

BRIEFING NOTE:

**Recommendations for Special Education in Ontario's
Public Schools: Exclusions, Suspensions and
Expulsions**

**For: Sam Oosterhoff, MPP
Parliamentary Assistant to The Minister of Education**

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“When parents talk about the special education system, they liken it to playing a slot machine. If they happen to hit the three-cherry jackpot of an experienced teacher, an effective principal and a well-funded school, their child could be on a path to success. Education becomes a desperate attempt to rig the game to ensure their kid comes out on top.”

Nicholas Hune-Brown, “The Autism Wars”, Toronto Life Magazine

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1. SOME KEY NUMBERS

CURRENT CLIMATE AND SPENDING:

- Spending on education under the Liberals increased dramatically. In a [memo](#) to school directors sent in March of 2018, the previous government stated:
 - Investments in Ontario's publicly funded education system continue to increase, with total funding expected to increase from \$23.91 billion in 2017–18 to **\$24.53 billion in 2018–19**. Per-pupil funding is projected to increase in 2018–19 to \$12,300 – **an increase of 9.4 per cent since 2012–13**.
- A memo from the Deputy Minister of Education sent out in August 2018 revealed that the new government will be suspending increases to executive compensation, and trustee honorariums. The OAC notes with concern however, the decision to reduce the Special Incidence Portion (SIP) amount by \$28 million dollars. We fear that this will directly impact the supports that our students need.
- Number of children on the Autism Spectrum in Ontario: [prevalence rate](#) = 1 in 66
- Approximate number of children on the Autism Spectrum in Ontario [schools](#): 20,000
- According to [EDU](#), for 2015-2016, **46.9% of suspensions and 45.8% of expulsions involved students with special education needs** (see *OHRC Policy, p. 38*)
- 58% of elementary principals and 48% of secondary principals report that they have had to recommend a student with special education needs **not attend school for the full day** – the majority for safety reasons (P4E, [2018 report](#))
- In a recent survey conducted by the OAC, Autism Ontario and Wilfred Laurier University, **78% of respondents stated that their child did not have anyone who worked with them on a daily basis who had any specialized training in autism or ABA.** (McLaughlin, Janet and Margaret A. Schneider, Autism Services in Ontario: Impacts on Family and Child Wellbeing. Research Summary. Draft Preliminary Report for Internal Discussion Purposes Only. Presented to MCCSS Staff, Toronto, ON, September 7, 2018.)
- In a survey conducted by [ARCH Disability Law](#), parents reported that they often had to shoulder the additional burden of getting their son or daughter the appropriate support they need to fully engage with their academics. In order to have their children participate in a school-related activity, **63.8% of parents had to leave work**; 50% of parents said they had to provide separate transportation for their child, 71.9% said they had to accompany them to school or on a trip to allow them to participate and approximately 38% said that they had to pay for additional supports for their child

- That same survey found that **68.2% of parents reported that schools were meeting half or less than half of their child's academic needs**
- Despite increases in special education funding, multiple reports have found that school boards still spend more money on special education than they receive from the province
- According to the Ontario Human Rights Commission (OHRC) [Policy](#) on Accessible Education for Students with Disabilities, Statistics Canada reports that Ontarians with disabilities continue to have lower educational achievement levels, a higher unemployment rate, and are more likely to have low income than people without disabilities. Employment and Social Development Canada projects that two-thirds of job openings from 2011-2020 will be in occupations that generally require post-secondary education

DATA THAT'S MISSING:

- The number of exclusions issued by principals across all 72 school boards. (No one tracks this data at the school, board or Ministry level.)

INFORMATION THE MINISTRY AND THE OAC NEED TO HELP MAKE FUTURE DECISIONS:

- Number of children identified with exceptionalities across all 72 school boards, specifying the exceptionality and not double-counting those with multiple exceptionalities
- Province-wide statistics on the suspension and expulsion rates of exceptional students, broken down using the Ministry's 14 categories of exceptionalities, from 2014 onward
- The number of BCBA's employed by the 72 different school boards
- The amount of money spent by each school board on their "Behaviour Support Teams" in the last three years, including salaries and travel expenses
- The number of hours spent **in the classroom** by members of these behaviour support teams
- Results from the ABA pilot project started under the previous government

2. Synopsis: Ontario Human Rights Commission (“OHRC”) Policy on Accessible Education for Students with Disabilities, March 2018, Government of Ontario

The OHRC recently undertook a policy initiative on accessible education for students with disabilities. The OHRC recognizes that *“despite a highly regulated and complex education framework designed to address the “special needs” of students, students with disabilities continue to face obstacles in their attempts to access educational services in Ontario. “Disability” continues to be the most frequently cited ground of discrimination under the Human Rights Code (the “Code”) in human rights claims made to the Human Rights Tribunal of Ontario, with significant systemic issues being raised in disability and education claims”*.

The OHRC found that students with disabilities continue to experience difficulties and barriers accessing services at all levels of Ontario’s education system, which include:

- ineffective communication to parents and students about their right to accommodation, and their right to be free from discrimination and harassment in education
- inadequate training for educators on disability-related issues, and the duty to accommodate students with disabilities
- insufficient resources and supports in the classroom
- long waiting lists for assessments
- negative attitudes and stereotypes
- physical inaccessibility
- inappropriate requests for medical information
- ineffective dispute resolution processes
- outright denial of disability-related accommodations

This 2018 Policy updates the *2004 Guidelines on Accessible Education* while maintaining its policy position in key areas, including:

- a definition of disability that recognizes the impact of “social handicapping”
- an emphasis on accommodations that promote integration and full participation
- recognition of the central importance of inclusive design in the education context
- recognition that students with disabilities are individuals first, and should be considered, assessed and accommodated on an individual basis
- acknowledgement of the unique ways in which students who identify by the ground of disability, along with one or more additional *Code* grounds, may experience discrimination
- the principle that accommodation is a responsibility shared by all parties to the process
- a reaffirmation of the high standard of undue hardship

The 2018 Policy also addresses **new and emerging issues** in the area of disability and education, including:

- the impact of ableism on the delivery of education and on the experiences of students with disabilities
- the evolving legal definition of disability and its implications for educators
- the duty of educators, in certain circumstances, to inquire into whether a student has needs related to a disability and to offer assistance and accommodation, even if the student has not made a specific accommodation request
- the type of medical/healthcare information that can be requested by educators and should be provided by students to support an accommodation request

According to the OHRC, *“education is vitally important to a person’s personal, social and academic development. Achieving one’s education potential affects a person’s ability to take part in the labour market, realize their full potential, live independently, and participate meaningfully in society.*

WHAT STUDENTS ARE SAYING

(All quotes taken from the [We Have Something to Say](#) Report issued by the Provincial Advocate for Children and Youth in 2016)

The first time I saw my IEP it was in a binder in the basement. I was never included in or consulted on what my IEP should say or how it should best support me. The school system has completely divorced the individual from their Individual Education Plan.

-Elsbeth

The teacher always wants to go through other staff to get to me. I wish they could come directly to me. They interpreted my individualized education plan without asking me. The student's voice is not heard at all. They think our needs will be a burden on them.

-Rana

I believe that we should have schools in Ontario that help kids like me. It's hard for me to go to my school because I feel like I just don't fit in, because I don't understand some things and I don't feel like people understand me.

-Justin

Today we just found out that I am losing educational assistant (EA) hours in a class because they don't have the people to cover. I'm supposed to be independent, which is understandable, but I'm getting a credit, right? The EA is there to take notes and help me with my work, because when my teacher's talking I can't be typing. I have to listen. And it's not just notes, but the teacher adds things. So if you're not getting the notes, you're not getting the whole picture. What they promised last year was that we could get as much work done at school as possible. How is that going to work if I don't have an educational assistant?

-Amina

Our school only had a few part time EAs for the entire student body. This meant that I was only seen for an hour or so once a month. Eventually, as I got to grades 7 and 8 and the workload increased I just gave up. I stopped studying for classes, stopped doing homework, stopped listening in class because I was disinterested in what we were learning and wasn't being supported even though I had an IEP. One day my teacher pulled me aside because I was failing French class. She told me I should be ashamed of myself. I was not offered any additional support for French class.

-Elsbeth Dodman

3. Suspensions, Expulsions and Exclusions

The recent findings by the OHRC sadly do not differ from what the OHRC found in 2003 when it undertook an examination of what was then the *Safe Schools Act* (now encompassed in the *Education Act*). The OHRC found that **“the government has been aware since at least 1997 that the use of suspensions and expulsions in schools may have a disproportionate impact on students with disabilities. Furthermore, it clearly states that if students with disabilities are not accommodated, the disproportionate impact may be viewed as discrimination.”**

Despite amendments made to the *Education Act* in 2005 which required the consideration of mitigating factors prior to disciplining students with disabilities, schools continue to take a “hard line” approach to deal with behaviour, discipline and safety problems. This is of particular significance to students who are on the Autism Spectrum and who may exhibit behaviours that are not controllable, predictable, or properly understood by others. The executive functioning challenges faced by Autistic students sometimes prohibit them from fully anticipating or comprehending the consequences of their behaviour. The ASD student may not understand that social norms set prohibitive standards of behaviour. The ASD student is thus vulnerable to decisions to suspend, expel or change placement.

ISSUES

- a) use of suspensions and expulsions for ASD students
- b) improper use of refusals to admit/exclusions for ASD students

WHAT PARENTS ARE SAYING

- Over the course of our advocacy work, the OAC has become aware of the following situations:
 - In a 2017 survey conducted by the OAC, we learned that **33% of respondents had been asked to pick up their child from school early** because they were having behavioural problems
 - In that same survey, 26% of respondents indicated they were asked to keep their child home during a **field trip or extracurricular event** because the school could not provide the proper supports and 13% of children were asked to stay home for an extended time until an appropriate placement could be found
 - According to ARCH Disability Law, 45% of parents reported that at one time or another, they had to **keep their child home** as a result of a lack of accommodations and/or other services
 - In that same survey, parents said that 76% of the time the exclusion of their child was communicated to them verbally rather than in writing

- We are aware of cases where Autistic children have been **excluded from school for months at a time**; in one case, a student was excluded for over a year
- Students as young as 5 are being suspended, some multiple times
- Schools are increasingly involving **the police** when situations spiral out of control. This has led to some absurd and traumatic events. In one case, a nine-year-old boy was restrained and [handcuffed](#) by police; in another, an 11-year-old boy was handcuffed and taken to [hospital](#)
- One parent was told that police would be called any time her child's behaviour reached a "level 3" on the behaviour scale.
- A 12-year-old boy was [suspended](#) for 5 days for running away while anxious and then striking his EA, even though both behaviours are directly linked to his disability.
- A 7-year-old boy on the Autism Spectrum was locked away in the office all day. The parent found out about this only when his sister happened to go into the office and heard the vice principal yelling at her brother to sit down and do his work. The boy was subsequently suspended and the school was put on lockdown...when mom attended to pick him up from school, he was outside playing at recess with the rest of the school.

RECOMMENDATIONS

- that EDU undertake a **formal review** of the number of exclusions and informal "soft-suspensions" that have the effect of excluding students with disabilities
- that EDU put in place **properly funded supports** for students with exceptionalities and students with mental health issues, including increased funding for special education teachers, educational assistants, psychologists, behavioural therapists, school support counsellors, child and youth workers and speech-language pathologists
- that EDU create a policy statement regarding exclusion to ensure that all school boards consistently implement a specific standard and criteria for the appropriate exclusion of students from school property where warranted **as a last resort**
- That EDU ensure that principals are not misusing and misapplying the current provisions under the *Education Act*, including sections 265(1)(m) and 305(1) (*see Appendix F*). Superintendents must be instructed to overturn "Refusal to Admit" when improperly used and parents must be informed that superintendents will do so
- that EDU take steps to ensure that educators assess each student with a disability **individually** before imposing disciplinary sanctions, in accordance with their duties and obligations under the *Code* (*see OHRC Policy, p. 38*)
- that EDU take steps to ensure that educators determine whether the behaviour in question is due to the student's disability by considering:
 - formal assessments and evaluations of the student
 - relevant information supplied by the student and/or the student's parents/guardians
 - the student's accommodation plan and whether the accommodations were appropriate and consistent at the time of the behaviour in question

- whether the student's disability impaired his or her ability to control the behaviour
- whether the student has undetected or undeclared disability-related needs that require accommodation (*see OHRC Policy, pp. 38-39*)
- that EDU take steps to ensure that educators use different strategies to address disruptive behaviour prior to resorting to disciplinary or punitive sanctions, such as:
 - reassess and modify the student's accommodation plan
 - providing the student with additional supports
 - implementing alternative learning techniques and other forms of positive behavioural intervention (*see OHRC Policy, p. 39*)



4. Failure to Properly Accommodate Students with ASD

ISSUE

- a) to ensure the consistent delivery of meaningful, intensive, and evidence-based education for all ASD students in Ontario

WHAT PARENTS ARE SAYING

- Over the course of our advocacy work, the OAC has become aware of the following situations:
 - According to a report by ARCH Disability Law, 53% of parents reported that their child was not receiving proper academic accommodations;
 - 67% of parents reported that their child had been excluded from the appropriate curriculum based on their level of learning;
 - 32% of parents reported that their child did not have access to additional support staff when it was needed by their child (e.g. Educational Assistants, etc.). This is comparable to similar statistics reported by People for Education in 2016, which reported that 26% of elementary schools did not have the recommended levels of support available
 - We are aware of cases where **children with autism are having their school days restricted** to only a few hours a day or only a few days a week
 - Many ASD children are not permitted to attend Kindergarten full time but are told they may attend for only one day per week with one hour to start with no supports (including non-verbal children)
 - Families report being given no advance notice when their child was assigned a new teacher and a new classroom (major transitions like this are very hard for students on the Autism Spectrum.)
 - Children are also being placed in "[isolation rooms](#)" where they are left alone for hours at a time, sometimes to the point of soiling themselves because they are not allowed out to use the washroom.
 - The OAC's 2017 survey found that 63% of parents felt that their child's teacher did not know enough about Autism to effectively support their learning
 - Mainstream classroom teachers are not required to have any detailed training in special education; while such training is available, it is optional and must be paid for at the teacher's expense. The same is true for Education Assistants.

RECOMMENDATIONS

- implement meaningful ABA in Classrooms (now that eligibility for the OAP goes up to the age of 18, ABA services simply MUST be provided in schools)
- **allocate funding to hire more EA's and to implement more extensive Autism and ABA-related training** for all EAs, teachers, administrators and support staff assigned to work with students with ASD, including EA training in ABA instruction in the form of the 40 hour RBT training module approved by the BACB. The [BACB®](#) provides professional credentialing to assist behaviour analysts, governments, and consumers of behaviour

analysis services. It is recognized as the international “gold standard” in regulating those who deliver ABA

- allow professionals who are approved by the Ministry of Children, Community, and Social Services to provide ABA therapy (as part of the OAP) to enter classrooms to help support ASD students (both RBT's and BCBA's currently authorized by MCCSS and their respective Regional Programs to provide ABA in Ontario), therefore permitting RBTs and BCBAs to work collaboratively with school staff and to interact directly with students on the Autism Spectrum.
- children receiving intensive ABA through the OAP who are also attending school in Grades 1 or higher should receive **the same level of quality of ABA services**, at an intensity that is based on the recommendations of the clinician in charge
- **PPM 140 must be updated** to make it *mandatory* for ABA-based practices to be used with all ASD learners when recommended or requested by a clinician in charge, the parents and any/or an outside agency that is providing ABA services to the child
- daily **data collection** related to goals set by the multidisciplinary clinical team must become a mandatory practice for all ASD students, ensuring that those who deliver ABA programming in schools collect regular data and receive appropriate supervision
- schools must be held accountable for this data collection to the school board, and school boards, in turn, must be accountable to EDU, as well as for the implementation of ABA principles by trained professionals
- EDU must hold each school board accountable for the creation and implementation of a plan to meet PPM 140 requirements. For programming development (such as IEPs), schools must solicit input in writing from parents and any outside agency or individual professional who is providing service to the child with ASD
- EDU must recognize that implementation of ABA programs is an ongoing process involving regular data collection, supervised evaluation of that data, and regular revision of programs and strategies to support the student
- school boards must **hire more clinical psychologists who specialize in Autism** (as well as BCBA's and BCBA-D's) to provide the necessary supervision for properly trained staff and to provide clinical recommendations based on the data collected in the classroom
- School boards must consult with ASD students (students ages 6-21) to listen to their concerns



5. What the Liberals left Unfinished - “The ABA Pilot Program”

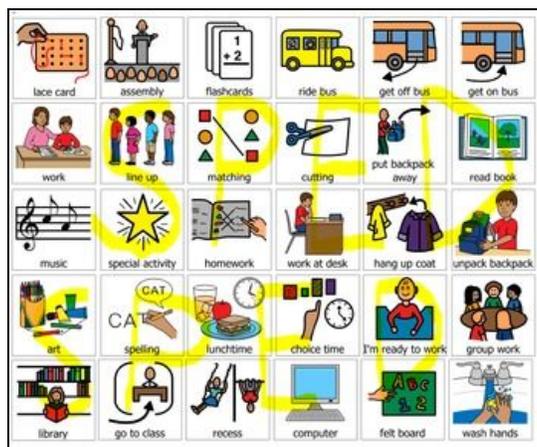
In October of 2017, the Liberal government [announced](#) a new \$5 million pilot project aimed at providing better supports for ASD students in schools. The pilot program promised to:

- Provide dedicated spaces for OAP practitioners of ABA to deliver on-site autism services;
- Provide 320 education assistants with access to voluntary 40-hour online targeted training and professional learning sessions; and
- Provide funding to hire an ABA expertise professional with Board Certified Behaviour Analyst (BCBA) certification/qualification or equivalent qualification.

The pilot program was spread across 20 different school boards and although it was viewed by many as a “step in the right direction,” it also drew [criticism](#) from those who were wary of the “on-site” component. The concern was that having students with autism receive ABA services in a “room down the hall” would further segregate and stigmatize them. The training component and the funding to hire more BCBA’s were both welcomed by most members of the autism community.

RECOMMENDATIONS:

- EDU should request an Interim Report on the pilot project and share this with stakeholders, including the OAC, at the earliest opportunity
- The Ministry should abandon the “on-site” model and instead focus on providing ABA training and supervision for Education Assistants to deliver ABA in the classroom



A picture exchange communication system (PECS) is frequently used for non-verbal students with ASD.

6. Call to Action: The “top 5” things the OAC wants you to do

1. The Ministry should abandon the “on-site” model adopted in the ABA pilot project and instead focus on providing ABA training and supervision for Education Assistants *to deliver ABA in the classroom.*
2. EDU should request an Interim Report on the 2017 ABA pilot project and share this with stakeholders, including the OAC, at the earliest opportunity.
3. EDU should immediately undertake a formal review of the number of exclusions and informal “soft-suspensions” that have the effect of excluding students with disabilities.
4. EDU should allocate funding to hire more EA’s and to implement more extensive autism and ABA-related training for all EAs, teachers, administrators and support staff assigned to work with students with ASD.
5. EDU should put in place properly funded supports for students with exceptionalities and students with mental health issues, including increased funding for special education teachers, educational assistants, psychologists, behavioural therapists, school support counsellors, child and youth workers and speech-language pathologists.

*... When a new handout is passed around, printed on that light green paper they stock the school with I flip it over. A blank canvas, a fresh space, **a new horizon**. And I draw...Work with them long enough, treat them right, and you can make pencils sing for you. Drawing kept me listening; ears cocked and taking in the lesson while I appeased the need to get up and go. I've seen other autistic kids who have done just that; gotten up whenever the need arose, paced and hopped and walked right out of the room. I envy their freedom, ... But I knew what was expected; you will sit, you will listen, you will be quiet until you're told to leave. Even when it hurts. Even when your body comes alive with the restless buzzing hum whispering 'no more, let me go, let me run'.*

*~Elsbeth Dodman, autistic self-advocate
Member of the OAC Board of Directors*



#AutismDoesntEndAtSchool