**Toronto District School Board Special Education Advisory Committee**

# Backgrounder to Motion #5 -- Substantially Improving the Effective Inclusion of Students with Special Education Needs at TDSB

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This backgrounder to Motion #5 of the Toronto District School Board 's Special Education Advisory Committee is prepared by SEAC Chair David Lepofsky. It was prepared with extensive input from SEAC, and (optional) was approved in principle by SEAC on (insert date).

TDSB's Special Education Advisory Committee is continuing its top-to-bottom review of the TDSB's services for students with special education needs. On June 13, 2016, it passed four motions, arising from this review. In this fifth Motion arising from this review, SEAC calls on TDSB to take major new action, as part of its commendable 2016 Integrated Equity Plan, to significantly strengthen opportunities for students with special education needs to be educated based on inclusion in the regular classroom.

SEAC's earlier four motions offer important recommendations that would reinforce TDSB's efforts at improving inclusion of students with special education needs. It will help improve inclusion if TDSB does a substantially better job at fulfilling the right of parents/guardians to know what educational options, accommodations, services and supports are available for their child (Motion #1), if TDSB improves its process for including parents/guardians in decisions regarding their child (Motion #2), and if TDSB ensures the accessibility of TDSB's built environment (Motion #3) and the digital environment in its classes and programs (Motion #4).

This fifth motion gives additional ways to reinforce TDSB's inclusion strategy. SEAC welcomed and drew on extensive staff input while preparing this Motion. Staff feedback on a substantially similar earlier draft of this Motion stated: "The majority of the recommendations align with our Integrated Equity Framework."

## 1. Important to Tailor an Inclusion Strategy to the Two Populations of Students to Whom It Pertains

Ontario's education laws combine two populations together in the group called "students with special education needs:"

a) Many though not all students with disabilities.

b) Gifted students. Some gifted students also have disabilities. Other gifted students have no disabilities.

From the inclusion perspective, challenges can arise because Ontario's 37-year-old special education laws combine both students with disabilities and gifted students. Their needs are not always the same. An effective inclusion strategy should respect their distinctive needs, rather than painting them all with the same broad brush.

An inclusion strategy regarding students with disabilities should be tailored to the needs and rights of students with disabilities. An inclusion strategy for gifted students should be tailored to the needs and rights of gifted students. Reforms for each group should not impede strategies for the other group.

a) The large majority of students with special education needs have one or more of a wide range of different physical, mental, sensory, intellectual, learning, communication, neurological, mental health and/or other disabilities. TDSB owes specific duties to students with disabilities, whether or not their disability falls within the meaning of "exceptional pupil" in Ontario's special education laws.

According to the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code, TDSB has a duty to accommodate these students' disability-related learning needs, and to remove and prevent accessibility barriers impeding them, up to the point where it is impossible to do more without undue hardship to TDSB. Where the student with a disability and their family/guardian wish the student educated in an inclusion setting, TDSB cannot justify segregating that student outside the regular classroom, absent its proving that it is impossible for TDSB to effectively accommodate that child in the regular classroom setting, without undue hardship to TDSB. This of course includes students with disabilities who are also gifted.

As well, without limiting TDSB's duties under the Charter of Rights and the Ontario Human Rights Code, the Accessibility for Ontarians with Disabilities Act (AODA) requires TDSB to become a fully-accessible provider of education services to students with disabilities by 2025, less than eight years from now. This requires much more than obeying the limited AODA accessibility standards that the Ontario Government has enacted to date.

The UN Convention on the Rights of Persons with Disabilities (CRPD) imposes international obligations regarding the right of students with disabilities to inclusive educational opportunities. Article 24 of the CRPD is included at the end of this Backgrounder.

Many at TDSB commendably work hard and with dedication to honour and respect these rights. Yet SEAC members and member organizations they represent have heard of problems that families too often report when they individually try to get these rights respected.

b) In the case of gifted students, their families often aim to ensure that these students receive an enriched educational program from which they can benefit, suited to their abilities. Families of gifted students and their advocacy organizations have advocated for the choice of a range of either inclusion in the regular classroom or properly-designed gifted classes at all school levels, depending on the child's needs, allowing the student to advance at a pace that matches and respects their intellectual and social abilities.

The inclusion issue can relate to all students with special education needs. However, it can raise some different considerations for students with disabilities as contrasted with those gifted students who have no disabilities.

The experience of the two populations can be different in an important way. On the one hand, historically, students with disabilities have faced a systematic practice of exclusion from the regular classroom. Too often families of children with disabilities felt they did not have the choice to have their children educated in the regular classroom, and instead felt official pressure to be excluded from it. In contrast, school boards have not historically had a trend of trying to exclude gifted students from the regular classroom.

An expanded inclusion strategy is aimed at expanding properly inclusive educational opportunities for students with disabilities. It should not adversely impact on the distinctive needs and concerns raised on behalf of gifted students.

This motion uses the term "students with special education needs" where it refers to both students with disabilities and gifted students. This motion uses the term "students with disabilities" where it specifically addresses students with any kind of disability, whether that disability falls within the term "exceptionality" in Ontario's special education laws. It includes gifted students who also have a disability. The Education Act defines an "exceptional pupil" as follows, thereby defining "exceptionality:"

"exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he or she is considered to need placement in a special education program by a committee, established under subparagraph iii of paragraph 5 of subsection 11 (1), of the board…"

The Ontario Human Rights Code defines "disability" much more broadly and inclusively as:

1 (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,

2 (b) a condition of mental impairment or a developmental disability,

3 (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

4 (d) a mental disorder, or

5 (e) An injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act…"

## 2. Commitment to Inclusion

The Ontario Government and school boards in Ontario, including TDSB, have set a major goal to provide students with special education needs with optimal opportunities to receive their education in an inclusion-based context. There remains a debate among some over some specifics, e.g. when it is better to provide some or all education to students with disabilities in a segregated setting, and whether a school board should make such a decision over the objection of the student or his or her parent/guardian. That debate concerns the application of an inclusion policy in certain cases, and not whether expanding opportunities for inclusion is a good overall goal. SEAC's motion #5 aims to find common ground on this issue.

3. TDSB's Unexplained High Percentage of Students with Special Education Needs Placed in Segregated Classes

According to the Ontario Government, of all the students with special education needs in publicly-funded schools across Ontario, 85% spend more than half of each day in a regular class. Only 15% of them spend more than half of each day in a segregated class.

In contrast, of the students with special education needs at TDSB, fully 50% spend more than half of each day in a segregated class. This is more than three times the 15% of the provincial average. TDSB has not given SEAC an evidence-based explanation for TDSB's lower rate of inclusion of students with special education needs in the regular classroom. It is important to find out why TDSB practices inclusion so much less than the Ontario average.

The mere placement of a student with special education needs in a regular classroom, as reported in these statistics, is not, of itself, sufficient to constitute effective "inclusion." "Inclusion" in education does not simply mean dumping all students with disabilities in the current regular classroom "as is," without all supports and accommodations they need, leaving them to sink or swim. Meaningful inclusion requires that they promptly be given all the accommodations, services and supports they need to succeed. These statistics do not show how many of the students with disabilities across Ontario, or at TDSB, who are placed in regular class settings for more than half of the day, were given all the accommodations, services and supports they need.

For students with disabilities, an effective inclusion policy does not mean that segregated classes for some students with disabilities are never permitted, even on a time-limited basis. However, inclusion should be available, with all needed accommodations and supports, except where demonstrably counterproductive, and/or where the student or family agrees to an exception to inclusion. Any placement must be accompanied by all needed accommodations, services and supports to enable that student to fully benefit and effectively learn in that setting.

A point is offered about terminology. TDSB and some others in Ontario use the term "congregated class" to describe a class, outside the regular classroom, made up of students with some kind of special education needs. TDSB also refers to an entire school made up of students with special education needs as a "contained school."

This motion uses the term "segregated" class or school. Some, including some senior TDSB staff, do not like the term "segregated." They would prefer the term "special education" class or school. They are concerned in part that "segregation" suggested that a placement was not voluntary. Several SEAC members have, however, voiced concerns that parents did not always voluntarily agree to segregation of their child, acquiescing in it instead either due to a sense that TDSB will not effectively accommodate their child in the regular class, or out of a lack of sufficient information to enable an informed choice. It is questionable that families of TDSB students voluntarily agree to a segregated placement at a rate more than three times the provincial average.

TDSB's 2013-2017 Years of Action Plan established as a goal a "50% reduction of students placed in congregated special education classes" by June 2017. It appears that TDSB did not make significant progress on that goal over that five-year period.

## 4. Major Transition Plan Toward More Inclusion Is Required

The Inclusion Strategy which TDSB needs to adopt must be much more than minor tinkering. It requires major systematic changes at all levels at TDSB. It requires a fresh look at the treatment of up to 23,000 students at TDSB, those who are currently educated in segregated settings for more than half of each day. As noted above, that does not mean that no segregated placement for all or part of a day is ever justified or that all these placements to date have been wrong.

Subject to parental wishes, this new inclusion policy should be based on a strong presumption in favour of students with disabilities receiving their education in a regular class setting. Due to the enormity of the changes that can be expected across TDSB, the Inclusion Strategy must include important safeguards to ensure that no students with special education needs are put in a worse position as a result of the new Inclusion Strategy.

For any huge organization, a major change in operations from top to bottom can be very difficult to carry out. TDSB is Canada's largest school board. Apart from special education issues, it has had other organizational challenges. It is in the process of implementing other structural changes.

TDSB will require strong leadership and substantial assistance to effectively steer and manage this change, given its size and history, and the current level of segregation. The transition should be done deliberately and thoughtfully. It will need the full support of staff and parents. Important concerns like these will have to be addressed in the transition:

a) A concern has been expressed that to save money, segregated programs may be scaled back or eliminated, with students with disabilities transferred from them to regular classes, but without ensuring all the accommodations, services and supports they need;

b) A concern has been expressed that in a school board as large as TDSB, there is a risk that large changes instituted quickly risk TDSB inadvertently not effectively taking into account the individual needs of some students;

c) A concern has been expressed that changes in favour of inclusion in the regular classroom for students with disabilities should not adversely affect gifted students who seek and would benefit from enriched programming offered in classes for gifted students, or for students with disabilities whose families believe a segregated placement will better serve their child's needs. As well, advocates for gifted students have raised concerns about the insufficiency of gifted programs offered at TDSB;

d) A concern has been expressed that some principals or teachers at times tell a family that if their child were to move from a segregated class to a regular class, fewer accommodations, services or supports will be available for them. Those parents can feel they have no real choice but to place their child in a segregated class. That can deter families from agreeing to move to an inclusion setting;

e) A concern has been expressed that TDSB does not always tell families about the research that shows the significant benefit that often accrues to students with disabilities when educated in a regular class setting, with proper accommodations, services and supports.

f) A concern has been expressed that if TDSB were to adopt a strengthened policy in favour of inclusion, it will change little at the front lines. TDSB staff may say that they now already consider and reject all other placements before opting for a segregated class for a student, and tailor each placement to a student's individual needs.

g) A concern has been expressed that if an effective pro-active strategy is not undertaken to educate front-line teachers, as well as students without disabilities and their families, an unfounded fear may arise, contradicted by research, that expanded inclusion will work to the disadvantage of students without disabilities.

## 5. Inclusion of Students with Disabilities Is Impeded by Recurring Disability Accessibility Barriers in Schools and Regular Classes

TDSB has commendably taken a number of steps to enable students with disabilities to take part in its educational programming. Yet there are many recurring disability accessibility barriers in Ontario's education system, including at TDSB. These go beyond the built environment accessibility barriers and digital accessibility barriers addressed in SEAC's June 13, 2016 motions. It is often left to each school to address recurring accessibility barriers that can impede full inclusion, e.g., when deciding on acquiring school playground equipment.

An effective inclusion strategy must remove and prevent these recurring accessibility barriers. Principals should not have to find solutions, one school at a time. Students with disabilities and their families should not have to battle these accessibility barriers one at a time, one school at a time, in order to secure a place in a regular classroom setting.

TDSB should remove these accessibility barriers and should ensure that no new accessibility barriers are created in the future. This includes, for example:

a) Requirements to ensure that classroom curriculum, lesson plans and all other educational programming are designed based on principles of "Universal Design in Learning (UDL), to be accessible for students with disabilities, and, where appropriate, gifted students.

b) Measures to eliminate attitudinal barriers among students without disabilities, among some TDSB employees such as teachers, principals, and administrative staff, and among some families of TDSB students. Those attitudinal barriers can impede the full inclusion of students with disabilities, in TDSB classes and programs.

c) Requirements to ensure that instructional materials used at TDSB are fully accessible to students with disabilities who need to use them, in accessible formats, and are promptly available when needed, e.g. students with vision loss or learning disabilities that affect reading.

d) Measures to ensure that any student testing is conducted in a way that fairly and accurately assesses students with disabilities.

e) Measures aimed at ensuring that students with disabilities can fully participate in experiential learning at all levels of TDSB.

f) Measures to ensure that students with disabilities can fully participate in specialized TDSB programs such as French language immersion.

g) Measures to ensure that teaching staff who teach students with disabilities, whether in regular classes or segregated classes, have the training they need to meet these students' learning needs. All regular classrooms can expect to have some students with disabilities in them.

h) Measures enabling students with disabilities to bring a trained service animal to school if needed.

i) Measures to ensure that gym equipment, playground equipment and other like equipment and facilities are accessible for students with disabilities.

It will eventually help TDSB that on December 5, 2016, Premier Wynne announced that the Ontario Government will create an Education Accessibility Standard under the AODA. Hopefully each school board and each school eventually won't have to re-invent the wheel when addressing these recurring accessibility needs.

TDSB cannot wait for that accessibility standard. It will take many months or years before this new accessibility standard is developed and enacted. TDSB needs to adopt concerted strategies to address these needs. TDSB's efforts can provide a model for broader provincial action.

Action in these areas will help teachers and school staff better serve students with special education needs across TDSB. This will ultimately be more cost effective for TDSB.

6. TDSB Needs to Develop Capacity to Teach Students with Disabilities in the Regular Classroom

Expanding on the above, for students with disabilities to be able to succeed in the regular classroom setting, it is essential that teachers in the regular classroom know how to teach students with disabilities. Historically, regular classroom teachers were not sufficiently trained on how to teach students with disabilities. Only special education teachers were extensively trained to teach students with disabilities.

Key to success would be the ability of TDSB teachers and other staff to be trained in and equipped to use principles of Universal Design in Learning (UDL) as well as differentiated instruction. UDL involves designing and implementing the curriculum, lesson plans, and other classroom learning activities in a way that addresses the learning needs of students with disabilities, and not just students without disabilities. For example, to play "charades" in a drama class would fail principles of UDL, if a blind student is in the class.

In 2016, SEAC asked TDSB staff for information on how well-equipped regular TDSB teachers are to teach students with disabilities. From three detailed staff presentations, SEAC learned that senior TDSB officials speak of UDL principles at a very high level. However, there is no indication that UDL principles are now effectively and consistently deployed across all TDSB classrooms. In the words of the TDSB Executive Superintendent of Teaching and Learning, "We're not there yet." SEAC was told that TDSB has a lot to do to improve in this area.

TDSB does not ask job applicants about UDL at job interviews. From what SEAC was told, it does not appear that TDSB teachers are monitored or evaluated on practicing UDL.

TDSB told SEAC that most TDSB teachers likely do not know the term "Universal Design in Learning" SEAC was told that teachers' colleges do not provide extensive training, if at all, on UDL, and on how to effectively teach students with disabilities. Yet we have learned that at least one Ontario teacher's college does teach UDL. See the January 31, 2017 lecture by the SEAC chair to students at York University's Faculty of Education, urging those future teachers to press their Faculty to teach them UDL, visit <https://youtu.be/zY6Asm605UU>

SEAC was told that some TDSB teachers have evolved teaching practices that happen to echo some UDL principles, even if they do not know the term. However, TDSB could not tell SEAC how many, or how extensively it is practiced on the front lines in TDSB classrooms.

TDSB is starting to offer some content on this at teacher PD days in 2017. However, TDSB has no comprehensive plan and end date to ensure that regular classroom teachers become sufficiently skilled in and effectively practice UDL and differentiated instruction in their teaching.

More is needed than voluntary training offerings and raising awareness. A plan is needed, involving performance expectations and performance management.

## 7. Need to Remove Attitudinal Barriers Impeding Students with Disabilities at TDSB

To increase the effective inclusion of students with disabilities in the regular classroom setting at TDSB, it is necessary to eliminate any attitudinal barriers that may be harboured by some TDSB students, some TDSB staff and some families of TDSB students, including those with no students with disabilities in their families. Attitudinal barriers regarding people with disabilities still pervade in our society. TDSB's students and staff are not exempt from these.

TDSB has commendably expanded its curriculum content addressing some other disadvantaged groups in society. To include mandatory multi-year curriculum content on full inclusion for people with disabilities in school and in society would help improve this situation, both for students and teaching staff. If teachers are required to teach about this, they would in the process themselves learn about this. It would have the added benefit of helping ensure that future generations in our community don't grow up with the same stereotypes about disabilities that have persisted in the past.

TDSB staff have told SEAC that TDSB does not require students to receive any specific curriculum content on inclusion of people with disabilities in society. Some schools or individual teachers opt on their own to give some content to their students on this topic. TDSB does not know how often or extensively any of its students receive any instruction on this topic.

## 8. Administratively Smoothing the Path from Segregation to Full Participation in the Regular Classroom

TDSB needs to be more administratively creative and flexible, in order to minimize the number of times that students with special education needs must be shuffled from school to school over their years at TDSB. If students without disabilities were subjected to the amount of school shuffling that students with special education needs must undergo, their families would not tolerate it.

For students with disabilities who are now being served in whole or in part in segregated programs at TDSB, which TDSB calls Intensive Support Programs (ISP), TDSB needs to develop a concerted strategy to maximize the opportunity for and smooth the path for those students to interact with and learn with students without disabilities. TDSB also needs to reform the way it handles its ISP programs. These problems have been raised at SEAC meetings several times over the past two years, addressing them to TDSB senior staff:

a) TDSB has some segregated programs in schools which are entirely segregated. It calls these "contained schools."

This creates a counterproductive special education disability ghetto. In a city as large as Toronto, there is no reason why such segregated classes cannot be situated in schools that also have some regular classes.

Students attending an entirely segregated school have no chance to formally or informally interact at school with any students who have no disabilities. Even if a school were to have several segregated classes, there is no need for there to be a school with no regular classes at all. Such a school makes any integration, even for a part of the day, more difficult to arrange.

b) Two TDSB Intensive Support Programs are misnamed and have been mis-described in TDSB's earlier Special Education Plans. The "Developmental Disabilities (DD) (ISP) is not in fact limited to students with developmental or intellectual disabilities, despite its name. The Mild Intellectual Disabilities (MID) ISP is not limited to students with a mild intellectual disability, or indeed to students with any degree of intellectual disability.

These inaccurate names mislabel their students in the eyes of staff, of other students in the school, and their families. For two years, at SEAC meetings, TDSB staff have been urged to rename these programs and to make public descriptions of them which accurately describe them. This has not yet happened.

c) TDSB does not appear to systematically situate its ISP programs, such as its DD and MID ISP classes in the same school. If a student in a more intensive ISP is ready to progress to a less intensive ISP, on the road towards eventual placement in a regular class, they can have to switch schools. As it is, students with disabilities, among the most vulnerable at TDSB, too often must change from school to school more often than do students without disabilities.

Students in those programs would benefit from being able to move along the ISP spectrum if needed, on the road towards more inclusion in regular classes, without having to suffer the substantial disruption of moving to a new school.

TDSB's current practice makes it hard for a student to experiment with a different ISP setting that is closer to the regular classroom environment. Moving to a new school requires the student to learn a whole new environment and new line-up of teachers, principal and other staff. Families can understandably resist such a move, fearing that they will jump out of the frying pan into the fire.

Shuffling students with disabilities from school to school, when moving from one type of segregated placement to another, or into their neighbourhood school from a segregated placement, is disorienting and disruptive. TDSB ought to be able to improve upon this, among its 550 schools.

d) If a student with special education needs is ready to proceed to a regular classroom after spending time in an ISP that is away from their home school, TDSB policy does not let them remain in the same school where their ISP was situated. They are expected to return to their home school. This presents the same hardships described above when moving from school to school. They should be allowed, if the family wishes, to remain at the same school where they are already settled, and where positive relationships have been built, as their home school. This is the least that can be done to offset the burdens, facing many students with disabilities, of being shuffled from school to school.

## United Nations Convention on the Rights of Persons with Disabilities

Article 24 Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual’s requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.