continue to fund special education, student services or adaptation scolaire, using a census or global allocation based on the total student enrollment.**

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<sup>232</sup> Gary Bunch, meeting with Gary Bunch and Kevin Finnegan, April 15, 2005.

(ii) The framework for a funding model should continue to develop “targeted by program” add-on funds such as those already begun, then expanding to other areas contained in these recommendations. Funds that are “targeted by program” could include targeted literacy and numeracy initiatives, the community school initiative like those in Saskatchewan, free hot lunch programs like those in Finland, and a host of other universal service delivery options.

(iii) The framework for a funding model should also develop a fund that is “targeted by individual” and that can respond to the needs of students with low incidence high cost disabilities. This should not be a “flat grant / straight sum” mechanism. To truly respond to the actual needs of students this fund should be distributed through the operation of the individual student planning process.

90(c) The Minister of Education and her relevant Cabinet colleagues should add to the mandate of the above Committee an evaluation of the appropriateness and feasibility of further alterations to the existing funding mechanism. In addition to any other issues that arise as relevant to the committee, the committee should consider in particular:

- some staff allocation decisions made at the school level
- measures designed to mitigate the impact of declining enrollment
- some categorical funding for low incidence and high cost disabilities that are not the same in all districts.
- categorical funding to respond to expensive and growing disabilities such as autism.
- funding models in other provinces and how they respond to meeting the needs of challenged students
- the appropriateness and feasibility of an inter-ministerial fund for certain health related and assistive technology costs, to be implemented in conjunction with other integrated service delivery initiatives from the earlier recommendation section on that topic
- suggestions in this report and the analysis and conclusions of the Grant Thornton accountants contained in Appendix S to this report.

This committee should report to the Premier and the Legislature’s Standing Committee on Education within two years of the creation of the committee.

90(d) The Minister of Education should form a broad based consultative group composed of school, district and departmental staff, District Education Councils and superintendents, to evaluate the appropriateness and feasibility of alterations to the existing funding mechanisms. This committee should serve as the sounding board for both the Minister of Education and the above interdepartmental committee examining the funding mechanisms.

**90(e) The Minister of Education should direct Departmental assessment of the impact of funding resource teachers, under the regular teacher allocation in the francophone section. Based on these results, the Minister of Education should either direct that resource teachers in the anglophone sector be funded out of the regular teacher allocation or that a separate funding line be created for resource teachers in both sectors.**

**90(f) In conjunction with the above interdepartmental committee and while it is still engaged in its study, the Minister of Education should grant seed money to “lighthouse schools” to pilot innovative funding ideas on a trial basis.**

**90(g) The Minister of Education should encourage the incremental development of further “targeted by program” initiatives. One example of such programs is the innovation grants in Nova Scotia designed to support programs and service for students with special needs. The emphasis should be on creative approaches and demonstrable outcomes.**

## CONCLUSION:

### ACTIONS SPEAK LOUDER THAN WORDS

There are many ideas for change in this report but it is a call for change that is grounded in both the background research and the very valuable consultations, which allowed me to hear the voices of a wide range of New Brunswickers. My attempt has been to weave Phases 1, 2 and 3 together into a coherent plan for improving the delivery of inclusive education in New Brunswick. There has also been an attempt to document my conclusions and where appropriate elaborate on this report by references to the Appendices. The summary of the consultations contained in Appendix M is a particularly rich sources of ideas as are the summary of written submissions to the Review, summarized in Part III of Phase 2. This report also tries to acknowledge the good work that is being done within the New Brunswick education system and build upon it.

This report is a stand alone and independent study designed for the New Brunswick context that is not dependent on any particular Government or set of policies and strategies. Having said that, this Review was commissioned as part of New Brunswick's ten year strategic plan for education as set out in the *Quality Learning Agenda (Q.L.A.)*. It is in that sense an outgrowth of the *Q.L.A.* and an important component in the strategic plan to improve the educational experience for students in the province. However, words are not self executing and there needs to be clear strategies of implementation to turn words into constructive action.

There are tricky questions of implementation on many different fronts. One such question is at what level should the key decisions be made. This theme pervades the foregoing recommendations and I have made a number of specific suggestions. There is an important leadership role at the provincial level and this includes the Premier, the Minister of Education, her Cabinet colleagues and the Legislature as a whole. During the reform of the education system in Finland over more than a decade, there was a centralization of power which was relaxed as the process and ideas of reform became engrained throughout the system. In 2005 Finland has one of the world's most decentralized education structures. Many important decisions also have to be made at the local district and school levels and this too is reflected in the recommendations. The challenge is striking the correct balance between consistent provincial standards and a sensitive implementation at a local level.

There are many stakeholders in New Brunswick who are committed to a high quality education and the need for the province to invest in this. Not all stakeholders agree upon precisely what shape this improved education should take but there is a willingness to discuss different viewpoints in a civil and

respectful fashion. This was evident in the Phase 2 consultation process, where people would engage in passionate debate about what was best for their children but remain open to opposing views.<sup>233</sup> Through the process of discussion many people not only learned about different perspectives but came to appreciate them and search for common solutions, to accommodate the diversity of interests.

When I visited Regina, Saskatchewan on November 21, 2005 the various departmental and school officials gathered around the table agreed that dialogue and extensive consultation were vital to advancing educational reform. These people acknowledged that the process of on-going consultation was time consuming and at times frustrating, but vital to ensuring a common vision and buy in for the proposed changes. These consultations also improved the policies that emerged from the process. One participant in our November Regina discussions identified building good “relationships” as the key to the success of School<sup>Plus</sup>. A process of open and respectful dialogue is the foundation for good relationships and an atmosphere of trust that allows people to move forward together. A good relationship between the Department of Learning in Saskatchewan and its various unions was also cited as a key to constructive change. Little positive change occurs in an adversarial atmosphere of suspicion and mistrust. As a guide to the process of converting words into actions and implementing the recommendations of this report I suggest the following:

### **Recommendation 91: On-Going Consultation and Dialogue**

**91 The Minister of Education, the District Education Councils and other relevant officials should ensure that the response to these recommendations and the development of policies and strategies for implementation proceed in a broad and open process of consultation and dialogue. In this regard they can build on the positive consultations pursuant to this Review.**

### **Recommendation 92: Implementation Leadership**

**92 The Minister of Education through her Deputy Ministers (or such persons as they designate), should ensure the implementation of these**

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<sup>233</sup> Even people who were not directly involved in the consultations were willing to share their views on inclusion as evidenced by the large number of written submissions from people who did not participate in the consultation sessions. These submissions are recorded in Appendix O. The topic of inclusion is also gaining prominence in academic research. This is evidenced by the depth of published written articles by members of the faculty of Education at Université Moncton and summarized in Appendix E. As well, two interesting theses were shared with me as part of this review. One is a Masters of Education thesis submitted by Carolyn Fleiger to the University of New Brunswick, 2005, entitled “Inclusive Education Policy in New Brunswick: A Foucauldian (Re)Presentation.” The other by Kathryn McLellan is a Doctoral dissertation submitted to Fairfax University, 2005: “Inclusionary Practices: Analysis after Eighteen Years of Implementation: Are We There Yet?” The dialogue on inclusive education in New Brunswick is strong and diverse.

**recommendation in both linguistic sectors. These people should oversee the process of response and implementation and devise priorities in accordance with this report.**

**The appointment of these implementation leaders should occur within 6 months of the release of this report.**

### **Recommendation 93: Legislative Audit and Annual Reports**

**93(a) The Minister of Education should submit an annual report on the progress of the implementation and response to this report to the Legislature's Standing Committee on Education. This report should be in both oral and written form and the Minister and her relevant officials should appear before the Standing Committee.**

**93(b) As part of the Minister of Education's annual reports under the *Quality Learning Agenda* she should include a segment summarizing the response to this report and the progress in implementing its recommendations.**

**Both of the above annual reports should address the timetables and priorities suggested in the report and begin within one year of the release of this report.**

Many of the recommendations in this report advocate the redeployment of existing resources in order to better implement the principles of inclusive education. There are also some recommendations that do call for an additional injection of financial and human resources. There was a widely expressed view during the consultation phase of this Review, that more resources were needed to deliver the kind of inclusive education that people were committed to providing. Teachers in particular felt strongly about the need for governments to demonstrate political will by committing increased financial resources to the implementation of inclusion. The Nova Scotia Teachers' Union put the issue squarely in the following passage.

Teachers overwhelmingly support inclusion of special needs students in the regular classroom but if government will not commit the necessary resources, then no student is being served by the current policy.<sup>234</sup>

Earlier in this Canadian Teachers' Federation article in *Perspectives* teachers agreed that the problem was not the concept of inclusion but rather implementation. As they put it, the devil is in the details.<sup>235</sup>

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<sup>234</sup> Bernie Froese-Germain, "We're All Born 'In' Perspectives on Inclusive Education" (2004) Vol. 4, No. 3, Summer, at page 8 (Canadian Teachers' Federation).

<sup>235</sup> *Ibid.*, at page 7.



While there are many demands on the limited provincial budgets, I agree with the view that more money needs to be devoted to the proper implementation of inclusive education. An important question to ask is what are the costs of not investing this money in terms of stress, frustration, inadequate education and the future social problems that students may face. Few investments provide a better return than investing in the future of our children. Much can be done by redeploying existing resources. However, New Brunswick is at a cross roads in respect to the bold embrace of inclusive education and it must commit the financial and human resources that are needed to make it work. This is vital to the high quality education for all the province's students.

#### **Recommendation 94: Increased Commitment of Government Resources**

**94 The Government of New Brunswick must commit more resources to the implementation of inclusive education in the province, in a reasonable, progressive and incremental way. The recommendations of this report provide some guidance as to the areas of priority and concern.**

No study however extensive, could solve all the complex issues involved in the implementation of a truly-inclusive education. This is certainly true in respect to a one person study conducted over a one year period, as was the case with this Review. Thus there are many areas that need and deserve further study. Many of these I have identified in the foregoing recommendations. The following list of possible areas of future study is not a complete list but may provide a useful starting point.

#### **Recommendation 95: Areas for Future Study**

**95 The Government of New Brunswick should consider the following areas for future study, as a way of further advancing a high quality and inclusive education system within the province.**

- **Compilation of statistical data for evidence based decision making on the prevalence and geographic distribution of disabilities throughout the province;**
- **Exploration of new and emerging disabilities such as environmental sensitivities and their implications for education;**
- **Examination of the most effective ways to deliver French immersion education and consideration of its impact on inclusion and class composition;**
- **Exploration of the most effective and equitable ways to deliver high quality education to rural areas;**
- **Development of an education system that can respond to the needs of a more diverse immigrant population in New Brunswick;**

- **Evolution of a strategy for more effective Aboriginal education in New Brunswick;**
- **Identification of agenda items that would promote inclusion for future collective bargaining sessions with the various unions within the education sector;**
- **Reconsideration of the role and value of music and art in a diverse and inclusive school curriculum and as a means of reaching many diverse levels of learners.**

In November, 2004 I began this journey into inclusive education in New Brunswick by delivering a keynote address entitled “The Lighthouse of Equality” at the Ottawa *Inclusion Summit*, sponsored by the Canadian Association for Community Living.<sup>236</sup> A short time later on December 9<sup>th</sup> and 10<sup>th</sup>, 2004 I conducted my first consultations in Fredericton New Brunswick with Department of Education officials and the anglophone and francophone District Education Councils.

One year later on November 18, 2005 I presented a keynote presentation at the Canadian Teachers’ Federation conference, *Building Inclusive Schools: A Search for Solutions*.<sup>237</sup> This speech was entitled “The Promise and Challenge of Inclusive Education” and again the venue for the conference was Ottawa Ontario. On December 9<sup>th</sup> and 10<sup>th</sup>, 2005 I engaged in my last two consultation sessions with Department of Education officials and the anglophone and francophone District Education Councils. There has thus been some symmetry to this Review and a lot of work and learning along the way.

The many people who took the time to contribute to this Review have been most generous and helpful and have enriched both the process and the end product with their ideas and insights. I have attempted to ground this report in the voices and passions of the many people who expressed their views on the education of children in New Brunswick. There are obstacles to full and effective inclusion but there are also tremendous opportunities. In overcoming these obstacles I am hopeful that the New Brunswick education system can develop the wings to soar to new heights. The important values of care and challenge can be connected in a way that develops the full potential of the people of the province. I hope that through this report I have made a contribution to this important pursuit of a more inclusive and effective education system for all New Brunswick students.

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<sup>236</sup> Cameron Crawford, *A View from the Summit: Inclusive Education in Canada-Key Issues and Directions for the Future* (Report based on the Canadian Association for Community Living: National Summit on Inclusive Education of November, 2004) (Roeher Institute).

<sup>237</sup> *Building Inclusive Schools: A Search for Solutions*, Canadian Teachers’ Federation, November 17-19, Ottawa, Ontario.

## APPENDICES

- A Terms of Reference
- B Excerpts form the *United Nations Convention on the Rights of the Child*
- C Excerpts from the *Youth Criminal Justice Act*
- D Guidelines on physical punishment, summarized from *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General [2004] S.C.J. No.6 (S.C.C.))*.
- E Annotated Literature Review
- F Education Statutes Comparison Table
- G Pierre Dumas, “Provincial Special Education Reports Comparison Table”
- H Pierre Dumas, “Policies, Service Delivery, Practice and Provincial Review Analysis”
- I Dr. Michael Fox, “A Review of Inclusive Education Programming for Pre-Service and In-Service Teachers, Teaching Assistants and Student Service Administrators”
- J Staffing Norms for New Brunswick 2005 – 06, Department of Education / Ministère de l’Éducation, “Funding Norms and Guidelines / Directives Budgétaires” (May 6, 2005)
- K Pierre Dumas, “Historical Outlook”
- L Pierre Dumas, “Current Status of the Education System in New Brunswick”
- M Summary of Consultation Sessions
- N Sample Questions Used at Consultation Sessions
- O Record of Submission
- P Legal Definition of Disability
- Q Professional Development
- R Cathy Thorburn, “Research Inquiry: Integrated Service Delivery”
- S Accountant Report (Grant Thornton)