

**AUTHOR'S SUMMARY
CONNECTING CARE AND CHALLENGE:
TAPPING OUR HUMAN POTENTIAL**

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

A. Wayne MacKay

INTRODUCTION

What follows is my summary of the so-called MacKay Report on inclusive education in New Brunswick.

The title of my Report is *Connecting Care and Challenge: Tapping Our Human Potential*. 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 sponsored report on education¹. My Report argues 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.² A significant number of the recommendations in this Report are dedicated to looking at alternative methods of educational service delivery, with the goal of continuing to care for and nurture students while challenging them to achieve high standards. I believe the two can and must go together.

My Report was compiled after many months of research and consultation with New Brunswickers who have an investment in their education system: teachers, parents, Department of Education officials, students, professional associations, labor union members, and other government departments that work closely with the Department of Education. Over the course of about nine months, more than seven hundred individuals were consulted in thirty-five separate sessions. There were also one hundred twenty six written submissions made to me as well.

¹ Elana J. Scraba, *Schools Teach –Parents & Communities Support –Children Learn –Everyone Benefits* (April 2002)

² 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.

Consultations were held in large cities, rural areas, and in Aboriginal communities, and were done in both official languages. The majority of sessions occurred in Fredericton on the choice of the participants. Individuals or groups who could not be part of the formal consultation sessions were consulted in writing. The ninety-five recommendations contained in this Report are well grounded in the oral and written views and perspectives of New Brunswickers.

The main focus of this Report is inclusion, and I have attempted to be inclusive in the preparation of this Report as well as in the review process. Inclusion is not just about students with disabilities or “exceptionalities.” It is an attitude and an approach that encourages all students to belong. It is 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. Flexibility, not simply adherence to dogma, is important in the approach to dealing with situations in the classroom. A “one size fits all” approach does not belong in an inclusive education system. The system must be able to adjust to the many different learning styles that children bring to the classroom. This broader definition of inclusion is an important foundation for this Report.

During the consultation phase of this review, parents, teachers and students have all warned that the system desperately needs enhancement, as students of all academic levels are not being well served. Simply doing what has been done before will not be enough. 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. The status quo is not an option. New Brunswick has been a leader in the concept and philosophy of inclusion, but must move to the next stage of becoming a leader and innovator in implementation and service delivery.

Enhancing the inclusive education system could draw immigrants into the province. “Would-be” immigrants to New Brunswick would be attracted to a system that truly takes account of difference in an effective and positive way. Presently, populations in all except the Aboriginal sector in New Brunswick are declining, and enhancing the existing inclusive education system would also serve to enhance New Brunswick’s future.

If we don’t pay now to provide good education and make the most of our human potential, then we will pay later in terms of the justice system, social welfare system and in the lost potential of people who can contribute in a very big way to New Brunswick society. One of the virtues of an inclusive education system is that it taps the potential of people who are often left on the margins.

The full Report: *Inclusive Education: A Review of Programming and Services in New Brunswick*, includes a total of over 350 pages of text and another approximately 500 pages of Appendices, and is available on the internet at <http://www.gnb.ca/0000/index-e.asp> or through the Department of Education at (506) 453-3678 (8:15 am to 5:00 pm) or by writing to the Department of Education, Place 2000, PO Box 6000 Fredericton, NB E3B 5H1.

A Wayne MacKay
May 1, 2006

INCLUSION / INCLUSIVE SCHOOLING

Definitions

These are exciting times for those who are concerned with the promotion of inclusive schooling. Not only are there many new developments in teaching philosophy and educational practices related to inclusion, 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 an important approach to providing education services that offers solutions for many of the difficulties educators face today. It also poses significant implementation challenges.

A review of special education in the province of Manitoba done in 2001 defines inclusion as follows:

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 is a value system based on beliefs that promote participation, belonging and interaction.³

Gary Bunch and Kevin 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.⁴

While this is part of inclusion, it is more tied to the concept of disability than the broad concept of inclusion in the Manitoba review, which I embrace.

³ Manitoba Education, Training and Youth, *Follow-up to the Manitoba Special Education Review: Proposals for a Policy, Accountability and Funding Framework* (September 2001).

⁴ The preliminary conclusions of the Gary Bunch and Kevin Finnegan *Crucial Terms Project* have been provided to me by the authors of that study, May 2005.

A student currently enrolled in the New Brunswick school system offered a simple but useful definition of inclusion during the consultation sessions. The student said, “I feel the same as others. I do the same things, but in different ways.”⁵

Broad Interpretation of Inclusion

My research and the feedback received during the consultation process support 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.

Inclusion, defined broadly, supports the equality mandates of the *Charter of Rights* and New Brunswick’s human rights code. This is elaborated in the background phase of my Report. 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. Equality demands both the accommodation of differences and systemic changes to our existing structures so that all students can feel that they really belong and can benefit from the education system. 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.

With New Brunswick’s 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.

Integration of every child into a mainstream classroom is not a universal remedy. 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 outcomes from 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

⁵ Consultation with Students – Exceptional (Anglophone). Fredericton March 18, 2005. See page 52 of Appendix M.

full-time integration in the regular classroom for children who are medically fragile or who have multiple disabilities 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.

Child-Centered Schools; 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 its recommendations is to advance this goal in real and practical terms. New Brunswick is 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. Ideally schools should be a vital part of a larger culture of learning. A greater emphasis should be placed upon the school as the center of the community and schools should once again be seen as a 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 welcome the larger community inside.

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 these 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. Most parents are happy to be involved and to assist where they can. Good education is a cooperative enterprise.

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 the province. The Government of New Brunswick and the Department of Education have taken steps toward addressing some of the difficulties through 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. Discussions at the consultation sessions which were held as part of this review identified some

of the wonderful benefits of New Brunswick's efforts in the area of inclusion over the last twenty years. The appearance of greater tolerance among students and personnel, wonderful friendships and sweet moments all have happened by taking the road to inclusion. New Brunswick has a caring school system, and this can be connected to the challenging of students to meet high standards. Many good things have begun in New Brunswick. One of the crucial means of connecting is by ensuring effective and ongoing communication.

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.⁶ It is a challenge that must be met on behalf of the students of New Brunswick to allow the province to reach its full human potential.

⁶ The analysis presented here focuses on equality and inclusion in primary and secondary schooling, as this is the most applicable for this Review. The author notes though that many of these themes are also challenges in post-secondary education (and in transitions to post-secondary education). I 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 Round Table, A. Wayne MacKay, Keynote Address, Acadia University, June 2003).

THE NEW BRUNSWICK CONTEXT⁷

New Brunswick is clearly a unique province, with its own challenges and strengths. One source of both uniqueness and strength is its dual language education system, created by section 4 of the *Education Act*. This section creates two separate education systems operating simultaneously and side by side. Under the *Act*, the District Education Councils can make decisions and set policy on a number of issues, within the basic norms and directives from the Ministry of Education.

The goals of the New Brunswick system are ambitious and the expectations high. The province 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 international student assessment scores. 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.

The Cost Study of Exceptional Students report completed by the New Brunswick Office of the Comptroller in June 2004⁸ 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 that on a district by district basis, the highest enrollment in French Immersion classes is in 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.⁹

One thousand four hundred eighty two First Nations students attended provincially operated schools in September 2004. The majority of First Nations students are in the anglophone sector. First Nations communities have a particular perspective and interest in education. Education for these communities has been a challenging situation including federally operated schools on reserves and 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

⁷ Pierre Dumas, "Policies, Service Delivery, Practice and Provincial Review Analysis." Refer to Appendix H.

⁸ *Comptroller's Report*, p. 90 of that report.

⁹ Policy and Planning, *Summary Statistics: School Year 2003-2004* (New Brunswick Department of Education, March 2004) at 16-17. [Hereinafter *Summary Statistics*]

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 0.34% 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. As of September 30, 2003 there were 764.7 Teacher Assistants in the anglophone sector and 329.1 in the francophone sector.

Referring to 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.

One of the challenges facing evidence based decision making in New Brunswick is a scarcity of reliable statistics, especially over a period of time. For example, there is little data about the incidence or range of disabilities in the province as a whole or on a district by district basis. The number of low incidence but high cost disabilities can have a significant impact on a particular district's budget. Developing better statistical data is one of my recommendations for further study, as such data is vital to providing better education in the province.

THE PROCESS FOR THE REVIEW: BACKGROUND RESEARCH, LEGAL CONSIDERATIONS AND CONSULTATIONS

This review was conducted over a period of many months and on two continents. My administrative and research assistant Janet Burt-Gerrans provided invaluable assistance throughout the review, and Pierre Dumas, Dr. Michael Fox, Cathy Thorburn and the accounting firm Grant Thornton did valuable subcontracts for me that enrich the final Report. The background research includes historical and current legal considerations in the New Brunswick and Canadian education systems. The review examined best practices in inclusive education¹⁰ - techniques or methods that through experience and research have been proven to reliably lead to a desired result – a better educational experience for all students.

Background Research

The review of literature and best practices provided a solid foundation for this review and while limited by time was wide ranging, as revealed in Appendix M to the Report. A few of the dominant themes were:

- The desirability of inclusion
- The need for flexibility
- The importance of educational teams
- The need for diverse and well trained team members
- The lack of agreement on vital terminology
- The importance of challenging all students to reach their potential.

Pierre Dumas' analysis of other inclusion studies conducted across Canada revealed that all provinces are struggling with similar challenges with respect to inclusion and meeting the needs of challenging students. In analyzing these studies I concluded that there are no simple answers and each province has unique aspects. Much can be gained by sharing information between provinces and this observation is incorporated into the recommendations.

The model of integrated service delivery in various provinces was examined by Cathy Thorburn (Appendix R to my Report), and Saskatchewan emerged as a leader in this area. As part of the review process, I visited Saskatchewan and met with officials from various departments to learn about the integrated service delivery model and the challenges of funding. The need for adequate funding and the importance of ongoing dialogue at all levels were dominant themes. Michael Fox's thorough review of professional development and training in various provinces (presented in Appendix I) also demonstrates the value of learning from

¹⁰ Appendix M, Summary of Consultation Sessions.

other provinces. He also emphasizes the importance of proper training and professional development.

A trip to Finland, the world's top performing country on PISA (Programme for International Student Assessment) scores, was a positive glimpse at the international scene. This came in October 2005 as I was finalizing the recommendations and provided many useful insights:

- The welfare of students is a foundation for learning
- Schools must be part of a culture of learning
- New Brunswick has lessons to teach other places about inclusion
- High standards are crucial to success
- Maximizing human potential is particularly important in small populations.

Legal Considerations

When it comes to the law there is often a balance to be struck. Courts are frequently 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 and front line administrators.

Educators are called on to perform many similarly difficult balancing acts on a daily basis. Balancing the competing rights of students can be difficult. A balance must 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, and emotional development. For the vast majority of students fun is also part of the balancing act. They must also balance their desires to fit in with their peer group and their need to be a unique individual. Students want to be accepted for who they are and to belong to the school community.

The work preparing this Report 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 society¹¹”

The following summarizes some of the legal considerations for public education systems:

- Accommodation – the requirement to achieve equality for individuals based on *Charter* rights and provincial human rights legislation - must be undertaken to the point of undue hardship. Undue hardship may take the form of impossibility, serious risk or excessive cost.
- Institutions must examine structural barriers such as practices, procedures and policies when addressing equality issues (systemic analysis).
- When courts rule on services to be provided to ensure equality, it is up to government to organize itself to provide the services (passing responsibility from one department to another is not acceptable).
- Once a government offers a service, it cannot arbitrarily discontinue that service. This duty bridges government departments.
- Decision-makers must take into account all relevant circumstances, not simply adhere to existing policies or criteria without examination of particular and differing contexts.
- The public education system has a duty to proactively address factors that have a negative impact on the quality of the school environment, particularly in relation to discriminatory conduct, student safety and security.¹²
- In making decisions about programming and placement, the public education system must consider student rights to self-expression and possible ill effects (based on all available information), and take reasonable measures to manage foreseeable risks. For example, programming for a student with an intellectual disability who is known to exhibit violent or threatening behaviour must include appropriate measures for the protection of the student, other students and staff. These may include emergency and crisis management protocols, adequate staff training, appropriate sharing of information, and appropriate equipment and facilities.

¹¹ Jones v. The Queen [1986] 2 S.C.R. 284 at para. 22, per Justice LaForest (former Supreme Court Justice who was born in and lives in New Brunswick.)

¹² Attis v. New Brunswick School District 15 [1996] 1 S.C.R. 826.

- Schools should provide an environment free of bias, prejudice and intolerance where rights are respected and inclusion is modeled.¹³
- Limits should be based on respect for the rights of others rather than on simple authority, and approaches to addressing equality must recognize the complexity of needs rather than applying formulaic solutions.

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.¹⁴ 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.

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.

The language of equality has two main areas of applicability when it comes to education. First, equality is about belonging and community.¹⁵ Second, equality

¹³ Ibid.

¹⁴ 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-HeraldMetro* July 23, 2002, A-1.

¹⁵ 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

is about equal benefit of the law.¹⁶ 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 my own terminology and concepts, when I 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, I refer to as social inclusion.

Consultations

As valuable as lessons from Saskatchewan and Finland were, the most valuable insights came from talking to the people of New Brunswick during the consultation phase of this review. 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. This was a vital part of this review and many commented that they appreciated being consulted and seriously listened to. It was a respectful two-way dialogue that set the stage for the recommendations that follow.

Two overarching, universal themes and points of consensus emerged from the consultation process itself. First, the participants expressed appreciation for having been genuinely consulted and actively listened to. Second, they appreciated the opportunity to dialogue with others about these difficult issues. People participated in the dialogue with honesty and passion. I 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

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 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.

¹⁶ 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.

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.

Another lesson from the consultations was the need to balance the many competing interests of the inhabitants of our schools. Reconciling these often diverse interests can be a difficult task. The importance of balancing the sometimes competing interests of all the students and staff is also reflected in the legal framework. This is one of the areas where law and practice converge.

The most substantial contribution toward the identification and development of the ninety-five recommendations in this Report came from the themes that emerged from consultation sessions, from literally hundreds of New Brunswickers whose lives are affected by their education system. The consultations were organized around the five major components of the review. A summary of some major themes follow.

1. Elements of a policy statement on inclusion:

- Inclusion is accepted as the appropriate model of education for New Brunswick.
- Gifted students and those “in the middle” were identified as being poorly served.
- Developing an acceptance for difference appears to be one of the successes of New Brunswick’s public education system.
- The school principal was identified as a key player in the implementation of inclusive education.
- There was a general receptiveness to a broad interpretation of inclusion going beyond disability.

2. Working definition of exceptional student:

- The purpose and implications of the term “exceptional” student need to be examined.
- Concern was expressed that, in the *Education Act*, the definition of “exceptional” is tied to educational delay.
- Many felt the definition of exceptional student impedes the delivery of services in a proactive manner that could prevent educational delay.

- The term “exceptional student” is currently defined in a way that fails to meet the needs of many deserving students.

3. A new service delivery model:

- Lack of resources was mentioned by every consultation group and there was a general consensus that more resources were available to meet the needs of students in the early days of inclusion.
- There were concerns about the current role of teacher assistants (TAs). These included the use of the TA inhibiting the ability of disabled students to participate fully with others; TAs appearing to replace the classroom teacher as the main person in charge of delivering programming for the exceptional student; low wages; lack of training, particularly in relation to specific conditions and medical care; physical and other abuse of TAs by students; and transitional assignment of TAs perceived as damaging to students.
- A lack of access to professional support from other departments was emphasized (e.g., speech/language pathologists, audiologists, social workers, psychologists).
- There was a widespread recognition that there is a need for an integrated service delivery model.
- There was a recognition of the need for teamwork, but lack of time to do this effectively.
- A lack of adequate training for teachers and school leaders was identified, including the need for better pre-service training, limited options for in-service training, lack of mandatory requirements for upgrading, and loss of Bachelor level programs in special education.
- There were concerns about the lack of meaningful communication throughout the system.
- The desire for more vocational and technical courses was identified.
- Exceptional students tended to be victims of bullying when their disability was invisible and when it expressed itself in disruptive behaviour. Otherwise bullying did not appear to be strongly linked to disability.
- Issues of school violence and the need for better behaviour management training were identified.

- The need for an interdepartmental administrative structure to deliver integrated services was identified.

4. Standards / accountability framework:

The most frequently proposed indicators of successful inclusion and a successful inclusive education system were:

- Parent, student and personnel happiness and satisfaction
- Student demeanor and relationships with one another
- Drop out rates, retention rates, suspension rates, rates of students not included in regular classes
- Post school employment, opportunity, and outcome
- Measures of competency, autonomy and independence of students
- Sense of belonging
- Specific needs for improving accountability were also identified by the consultation sessions:
 - Need for ongoing, uniform and constructive personnel evaluations coupled with clearly defined roles for all staff
 - Need to improve student evaluation without adding useless form filling and red tape
 - Need to ensure that Departmental policies are implemented at the district and school levels.

5. Proposed funding model:

- The current funding model promotes a reactionary and “band-aid” approach to service provision.
- There is a need to find a middle way between a strict census model of funding and a categorical model.
- More money has to be provided from various departments.

RECOMMENDATIONS:

DEFINITION OF 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 in particular. 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. 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*.

Some of my recommendations propose changes to the *Education Act*, regulations and policies that will formally solidify the experience and knowledge about inclusive education that has developed in New Brunswick. The following recommendations 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.

Education is in the unique position of requiring all children in the province to pass through its doors for an extended length of time.¹⁷ This extended relationship between schools and almost every child in the province underscores the importance of making this a positive and productive experience for all students. 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.

I recommend that the *Education Act* be amended to include a preamble that sets out the guiding values of education, and the foundation for inclusion. The proposed preamble 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 my Review. The following preamble or a variation on it, should be adopted:

Preamble

Recognizing that through education the people of New Brunswick can acquire the knowledge, skills and attitudes needed to be responsible,

¹⁷ All children are required by the *Education Act* to attend school or to fit within a narrow list of exemptions.

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, 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

The proposed preamble to the *Education Act* refers to inclusive education, the main theme of this Review. 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. I advocate a broad approach to inclusive education as the one most appropriate to the more diverse New Brunswick of the future. Disability is only one form of New Brunswick's diversity.

I recommend that the Minister of Education 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. 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. 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. Technology may provide some of the answers, but 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.

I am recommending that that the Minister of Education 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. The Minister should also 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. Once the optimal levels and types of supports are determined, those supports should be phased in over a two year period.

Communication

Good communication among all parties has clearly emerged as one of the most important ingredients necessary for inclusive education. 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 many other social, psychological, and environmental factors 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. Properly implemented, inclusive education, in my view, does not require this. 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.

I recommend that a plan for ongoing communication and distribution of information regarding disabilities and other factors affecting the welfare and development of children be developed and implemented. An up to date compilation of best practices in inclusive education for francophone, anglophone, and Aboriginal communities should also be developed. Every school and district should have a directory of community resources relevant to education, for the benefit of teachers, administrators, parents and others in the school community.

WORKING DEFINITION OF EXCEPTIONAL STUDENT

Currently in New Brunswick the term “exceptional student” is used in the *Education Act* to describe students with disabilities. The use of the term “exceptional” makes it difficult to describe the rest of the students in an acceptable way. Unexceptional, mainstream, average and “the rest” are all problematic terms. Only two provinces in Canada (Ontario and New Brunswick) use the term “exceptional student”¹⁸. In Ontario the term “exceptional” also includes gifted students, but that is not the case in New Brunswick.

According to the *Education Act*, “exceptional students” are entitled to a placement and planning process and services for students whose “behavioral, communicational, intellectual, physical, perceptual, or multiple exceptionality ... are contributing to delayed educational development.”¹⁹ In the current system there appear to be many children with support needs who don’t fit the definition, mostly due to the clause “delayed educational development”. It was noted in the consultations that many who do fit the definition also do not receive service because of a lack of resources.

I am recommending that the term “exceptional student” be dropped, and that changes to the *Education Act* address those children and their educational requirements in an inclusive school system. The broad interpretation of inclusion that I advocate would include students currently described as “exceptional students.” In my view, “exceptional student” is a term that has outlived its usefulness.

Under the current *Education Act*, school superintendents make the determination of which students fit the definition of “exceptional student.” Those responsibilities create a possible conflict with the superintendent’s financial responsibilities as the chief executive officer of the school district. In an effort to provide adequate services to all students and balance the books, there could 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. Indeed the decision is currently made at lower levels and ratified by the superintendent.

All of this raises the question of who would be best placed to determine which students require special programming or services. My recommendation is that we implement this through universal service delivery programs. This type of service

¹⁸ See Phase 1 Part IV (A) of the Report “Legislation”.

¹⁹ 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. 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.

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. Universal service delivery programs are designed to support students but are assigned more generally. Examples include study buddies and tutorial group programs, homework hotline and homework clubs, and small group tutorials. My recent trip to Finland demonstrated that universal service delivery is a significant component of that country's success.

I am recommending that the planning process for students who require additional planning and / or support²⁰ shall be referred to as an individual student planning process. This process would be conducted by a strategic student services team and would involve the student's parents, and the student as much as possible, as active participants by making the process accessible and inviting to them. A district multi-disciplinary team of specialist professionals, district supervisors, and staff from other government departments such as Health and Wellness, and Family and Community Services would work with the strategic student services team at the school level to assist in assessing and planning for students who require additional planning or support. One result of this process would be an Individual Student Plan or Intervention Plan, which would serve as the reference point for all service delivery.

To the extent that the exceptionality could also be described as a "disability," disabled students in need of intervention will 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 implementing these services, tough choices have to be made about the allocation of scarce resources. 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*. 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.

Given the importance of accommodating students where possible, but also being mindful that scarce resources or other factors will not always permit accommodation, I am recommending that guidelines or policies be prepared on both the scope of disabilities and the justification standard for reasonable accommodation up to the point of undue hardship. The factors to be listed as relevant to demonstrating undue hardship include those in the following non-exhaustive list:

²⁰ Also referred to in the proposed amendments to the *Education Act* as "students in need of intervention"

- 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.

I am recommending that the above changes to the *Education Act* to replace the term exceptional be made after many of the other more pressing recommendations have had a chance to produce results. The above list of factors to guide the determination of accommodations for students should be developed more speedily as decisions about providing the necessary services and supports should be made in a consistent and principled way.

A NEW SERVICE DELIVERY MODEL

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 no clear answer or consensus about the best structure to achieve co-operation, or about which services from the continuum would best 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. Saskatchewan has a comprehensive approach to integrated service delivery with its School^{plus} model. It has some innovative

funding approaches, as well as a focus on services that are school based or school linked. The Saskatchewan model appears to be the most collaborative and best coordinated, and these positive impressions were reinforced by my visit to Saskatchewan in November. The benefits of the Saskatchewan model were also emphasized by Cathy Thorburn in her report contained in Appendix R to my Report.

There is no one clear model that could be replicated in New Brunswick. All of the models reviewed in my research and consultation process should be considered.

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 contained in my Report as a guide.

An implementation model where authority is shared among departments is more likely to move educational service delivery needs higher on the priority list for all departments. New Brunswick's Support Services to Education Agreement, which on its face has some appealing features, is not effective in delivering integrated services, and should be replaced.

The strong 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 Programme for International Student Assessment (PISA) test results.

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 my 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.

I recommend that the Premier create an Interdepartmental Steering Committee on Integrated Service Delivery (the Premier's Steering Committee) to be

composed of the Ministers of Education; Training, Education and Development; Justice; Public Safety; Family and Community Services; Health and Wellness; Aboriginal Affairs, and any other Departments as may intersect with educational service delivery. The Premier should mandate that the 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. 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. 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. A student record and information system should be developed to allow 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.

As much as possible, support services for education should be school based and delivered in the schools as advocated in Saskatchewan's School^{plus} model. This is part of promoting school-centered communities and making services available in a way that is convenient for students and parents.

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. As one example 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.

It is also 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. An effective model of integrated service delivery is a vital component of an effective inclusive education system.

The Centrality of Human Resources

Having the right people in the right places and giving them the skills and resources to do the job are critical to the success of any educational enterprise. Making sure that New Brunswick makes the most of its human resources is as important as providing the necessary financial resources. There are many dedicated and effective professionals working within the system at all levels but there is also a high degree of frustration on many fronts due to lack of adequate resources, poor role definitions and inadequate opportunities for training and

professional development. Teachers and related professionals need to be valued for the work that they do and this was identified as one of the vital elements of Finland's successful education system.

The following package of recommendations on human resources is designed to make the most of New Brunswick's human potential and to reduce the levels of frustration felt by many in the system. Some of these recommendations involve the expenditure of money and some merely involve a reorganization of existing resources. There is a solid core of human resources in the New Brunswick education system who wants to do a better job and these recommendations are intended to assist them in providing better inclusive education to all students in New Brunswick.

Having properly trained professionals performing well defined and well coordinated roles is a key component of successfully implementing inclusive education. The same is true for having skilled and highly qualified people at all levels in the system. School personnel are doing a good job in schools - that was evident in the consultation process. A tremendous variation in the effectiveness of personnel was also evident from the consultation process. 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 all levels of educational staff. 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.

I recommend that a leadership development strategy be created which would develop and implement hiring policies and practices to ensure that people in key positions have sound knowledge of, and commitment to implementing an effective and accountable inclusive education system within their area of responsibility. Cooperation between the Department of Education, District Education Councils, relevant unions, education faculties in universities, and other stakeholders, is vital to effective implementation of this recommendation.

Further, I recommend that the Minister of Education engage in direct discussions with Mount Allison University and the Meighen Centre for Learning Assistance and Research²¹ at Mount Allison with a view to establishing a funded, graduate level program to deliver a made-in-New Brunswick graduate degree in inclusive

²¹ 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.

education. Discussion should be held with the Université de Moncton to investigate the expansion of 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.

Pre-Service Training

As part of this review, Dr. Michael Fox of Mount Allison University was commissioned to conduct a country-wide review²² of pre-service and in-service training in inclusive education for teachers, teaching assistants and student services administrators. 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.”²³ Attitudes and levels of preparedness of all personnel are also prevalent concerns.

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 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 to assist 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.

The Minister of Education 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. This cooperation should begin with the critical selection of the appropriate students for teacher training. Finland

²² Dr. Michael Fox, “A Review of Inclusive Education Programming for Pre-Service and In-Service Teachers, Teaching Assistants and Student Service Administrators.” See Appendix I.

²³ Ibid p. 1.

invests a great deal of time in the selection of teachers for their educational facilities, as they believe that good teachers and other related school personnel are crucial to the success of their system.

Further, I recommend that the Minister of Education work 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, to 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. The province's system of teacher education should promote these optimal skills and knowledge in addition to other identified essential skills and knowledge for all teachers. The optimal teacher skills and knowledge that promote inclusion includes:

Skills:

- Class management
- Proactive creation of a positive learning environment
- Inclusive pedagogy, community building and other skills of inclusion²⁴
- 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 difficulties²⁵
- 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 achievement²⁶

The Minister, in collaboration with First Nations communities, should discuss establishing a mandatory rotation for student teachers at band operated schools

²⁴ See Appendix E.

²⁵ 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 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.

²⁶ See Appendix E.

in the province. This would provide additional support for First Nations communities and would provide a broadened experience for new teachers.

Core Skills, Attitudes And Knowledge That Promote Inclusion

Based on the background research²⁷ and the consultation process, a specific set of skills, attitudes and knowledge 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. It is essential that these skills, attitudes, and knowledge permeate the service delivery structures of the government and particularly throughout the education system. They are:

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

The precise nature of these core skills, attitudes and knowledge vary slightly depending on the particular role in the education system but these are merely variations on the above.

²⁷ Summarized at Phase 1 pp. 53 and 71-72 as well as in Appendices E and H of my Report.

Clarification of Roles and Enhancement of In-Service Professional Development

In-service professional development is critical to ensure the development among all school staff of a culture of inclusion, and to increase the competence and capacity to deliver inclusive education. All in-service training should establish and reinforce the importance of the skills, attitudes and knowledge that promote inclusion. Included among the topics for in-service sessions for the next three to five years in New Brunswick should be 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. This strategic approach to in-servicing should make the most of the time available. I also recommend an increase in the number of in-service days available.

These programs for teachers should also promote what is referred to in Finland as “reflective teaching” – an approach that requires teachers to model the critical thinking and problem solving that they teach. The centrality of the teacher in the education process should be reinforced.

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. I am recommending that the Government articulate in the *Education Act* that the principal, 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.

Resource teachers currently facilitate the individual intervention planning process, and directly teaching students in difficulty. It appears that few resource teachers have a Masters level of qualification. There is a high burnout rate among resource teachers, resulting in a high turnover of staff. 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. I recommend that the ratio of resource teachers to students should be improved²⁸. 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.

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

²⁸ See page 240 of the full Report for the specific ratios.

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. I recommend that the ratio of guidance counselors be reduced to 1:500 within six years, and that guidance counselors be assigned to grades K-8 as well as 9 - 12 in the anglophone and francophone sectors.

Teacher assistants (TAs) are 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. I recommend the creation of role statements and position descriptions for teacher assistants. 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. I also recommend the establishment of specific course requirements for teacher assistants to prepare them for their roles and to promote inclusion in schools.

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. Consultations revealed that student assistants who currently perform these types of duties have little or no training. This jeopardizes both safety and inclusion. 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. I recommend that position descriptions and standards for student attendants be developed, and that training and remuneration for student attendants be addressed as well. Staff 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.

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 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. In Finland libraries were an important part of a broader culture of learning that goes beyond the confines of schools.

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 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. I recommend that the necessary steps be taken 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. Issues of violent and aggressive behaviour on the part of students should also be addressed, along with the most effective responses that will serve the best interests of all students.

Concerns were expressed during the consultations about student assistants and/or teacher assistants performing medical procedures on students. Questions were raised about competence to carry out specific procedures, and the related liability of those workers and the school system if a mistake is made. The role and distribution of school nurses within the province, and the role of student attendants and teacher assistants in providing medically related services must be clarified.

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. Working with the Community College of New Brunswick, the College of Extended Learning, other appropriate post-secondary institutions and autism advocacy groups, the Department of Education should create courses and standards of care for those who will work with students with autism spectrum disorder. The use of Applied Behavioral Analysis/ Intensive Behavioral Instruction (ABA/IBI) in the training program and standards of care for autistic students should be considered as one approach. Policies setting out the job descriptions, qualifications, training, and the determination of the appropriate remuneration for autism support workers should be established.

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 important and unique role of behaviour intervention workers in schools should be recognized.

The numbers of these workers should also be increased to allow teachers to focus more on the learning process.

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. 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 process of defining appropriate personnel to student ratios is mired in difficulty. Some professional associations did propose ideal ratios. 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, 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 other personnel. 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.

I am recommending that, with the aim of ensuring that the wait time for students to see a professional in the school system be improved, 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. The recommended ratio targets are listed below. Refer to the full Report for details.

- Speech-Language Pathologists: within five years reduce the ratio to 1:2000.
- School Psychologists: within five years reduce the ratio to 1:1000.
- School Social Workers: within five years reduce the ratio to 1:3000.
- Nurses (RNA/LPN): within five years reduce the ratio to 1:2000.

The ratios and availability of other specialized outside service professionals should be monitored in conjunction with wait times. 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.

The importance of good acoustics in classrooms was emphasized in both written and oral briefs. I recommend that the Government of New Brunswick allocate the financial resources to staff and support the role of community audiologist. The role of the audiologists in the schools could include measuring acoustics in classrooms, assessment and monitoring of FM systems and assessment and monitoring of the effect of auditory processing on the learner in the classroom. As resources allow, FM systems should be made available in more schools.

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 required 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 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.²⁹ 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 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*.

I recommend that the *Education Act* be amended 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

²⁹ Pierre Dumas' 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*" in my Report.

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. Also, a comprehensive plan should be created to increase early intervention efforts in strategic areas.

The value of early intervention as a cornerstone of education service provision must be understood, and the feasibility of inclusive daycare and preschool settings for children should be explored. 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.³⁰ shows that inclusion in preschool programs better prepares students with disabilities to attend school, and better supports their inclusion in the community.

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. I recommend in addition to this initiative that the Government of New Brunswick engage in dialogue with private day care service providers and the Government of Canada to advocate for and support access to inclusive day care and preschool settings for children with disabilities in New Brunswick.

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.

I recommend that the Government of New Brunswick in collaboration with the Government of Canada and First Nations communities 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

³⁰ "*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 of my Report.

strategies should focus on empowering First Nation communities to direct the programming and services.

Vocational Training

I advocate the return of more vocational options for all students – not just those with disabilities or other learning challenges. Many students thrive on the experience based and hands-on learning that is offered in many vocational settings. This vocational stream should not be simply a return to the previous vocational school model, but should be a creative new one designed to promote marketable skills and to fill voids in the existing job market. I recommend that the Government set aside adequate resources for the training of vocational teachers to serve the province of New Brunswick. This will require collaboration with universities and community colleges as well as the business sector.

Educational Service Delivery

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 bilingual 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.

I recommend that a study on the delivery of French immersion within the province of New Brunswick be commissioned. 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. I also recommend that the Department of Education 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.

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 issues raised by both the range of learning disabilities and challenges need further attention, and could benefit from a province wide strategy aimed at better serving these students within the school system. I recommend the implementation of a Provincial Learning Disabilities Strategy focused on better and earlier identification of learning disabilities and the provision of appropriate support services within the integrated service delivery framework proposed earlier. Responses to learning disabilities and ADD and ADHD in other provinces should be reviewed.

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. 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. As part of this study a working definition of “gifted” students should be developed, and should include all students who could benefit from enrichment. There should also be a clarification of the term “enrichment”.

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. Early intervention and high quality services are vital when addressing autism. I am recommending that a Provincial Autism Strategy be initiated, focusing on collectively providing the resources for appropriate support services to autistic children within the integrated services delivery framework proposed earlier.

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. My recommendations in this area 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. I recommend that provincial consultants be hired 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. 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 also be hired. I also recommend that following 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.

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. 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 group should provide concrete proposals for making New Brunswick curriculum materials more inclusive.

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 offers a good starting point for designing support and resource service delivery.

The 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. 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.

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. It 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.

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 disabilities³¹. The New Brunswick Community College also seems to be making strides in areas of

³¹ 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.

accessibility. Broad dialogue should occur 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.

The Parental Role In Education

Parents and guardians are very important actors in a child's development. 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 school such as principals, staff, volunteers, students, parents, the police and community members by publishing an extensive Code of Conduct for Ontario schools³². 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, thus laying the foundation for good communication. New Brunswick's Department of Education should 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 material should be widely distributed in appropriate forms to parents, students, and school staff.

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. Many different stakeholders at the consultation sessions 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

³² "Ontario Schools Code of Conduct: *Ontario Education Legislation* (Aurora, Ont.: Canada Law Book Inc., 2005) at 747

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. 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.

My recommendations in this area 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. They include the auditing of all school facilities in New Brunswick for 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
- School facilities with good optics and visibility
- 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.

I also recommend the establishment of a broad-based committee to develop a plan to move toward school facilities that support and encourage inclusive education, collaboration, and community, and an increased emphasis on the safety features, physical accessibility, environmental design and energy efficiency as part of any designing, building or renovating of school facilities.

An audit of all school transportation vehicles should be done to assess the state of transportation for students with disabilities. Additionally, a plan should be developed and implemented to ensure that school bus transportation becomes more fully accessible, including the provision of appropriate attendants where necessary. In the short term, the Minister should ensure that students’ modes of transportation are not the cause of lost educational or extra-curricular opportunities.

The Minister of Education in collaboration with school districts and schools should develop a plan to proactively improve safety and security on school buses. A committee made up of Department officials in collaboration with the CUPE local representing bus drivers, school districts and schools should be formed 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.

Discipline, Safe Schools and Inclusion

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*. They also have the power to suspend students. 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. 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.

I recommend that information pamphlets be published and made available 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. Further, opportunities should be provided 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 earlier, 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.³³ In order for schools to be inclusive of the diversity of students, they should be safe places where bullying and intimidation are minimized. 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 students who are disabled, Aboriginal, or from a racial minority. However, a school without order

³³ R v. M(MR) [1998] 3 S.C.R. 393.

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 vulnerable³⁴. 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 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.

A Code of Conduct for New Brunswick Schools should be enacted in policy form 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.

The Minister of Education should require that notices of suspension sent to the superintendent are also sent to the Department of Education. The Minister should also 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

³⁴ 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.

apply to matters of urgency or school safety. An immediately after-the-fact letter would then be appropriate.

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.

STANDARDS / ACCOUNTABILITY FRAMEWORK:

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, the topic of accountability and the challenges that it poses have attracted national attention in the education setting.³⁵ Frameworks of accountability raise legal and equality questions as well as questions of administrative efficiency.

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 these 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 has 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. I 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 accountability³⁶, 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

³⁵ 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.

³⁶ J. Stein, “Law and Education: The Practice of Accountability” (2004) 14 Educ. Law J. 2.

done. Consultation with teachers and other personnel within the education system is vital to developing a credible and effective accountability framework.

I recommend the development of an accountability framework and the tools necessary to measure the effectiveness of inclusive education that benefits all students. This should be developed in consultation with the numerous stakeholders in the New Brunswick education system. The criteria for measuring the effectiveness of inclusive education were discussed earlier in the summary of the consultations. I also recommend that the elements of inclusive education be made a mandatory component of school improvement plans currently required by the *Education Act*. Other recommendations consider the need for district-wide and province-wide priorities, and take into account the differing needs of each of the districts and linguistic sectors.

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. The need to have provincial policies implemented at the local levels, and accountability for not doing so, were significant refrains in the consultations.

Evaluation of Students and 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. The consultation process highlighted that the practice of evaluating school personnel is quite variable across the province. Some staff felt that evaluations were used as a disciplinary tool. Performance evaluation should be about improving performance, not sanctions. I recommend that the evaluation and performance appraisal of all school personnel be done in relation to clearly defined job descriptions, which include the skills, attitudes and knowledge required for the promotion of inclusive education, as discussed earlier.

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. There is a need to ensure that the measures used can achieve the intended goals, and that the indicators are relevant to student growth and development. It is important to remember that students should be evaluated in relation to the broad goals of education. 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. 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. 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. Challenging all students to do their best is one of the ways that Finland has achieved the top scores in the world on Programme for International Student Assessment (PISA) tests.

Graduation Diplomas

High standards of excellence and quality results are both critically important to inclusive education. 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 graduation diploma brings into sharp focus an important concept - that of the 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. Both parents and educators have questioned the desirability of the “social pass,” and it is timely to reconsider this practice.³⁷ 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

³⁷ Heather Sokloff “*Family Fights to Allow Son to Repeat Grade 6*”, National Post, July 5, 2005.

class. A single provincial diploma should be developed 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 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. 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.

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). 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 room for improvement in terms of parental involvement in the education of their children.

As part of the need for better communication throughout the system there is a need for improved information flow and connection with parents. One area of concern both to parents and students that requires clear and ongoing communication is the importance of a safe school environment. Concerns about school violence and safety are also prevalent among New Brunswick teachers. The Minister of Education and the District Education Councils should ensure that communication with parents is in clear and accessible form and that the information flow is as extensive as possible in the context of existing privacy laws.

The Minister's Accountability for Implementation

Accountability must apply at the highest levels of the education system as well as further down the chain of authority. The accountability for the Minister of Education's implementation of these recommendations takes two forms – an annual report (in both written and oral form) to the Legislature's Standing Committee on Education, and the inclusion of an account of the response to this Report as part of the annual report to the Premier on the implementation of the *Quality Learning Agenda*. The Minister of Education, the District Education Councils and other relevant officials should ensure that the response to these recommendations is developed and implemented in an ongoing process of consultation and dialogue. I also recommend that the Minister of Education designate the two Deputy Ministers of Education, or their delegates, to oversee

the implementation of the recommendations of this Report. This will ensure accountability at the highest levels.

MEDIATION, REVIEW AND APPEALS PROCESS: ACCOUNTABILITY TO PARENTS

Extensive research into the appeals processes of all thirteen Canadian provinces and territories 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 my recommendations in this area 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. 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*.

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 a 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.

I recommend the development of a mediation process which is formalized and independent of the school system. Mediators should receive training on the process. The mediation process itself must be a neutral one, as reflected by the participation of the various parties in the selection process for potential mediators. If a dispute should arise, either party would have the right to request a mediator. At that time the parties would attempt to agree on a mediator from a provided list. If the parties are unable to agree on who the mediator shall be, the mediator will be designated by the Minister. A roster of mediators should be hired on a contract basis to mediate disputes on the issues of placement, programming and service delivery.

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. The current regulatory time limit of ten teaching days for appeals should be extended to at least 20 teaching days to allow for the parties to engage in meaningful mediation.

The Review / Appeal Process

The current appeals process for any decision made under sections 11 and 12 of the *Education Act* (related to placement, programming and service delivery to students) is so complex and informal that it interferes with an interested party's ability to appeal the decision in question. 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* related 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.

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. 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. I recommend the enactment of regulations creating a three-member appeal board for the appeal of section 11 or 12 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. 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 to state their views. Lastly, in reaching its decision, the appeal board should provide each party with written reasons for its decision. The best interests of all of the students should be the foremost consideration in the process of choosing members of the appeal board. I recommend that the qualifications of the chair, as chosen by the District Education Council, be related to the matter under consideration by the appeal board.

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. 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. I recommend that 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 understand the situation or are able to help them in their preparation for the hearing. Some will not know of any advocacy groups that might assist them. I recommend that District Education Councils should prepare documents that advise parents of specific advocacy groups that may be able to assist them in the appeal process. 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, should be made available.

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. These advocacy centers could potentially advise the parents of their rights, and offer guidance about the choosing of 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.

User's Guide and the Communication Imperative

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. The current User's Guide should be expanded to 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 who 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.

PROPOSED FUNDING MODEL

In this Report, I made a modest recommendation on a framework for a funding model based on the analysis of the background research, the consultation process, and the subcontracted accountant's report which is contained in Appendix S³⁸ to my Report. 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.

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 involve using current resources differently. Committing additional resources to a better and more inclusive education system is a good investment in New Brunswick's future. In any event, I recommend that the Government of New Brunswick increase its per capita funding to bring it toward the middle rank of Canadian provinces in respect to funding education.

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. 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. 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. 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.

The Prosperity Plan and Equity

I recommend that the Premier and the Government of New Brunswick 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. In addition, the Minister should emphasize the shared responsibility for educating

³⁸ Accountant's Report

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. The Minister 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.

Equity in funding does not necessarily mean everyone gets equal funding. True equality means taking account of differences such as rural / urban, and French / English.

I recommend that the Minister 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

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. Dialogue should also occur 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 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.

Framework for a Hybrid Funding Model

The analysis of the framework for funding models begins in the background research report³⁹. 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. As part of this review, Grant Thornton, chartered accountants, performed an analysis within parameters I identified (see Appendix S.) Their work 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, but this fairly

³⁹ Phase 1, Part IV of my Report, "School Funding".

extensive research and consultation process has revealed several critical issues with regard to the funding mechanism currently in use in New Brunswick.

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.” These “targeted by program” initiatives include the healthy learners’ initiatives, positive learning environment, early intervention in literacy initiatives, and others.

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 other legitimate needs.

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.

I recommend that The Minister of Education 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.

I also recommend that the Minister 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:

- The framework should continue to fund special education, student services or adaptation scolaire, using a census or global allocation based on the total student enrollment.
- The framework should continue to develop “targeted by program” add-on funds such as those already begun, then expand 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.
- The framework 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.
- An evaluation of the appropriateness and feasibility of further alterations to the existing funding mechanism should be carried out.

CONCLUSION

Change of a significant nature can be a slow process. This was a point that was emphasized during my visit to Finland in 2005 to examine their education system. 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. To continue the status quo will erode not only the implementation of inclusion, but also the credibility of the concept of inclusion in New Brunswick.

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. I have attempted to weave together all the components of this review into a coherent plan for improving the delivery of inclusive education in New Brunswick.

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 must also be clear strategies for 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, 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.

When I visited Regina, Saskatchewan in November 2005 the various departmental and school officials who 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 those discussions identified building good “relationships” as the key to the success of School^{Plus}. A process of open and respectful dialogue is the foundation for good relationships and an atmosphere of trust 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 that the Minister of Education, the District Education Councils and other relevant officials 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.

The implementation of these recommendations must occur in both linguistic sectors. To ensure a timely and full response to these recommendations, 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 other relevant officials should appear before the Standing Committee. As part of the Minister of Education’s annual reports under the *Quality Learning Agenda* I recommend the inclusion of a segment summarizing the response to this Report and the progress in implementing its recommendations.

While there are many demands on the limited provincial budgets, I agree with the view that more money must 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.

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 areas were 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. I recommend that the Government of New Brunswick 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.⁴⁰ A short time later on December 9th and 10th, 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*

⁴⁰ 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) (Roehrer Institute).

*Search for Solutions.*⁴¹ This speech was entitled “The Promise and Challenge of Inclusive Education” and again the venue for the conference was Ottawa Ontario. On December 9th and 10th, 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.

⁴¹ *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