CHAPTER III
PROCESS and METHOD for CONDUCTING the REVIEW

A. ADMINISTRATION OF THE REVIEW PROCESS

This section describes the global process of conducting the Review. While the following sections describe in detail the particular Review components, the Review also had to be considered as an overall process.

1. STEERING COMMITTEE PROCESS

As previously mentioned, a Steering Committee oversaw the Review process. The Steering Committee met with the consultant 11 times during the course of the Review.

March 5, 1997	November 27, 1997	October 19, 1998
April 17, 1997	February 13, 1998	November 2, 1998
June 26, 1997	May 25, 1998	December 9, 1998
September 18, 1997	October 5, 1998	

Steering Committee discussions dealt with process issues and the status of Review activities. The last four meetings focused on reviewed sections of the draft report.

Proactive brought analysis or information in the following areas to which Committee responded:

< characteristics of Review methodology;
< definitions (e.g., "best practices");
< timing of Review activities;
< identification of organizational contacts;
< forum locations;

- a communication plan (that included public announcements, press releases, advertisements for the Consultation Process);
- guidelines for submissions to the Consultation Process;
- sampling matrix for the Case Studies;
- confidentiality of submissions;
- identification of special circumstances warranting additional interviews/meetings; and
- identification of government departments for interviews.

Three written Progress Reports were provided to the Steering Committee during the administration of the Review. However, no preliminary findings were presented to the Steering Committee at any time during the Review. As previously mentioned, the Steering Committee was interested in having the Review proceed in a smooth and appropriate manner, rather than in influencing Review results.

2. Use of Expert Associates

Certain aspects of the Review required the use of expert associates. For example, someone with a legal background was required to conduct the legal review. As no one on staff at Proactive has been trained as a lawyer, this was clearly one area where an expert associate was required. Stuart Whitley, Q. C. was contracted to provide this service.

Other areas where the full-time Proactive staff team was supplemented included: funding analysis; bilingual capability; training in special education; and, external review. In the areas of finance and special education research, it was determined that experts outside Manitoba would make a contribution to the credibility of the Review if they were to provide an external critique of key aspects of the Review. Dr. Andy Rowe was contracted to review the financial analysis. Dr. Patricia Crawford provided her expertise in reviewing the other research components. Biographies of expert associates are found in Appendix K.

3. Development of a Detailed Framework and Workplan

The original call for proposals requested a plan for conducting the Review. It was recognized that any plan would likely be modified following discussions with the people who had more intimate knowledge of the background and intended scope of the Review. Therefore, once Proactive was contracted to conduct the Review it was appropriate that the consultants meet with the Steering Committee to make modifications to our original plan. At that time, Proactive produced a Detailed Framework and Workplan for the Review. The Workplan for the Review was regularly updated and provided to the Steering Committee. (See Appendix C for a copy of the Detailed Workplan.)

It was decided by the Steering Committee that the Detailed Framework and Workplan should be a public document and that it should be distributed to key stakeholder groups to inform them of the plan for the Review. The Deputy Minister's office distributed the document to the following groups in May 1997. The document was also available to any interested party upon request. (See Appendix D for sample letter dated June 17, 1997.)

< Chairs of School Boards
< Superintendents of Education
< Manitoba Association of School Trustees
< Manitoba Association of School Superintendents
< Manitoba Teachers' Society
< Manitoba Association of Parent Councils
< Manitoba Association of School Business Officials
< Manitoba Federation of Independent Schools
< Student Services Administrators' Association of Manitoba

4. Internal Office Procedures

Proactive instituted a number of procedures to monitor inquiries about the Review. For example, in the spring of 1997 a toll-free phone number (1-800-543-6203) was installed at Proactive Information Services Inc. It was used to respond to inquiries about the Review. It was not intended as a consultation nor data collection mechanism.

At the same time the toll free number was installed, a data base was established. A system of documenting all inquiries relating to the Review was also instituted. The name and address of any individual or organization that expressed interest in the Review was entered into a data base. The data base provided the basic mailing list for:

< distribution of the Guide to the Consultation Process;
< announcements of the Community Forums; and
< reminders regarding the submission deadline.

A second data base was constructed for documenting all those individuals and organizations that chose to make submissions to the Review. In addition to name, address, phone number, fax number and e-mail address, the data base tracked the date the submission was received, the date the acknowledgment letter was sent, and the Areas of Inquiry addressed by the submission. (See Appendix D for sample letter dated April 10, 1998.)

5. Review of Annual Division Action Plans

Annual Divisional Action Plans (ADAP's) were reviewed by the consultant in order to determine the provincial picture. While the variability of format and content placed some limitations on this as a data source, the ADAP's were useful as a source of divisional information when determining the provincial sampling frame.

6. Development of a Communications Plan

A communications (publicity) plan for the Review was developed and shared with the Steering Committee members for their feedback in September 1997. The Steering Committee confirmed that Proactive was responsible for the dissemination of information regarding the activities in the Manitoba Special Education Review. However, if questions arose which were more appropriately directed to the Steering Committee, Dr. Jim Newton was designated as the spokesperson.

The communications strategy was intended to be multi-faceted in order to reach as many people and organizations as possible. The strategy included a combination of:

< personal meetings;
< the toll-free number for responding to inquires;
< targeted mailings to and through interested organizations, including schools and school divisions/districts;
< print media, including organizational newsletters and local newspapers;
< electronic media, including organizational home-pages and e-mail;
< other media through public service announcements on radio and cable television; and
< notices posted in communities (e.g., in local grocery stores).

The plan was supplemented by interviews given by the project co-directors to local media in a number of case study and forum communities. (See Section on Community Forums, pages 82 to 85 for more detail on forum publicity.)

The communications plan included six stages designed to target specific geographic areas in advance of the community forums.

Stage 1: Initial Publicity
Stage 2: Forum - South and West Regions
Stage 3: Forum - Winnipeg and South-East Regions
Stage 4: Forum - The North
Stage 5: Forum - Selkirk-Interlake
Stage 6: Reminder of Submission Deadline

7. Contact with Key Stakeholders

Contact with and the involvement of key stakeholders was important throughout the Review. One of the first steps in the fall of 1997 was to meet with approximately 10 key groups/organizations to: provide information on the Review, answer initial questions, identify issues concern, discuss their preferred method(s) of participation, and ask for names of other interested organizations that should be added to the data base.

The consultant developed an initial list of groups based on their extent of involvement in Special Education, including groups with a provincial perspective[1]. Between August 1997 and April 1998, representatives of Proactive Information Services Inc. met with 18 organizations/associations as part of this process.

< Association for Community Living (Winnipeg)
< Autism Society of Manitoba
< Cerebral Palsy Association of Manitoba
< Child Guidance Clinic
< Coalition for Children to Live in the Community
< Council for Exceptional Children (CEC)
< Division Scolaire Franco-manitobaine (DSFM)
< Manitoba Association of Parent Councils (MAPC)
< Manitoba Association of School Superintendents (MASS)
< Manitoba Association of School Trustees (MAST)
< Manitoba Teachers' Society (MTS)
< Minister's Advisory Board on Deaf Education
< South-east Interagency Committee
< Special Education Committee, Assiniboine South School Division
< Special Education Review Coalition
< Student Services Administrators' Association of Manitoba (SSAAM)
< The Manitoba League of Persons with Disabilities
< Winnipeg Community Centre for the Deaf (WCCD)

Over the course of the Review, we met with more groups than had been anticipated, with some meetings lasting up to three hours in duration. However, we felt it was important to respond to requests for these informal informational meetings. We believe this assisted in encouraging understanding of and participation in the process.

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1 Two school divisions were included on this list for specific reasons. The Assiniboine South School Division No. 3 has been recognized for its inclusive approach and, therefore, it was helpful to the consultant to meet with their Special Education Committee. The Division Scolaire Franco-manitobaine has unique issues related to language and divisional structure.

B. Methodology For Component 1: Literature, Policy, Legal, and Funding Reviews

1. Literature Review

A first exploration of the literature on special education was conducted during the summer of 1997, providing an overview of the current research on special education. The literature review centered on "best practice," a term which engendered much discussion at more than one Steering Committee meeting. In terms of “best practice” in the literature review, the focus was on what particular practices showed evidence of success with students. Did they have a positive impact on student outcomes? Interestingly, a great deal of the literature does not address this question specifically, but rather presents philosophical approaches or debates.

An initial draft of the literature review was written and presented to the Steering Committee in the fall of 1997. However, it was clear that this should not stand as the final document. As stated in the introduction to this initial document:

> *It is our intention to continue building on the review of the literature over the next 10 months in order to incorporate the findings of recently completed studies and to address issues that arise as important to the Special Education Review. For example, our recent meetings suggest that we should explore the literature on FAS/FAE.*

However, the bibliography was formatted separately and made available as a resource document to any interested parties on request.

After our experiences conducting the Review, it was determined that there were a number of areas that should be addressed in the literature review including, but not limited to, a discussion of FAS/FAE. The literature review was also re-structured so it would be conceptually clearer and more reader-friendly.

2. Policy Review

As with the literature review, an initial review of policies from across Canada was undertaken early in the Review process. All provinces and territories were contacted. An initial informational document was provided to the Steering Committee. However, as with the literature review, it was decided that we would continue building this section until the production of the final report. Therefore, we re-contacted most Canadian jurisdictions for updated information and also included examples of policy from the United States.

3. Analysis of Legal Arrangements for Special Education in Manitoba

The legal analysis considers the legal arrangements for special education in Manitoba. It reviews the content in law of what constitutes a basic education, as well as the right to education. As previously mentioned, it was compiled by an expert associate, as this analysis required very specific knowledge and expertise.

The legal review considers other jurisdictions in Canada and how they have treated the subject from a legal point of view. The 1989 document, Special Education in Manitoba, is also reviewed in terms of its legal authority.

The legal review includes a synthesis of recent advancements in our understanding of special needs children, the intensity of legislative reform in this area across the country, the constitutional requirements of equal and substantive benefit of the law, current developments in common law (particularly as reflected from the Supreme Court of Canada), and the emerging perspective of "child as person". Following this synthesis, the legal review concludes with the implications for Manitoba's education legislation.

4. Funding Review and Financial Analysis

The funding/financial discussion has three sections. The first section, the status of funding models in Canadian jurisdictions was originally presented in draft form in September 1997. However, follow-up with Canadian

jurisdictions was conducted in 1998 in order to obtain more detailed information. This cross-jurisdictional review sets the context for a discussion of Manitoba's funding model and the financial analysis.

The second section is a discussion of Manitoba's funding model and reporting structure. This is followed by financial information for Manitoba Special Education Programs in the areas of: revenue, expenditures and funding support.

As previously mentioned, it should be recognized in the financial analysis of the province-wide data that changes in the format of the financial reporting by the Province in 1992-93 limit any comparison at the FRAME program (sub-function) level prior to that date.

FRAME is Financial Accounting and Reporting in Manitoba Education. It was designed as an analytic or management tool, but not as a vehicle for cost benefit or cost effectiveness analysis. It shows expenditures for all school divisions and districts divided into various categories and sub-categories.

The province-wide data are based on the following information:

< the FRAME Annual Reports published by Manitoba Education and Training;

< Special Needs Grant Support by school division for the years 1988 to 1995-96 as provided by Manitoba Education and Training; and

< Function 200 is a sub-section of FRAME that shows (Exceptional) costs by program, by school division, for the years 1991-92 to 1996-97 (i.e., where the dollars are spent).

The review of the province-wide data (Exceptional) on enrolment, grant support, and expenditures was also undertaken in selected divisions where case studies were being conducted.

C. Methodology For Component 2: Consultation Process

The consultation process was developed with the intent of being as open and as far-reaching as possible. Different vehicles for participation were conceived, so that as many interested individuals and organizations as possible could find an accessible means of participation.

Options for participation included community forums and submissions. Submissions could take the following forms:

< written submissions;
< submissions via the Internet;
< audio-taped submissions; and/or
< video-taped submissions.

As previously mentioned, a Guide to the Consultation Process was produced and widely distributed. It was available and distributed simultaneously in English and French, as well as being available in Braille, large print form and as an ASL video. (See Appendix E for English, French and Large Print versions.)

1. Community Forums

In the Spring of 1997, the Steering Committee discussed appropriate sites for community forums and made a decision regarding their location. The decision was re-visited twice during the course of the Review as individuals in some communities not scheduled for forums expressed the desire that their communities also be included. (This concern was particularly prevalent in the south-east region of the province.) The Steering Committee considered that the original decision had been made reasonably and had been officially announced. After extensive discussion, the Steering Committee decided that the decision would stand, but that other avenues would be explored in order to obtain input from the south-east. To this end, the consultant scheduled a meeting with the South-east Interagency Committee.

Six community forums were held:

< Carman (Tuesday, November 18, 1997);
< Brandon (Saturday, December 6, 1997);
< Winnipeg (Saturday, January 17, 1998);
< Thompson (Tuesday, February 17, 1998);
< The Pas (Saturday, February 21, 1998); and
< Selkirk (Tuesday, March 24, 1998).

In all cases, a number of sessions were held in the attempt to accommodate people's varying schedules. Interested individuals did not have to pre-register. The consultant wanted to ensure that even if people found out about the forum the day of the forum, they would still have the option to attend. All forum sites were wheelchair accessible. All were held in well known public buildings rather than in schools.

a. Overview of Forum Process

The following provides a point form overview of the steps involved in setting up and conducting the community forums.

i. Prior to a Community Forum

< Multiple methods of advertising the forum (details of each forum are found on pages 82-85.)
< Booking public facilities
< Decisions on how many facilitators would be needed ("best guess" approach)
< Decisions regarding furniture, room layout and record keeping

ii. The Day of the Forum

< Set up coffee & juice
< Set up resource material, including laminated posters on the wall that explain the purpose of the Review, copies of the Guide to the Consultation Process, Areas of Inquiry, Operational Definitions, Levels

of Funding Support (see Appendix H2 for a copy of the materials available at the forums)

< coloured name tags for participants on entrance table

iii. The Forum Agenda

< Introduction to the large group of participants by Review co-directors (20 minutes)
  – who is Proactive
  – Proactive's role & Steering Committee's role
  – purpose of the Review
  – components of the Review
  – structure for this forum
< Participants randomly assigned to small group by name tag colour
< Facilitated Discussions in small groups (70 to 90 minutes)
  – introduction small group process
  – individual introduction by each person with brief identification of their key issue/topic
  – recording of topics so all could be considered in the discussion
  – facilitated discussion with detailed written recording by the facilitator
  – final comments from the group
< Completion of individual questionnaires

Forums were structured so that the bulk of the time allotted was spent on facilitated small group discussions where individuals could feel free to raise their issues and tell their stories in an informal atmosphere. There was a concerted attempt to avoid any format that was intimidating and exclusive. As people already had the option of making a more formal submission, the forums were better used as a way to promote community dialogue, rather than a place where submissions would be read in front of a microphone.

The decision was made not to audio-tape the small group discussions, due to concerns that, in this setting, taping might be intimidating. Furthermore, acoustics in the venues would not have been conducive to taping the discussions. At one forum, a participant wanted to tape the small group discussion. The participant was told he could tape the large group introduction by Proactive, but the request to tape the small group was denied on the grounds of individual confidentiality and comfort level.

Providing forum participants with an opportunity for individual input was also deemed necessary (to provide a vehicle for personal comments and to document individual priority issues). Therefore, a one page questionnaire was distributed to participants at the completion of each discussion session. A total of 500 people chose to respond to the questionnaire. (See Appendix H3 to H5 for a copy of the instrument and results.) It should be noted that in the final comments section on the questionnaire the most frequent category of comment was positive comments about the forum process. In addition, at every site, facilitators from Proactive were thanked by participants at the end of the sessions.

The consultants kept a careful record of attendance, but because of late arrivals the figures cannot be considered exact in all cases. In total, more than **700 people attended** the forums.

b. Details of Each Forum

i. Carman Community Forum

- Three sessions were held, at 3:00 p.m., 5:00 p.m., and 7:00 p.m. at the Carman Gospel Light Church.
- Three facilitators from Proactive were at the forum.
- Total attendance was approximately 200 (including educators, parents, school trustees, and one student).
- The forum was advertised through: paid advertisements in the Valley Leader (Carman) as well as the Winkler and Morden newspapers; notices to all school divisions within the geographic area; notices to 27 associations/ organizations in the area (including key provincial organizations); as well as public service announcements to 11 electronic media outlets.
- Linda Lee (project co-director and Proactive spokesperson) gave an interview to local radio regarding the Review.

ii. Brandon Community Forum

- Four sessions were held, at 9:30 a.m., 11:30 a.m., 1:30 p.m., and 3:30 p.m. at the Brandon Agricultural Extension Centre.

- Four facilitators from Proactive were at the forum.
- Total attendance of approximately 110 (including parents, educators, and representatives from community associations/organizations).
- The forum was advertised through: paid advertisements in the Brandon Sun; notices to all school divisions within the geographic area; notices to 64 associations/organizations in the area (including key provincial organizations); as well as public service announcements to nine electronic media outlets.
- Linda Lee gave an interview to local television regarding the Review.

iii. Winnipeg Community Forum

The Winnipeg forum was held in two locations. Although this was not the original plan, the intent of expanding to two sites was to facilitate access. Therefore, one was held in a well-known central location (Manitoba Museum of Man and Nature) and the other at a site in the south of the city (Glenlee Community Club) to help provide access to the south-east of the province.

At one of the Winnipeg locations, ASL was provided at two sessions. (Although no requests were made for this service prior to the session date, the decision was made to provide the service despite lack of response to the advertisements.) At the other Winnipeg site, French language services were available and three discussion groups were held solely in French.

- Four sessions were held, at 9:30 a.m., 11:30 a.m., 2:00 p.m., and 4:00 p.m. at both sites.
- Four facilitators from Proactive were at the Museum site and three at the Glenlee site.
- Total attendance of approximately 240 (including parents, students, educators, and representatives from community associations/ organizations).
- The forum was advertised through: paid advertisements in the Winnipeg Free Press (on two different dates), La Liberté and the local Canadian Publishers community newspapers; notices to all school divisions within the geographic area; notices mailed to 275 associations/organizations in the area (with fax follow-up to 27 key provincial organizations); as well as public service announcements to 20 electronic and print media outlets.

- Linda Lee gave interviews prior to the forum with Canadian Publishers (The Lance) and CBC Radio One. She also gave an interview to local television (MTN) regarding the Review.

iv. Thompson Community Forum

- Three sessions were at 3:00 p.m., 5:00 p.m. and 7:00 p.m. at the Thompson Recreation Centre.
- Two facilitators from Proactive were in attendance.
- Total attendance of approximately 35 (including parents, educators, and representatives from local community organizations/associations).
- The forum was advertised through: paid advertisements in the Thompson Citizen and Nickel Belt News; notices to all school divisions/districts within the geographic area; notices to 14 associations/organizations; as well as public service announcements to six electronic media outlets.
- Linda Lee gave an interview to the local newspaper.

v. The Pas Community Forum

- Three sessions were held at 10:00 a.m., 2:00 p.m. and 4:00 p.m. at Keewatin Community College.
- Two facilitators from Proactive were in attendance.
- Total attendance was 13 people (including parents, educators and a representative from a local community organization).
- The forum was advertised through: advertisements in the Flin Flon Reminder and The Pas Opasquia Times; notices to all school divisions/districts within the geographic area; notices to 21 associations/organizations; as well as public service announcements to four electronic media outlets.

vi. Selkirk Community Forum

- Three sessions were held at 3:00 p.m., 5:00 p.m. and 7:00 p.m. at the Gordon Howard Senior Centre.
- Four facilitators from Proactive attended the forum.

< Total attendance was approximately 120 (including parents, educators, school trustees, and representatives from community organizations/ associations).

< The forum was advertised through: paid advertisements in the Selkirk Journal, Interlake Spectator, Stonewall Argus/Teulon Times, and Beausejour Clipper; notices to all school divisions in the geographic area; notices to 171 individuals and associations/organizations in the Interlake and Winnipeg regions; as well as public service announcements to 15 electronic media outlets.

< Linda Lee gave three interviews with representatives of Selkirk and Interlake area newspapers, as well as further information regarding the public service announcement aired on CBC Radio One.

SUMMARY OF FORUM PARTICIPATION

Forum Site	Scheduled Sessions	Facilitated Groups	Participants (Approx.)	Completed Questionnaires
Carman *(November 18, 1997)*	3	8	200	126
Brandon *(December 6, 1997)*	4	9	110	81
Winnipeg *(January 17, 1998)*	8	20	240	194
Thompson *(February 17, 1998)*	3	4	35	20
The Pas *(February 21, 1998)*	3	3	13	13
Selkirk *(March 4, 1998)*	3	7	120	65
TOTAL	**24**	**51**	**718**	**500**

2. Submissions

Any interested organization, individual or group of individuals was invited to make a submission to the Review. As previously mentioned, the submissions could be made in print, audio, video or electronic form. Submissions could address as many or as few of the questions relating to the Areas of Inquiry as the person/organization wished. The Guide to the Consultation Process, which explained the submission process, was widely distributed by mail (including to all persons on our data base), in-person, and at the community forums. (See Appendix D for letter dated October 27, 1997 that accompanied the mailings.)

In early March 1998 reminders of the submission deadline were sent to all organizations and individuals on the data base. The closing date for submissions was April 30, 1998. Upon request, we allowed extensions into early May. A letter was sent acknowledging each submission.

In total, **192 submissions** were received, some of which had multiple parts.

SUMMARY OF SUBMISSIONS*	
Type of Organization/Individual	**Number Received**
Individual parents of special needs children	56
Groups of parents with special needs children **	9**
Educational organizations	18
Other associations/organizations	35
School divisions/districts	34
Education groups/associations (e.g., regional clinician associations)	9
Schools and teachers	16
Other public - parents of "other children" and other interested individuals	15
TOTAL	**192**

* *Anonymous submissions have been excluded.*

** *Many of the submissions from groups, organizations, and school divisions represented many people. For example, one group of parents' submission was signed by 200 parents.*

The following table shows the number of submissions which addressed the various Areas of Inquiry. (See Appendix I for documentation of all submissions.)

FOCUS OF SUBMISSION - SUMMARY	
Area of Inquiry	**Number Addressing Each Area of Inquiry**
1. Identification of Special Education Programs and Services	108
2. Examination of Special Education Policies, Practices and Procedures	134
3. Assessment of the Quality and Cost Effectiveness of Special Education Programs	174
4. Examination of the Strengths and Limitations of Costs and Funding Models	117
5. Examination of Intersectoral Planning in Relation to Special Education	116

3. Intersectoral Interviews

A final piece to the consultation process was interviews with representatives of various government departments and agencies. Their participation was important not only to ensure that their perspectives were reflected in the Review, but also to check the accuracy of comments provided through the consultation process and to provide background information to guide the analysis.

A semi-structured interview instrument was used for the in-person interviews. Where the individual was also involved in a submission, discussion around the particular issues raised in the submission also occurred. Interviews were conducted through the period May to July 1998.

Representatives from various government departments and organizations were contacted by letter and subsequently interviewed. (See Appendix D for letter dated May 20, 1998 and Appendix J5 for the interview instruments.) The interviews asked questions regarding key issues, intersectoral cooperation collaboration, funding/resources for Special Education, provision of information to parents, and suggestions for improvement. The following is the list of government branches and organizations that were included in the interviews.

<u>Manitoba Education and Training</u>

< Program Implementation Branch
< Provincial Specialist Unit
< Regional Teams
< Student Services Branch
< Native Education Directorate
< Manitoba School for the Deaf
< Schools' Finance Branch
< Public Schools Finance Board

<u>Manitoba Children and Youth Secretariat</u>

<u>Manitoba Family Services</u>

< Children in Care
< Children's Special Services
< Vocational Rehabilitation
< Child Daycare

Manitoba Health
< Home Care
< Mental Health

Justice
< Manitoba Youth Centre
< Agassiz Centre for Youth

Rehabilitation Centre for Children
(including Mobile Therapy Team/School Therapy Services)

D. Methodology For Component 3: Case Studies

A case study approach was used in order to address policies, programs, services that affect the school, its students, parents and community, as well as related service agencies and government departments. Case studies were designed to encompass feeder school systems or communities; that is, a senior years/high school, its feeder early/elementary and middle schools, as well as the agencies that provide service to special needs students. This approach provided a community, rather than strictly a school, focus for the case studies.

It must be remembered that the case studies were **not** intended to be an evaluation of the particular schools, divisions or communities which were included. Rather, the case studies provided the basis on which to conduct cross-case analysis that would identify common themes and concerns, pinpoint factors that impact on the delivery of special education programs and services, highlight particular examples of good practice, and illuminate unique and diverse situations that would require consideration when Review recommendations were being made.

1. Selecting the Case Studies

The first step in selecting the 12 case studies was a review of all Annual Division Action Plans (ADAP's). All ADAP's were reviewed by Proactive staff in the summer of 1997. A record was kept of each division/district's philosophy/mission statement, the policies the ADAP addressed, the planning structure, as well as various other aspects, including a preliminary

list of programs offered in the division for students with differing special learning needs. (Further analysis of the ADAP's was to have been conducted, but was not concluded because Manitoba Education and Training abolished the use of ADAP's in April 1998.) The ADAP review served to highlight the variability in both the documents themselves and, to some degree, the differing approaches to the delivery of special education programs and services. Therefore, the ADAP review assisted in the process of selecting diverse school divisions for inclusion in the case studies.

In addition to the ADAP's, Proactive staff also used data provided by Manitoba Education and Training that presented the numbers and percentage of Level II and Level III students in each division/district. (See Appendix H2 for the descriptions of funding levels.)

It should be remembered that the case studies were intended to portray the variety of situations across the province. They were chosen to represent diversity of approach and context. Ultimately, it was important that recommendations arising from the Manitoba Special Education Review would be reasonable in the disparate communities that comprise the Manitoba scene. More specifically, case study sites were selected to include:

< urban, rural, and northern communities;
< divisions/districts with differing approaches to services for children who require special education;
< communities with high, moderate, and low need (based on numbers of identified students and students with differing special learning needs);
< communities with various socio-economic and cultural populations; and
< schools with specific characteristics (for example, French Immersion and Hutterite Colony schools).

It was not possible to include every unique situation in the province. We recognized that some school divisions/districts would be "left out". In three particularly special cases, we scheduled meetings with key groups in order to supplement the 12 case studies (i.e., Division Scolaire Franco-manitobaine No. 49, Assiniboine South School Division No. 3, the South-east Interagency Committee).

It should also be noted that the specific feeder system/community within the school division was selected in consultation with school division administration and was not initially identified. (Further discussion of this

process is found on pages 92-93.) In order to provide the complete sampling picture, this information is also presented in the following table.

CASE STUDY SAMPLE		
Division/District	**Feeder System**	**Selected Characteristics**
URBAN WINNIPEG SCHOOL DIVISIONS		
The Winnipeg School Division No. 1*	Gordon Bell High School (7 schools) *large*	- urban inner city - in Manitoba's largest school division - continuum of supports & history of diverse programs and programming options for parents - case study focus included behavioural programs
St. James-Assiniboia No. 2	John Taylor Collegiate (6 schools) *large*	- urban, west Winnipeg - higher socio-economic area - case study focus on gifted programming options and parental participation - use of cluster programs, as well as integrated settings
St. Vital School Division No. 6	Glenlawn Collegiate (4 schools) *large*	- urban, south Winnipeg - working towards integrated community service delivery model in high schools - included additional school with history of intersectoral and community liaison
Seven Oaks School Division No. 10	Maples Collegiate (4 schools) *large*	- urban, north Winnipeg - philosophy of inclusion - included mixed ethnic and recent immigrant populations
Transcona-Springfield School Division No. 12	Murdoch Mackay Collegiate (5 schools) *large*	- urban, east Winnipeg - middle/working class area - includes a separate upgrading and treatment centre for middle years students unable to function in a regular classroom in their community school setting because of learning and/or behavioural problems

CASE STUDY SAMPLE		
RURAL SCHOOL DIVISIONS		
Agassiz School Division No. 13 (Beausejour & Garson-Tyndall)	Edward Schreyer School (3 schools) *medium*	- rural, medium size centre - eastern Manitoba - large number of foster families
Red River School Division No. 17 (St. Pierre, St. Malo & Suncrest Colony)	Institut Collegial St. Pierre (4 schools) *small*	- small communities - south-east Manitoba - case study focus on French Immersion and Hutterite Colony schools
Turtle River School Division No. 32 (Alonsa & Amaranth)	Alonsa (2 schools) *small*	- very small communities - includes very small K -S4 school - close proximity to First Nations community
Swan Valley School Division No. 35** (Swan River)	Swan Valley RSS (2 schools) *medium*	- larger rural centre - regional secondary high school - emphasis on community connections - case study focus on Level I and at risk students
Brandon School Division No. 40***	all high schools (3 schools) *large*	- largest city outside Winnipeg - integrated approach to service delivery with community agencies - case study focus on the “stories” of six special education students
NORTHERN SCHOOL DIVISIONS/DISTRICTS		
Frontier School Division No. 48 (Wabowden)	Mel Johnson School (1 school) *small*	- Northern remote community - very small N - S4 school
Mystery Lake School District No. 2355 (Thompson)	R. D Parker Collegiate (2 schools) *medium*	- large Northern centre - regional centre for services - high school attracts students from many northern and remote communities
The 12 case studies included a total of 43 schools.		

* The Winnipeg School Division No. 1 was one of the last case studies conducted. In order to enrich the information being collected and better address emerging issues, a focus was placed on behavioural programs in the selected feeder system.

** The Swan Valley School Division No. 35 was one of the last case studies conducted. While the same feeder approach was used, there was a focus on the needs of Level I and at risk students.

*** The Brandon School Division No. 40 was another of the final case studies conducted. A different approach, focusing on the experiences of six special education students (two in each high school) was used.

2. Design and Administration of the Case Studies

a. Contact with the Divisions/Districts and Schools

All school superintendents were sent a letter alerting them to the case study process. (See Appendix D for letter dated September 17, 1997 and Le 23 septembre 1997.) Superintendents of all the selected school divisions/districts were first telephoned by one of the two project co-directors to alert them that their division/district had been chosen and to request their cooperation. All superintendents indicated a willingness to participate.

The initial contact was followed by letters to the superintendents confirming their division's participation. Follow-up contact was then made with the person in the school division/district designated as the administrator responsible for special education (e.g., the Student Services Coordinator, Director of Student Services, Assistant Superintendent). Representatives from Proactive worked with the designated person to identify the most appropriate feeder system/community. This was important because the person from the school division was aware of which students with particular special needs were in the division during the 1997-98 school year, as well as whether there were any particular local circumstances that would make a community more or less appropriate (e.g., another major study going on in one school).

In some cases representatives from Proactive met with a group from the school division that included superintendent representatives, as well as the principals of the selected schools prior to data collection in order to provide more detail regarding the purpose and process of the case studies. In other cases, telephone contact supplemented by an information package was deemed sufficient. (See Appendix J1 for a copy of the information package that was developed and sent to all participating schools.) In each case, the process was negotiated with the Student Services Administrator, depending on what s/he thought would be the most appropriate process in that particular school division/district.

It should be noted that the information package contained material that could be used by schools when obtaining parental permission for student participation. The specific process used to obtain parental consent varied from division to division according to divisional protocol.

Once the contacts had been made and the feeder system determined, schools in the feeder system were asked to provide information regarding the population numbers for the potential respondent groups. Based on the numbers and any other additional information gleaned from contact with the schools, a sampling frame was developed for each case study and for each school within the case study. (See Appendix J3 for the Listing of Case Study Participants.) Case studies used slightly different combinations of methods based on the population numbers, as well as particular contextual factors. (For example, one school division that was conducting its own review concurrently had already surveyed school staff. It seemed inappropriate to re-survey staff on the same issues, so, instead key staff members were interviewed in the various schools.)

Despite differences the methods across case studies were consistent in that all students participated through interviews or small focus groups (the latter method being used with regular program students). All division/district administrators were interviewed in-person. Virtually all people in divisional or community support roles were interviewed in-person individually or in pairs. (Four people of 66 in this group completed staff questionnaires that were circulated in participating schools.) In contrast, while some regular classroom teachers (54) were interviewed, it was more efficient to collect the majority of these responses (359) through the use of self-completing questionnaires.

School and division/district personnel were also helpful in identifying community people or organizations that should be included in the case study. These people were contacted by telephone and/or by letter and invited to participate in an interview.

b. Instrument Development

The first case study was considered to be a “pilot”. It was conducted in Turtle River School Division. Three people from the Proactive team visited Alonsa and Amaranth in December 1997 to interview the student services coordinator, educators in the schools, para-professionals, students, parents and other service providers the community. While semi-structured interview instruments and focus group protocols were used in this case study, the instruments underwent revision based on the experiences of the initial case study.

The data collection instruments were developed based on the Areas of Inquiry. (See Appendix J5 for copies of all data collection instruments.) While the instruments for different groups had some common questions, more detail was required on specific topics from certain respondent groups (for example, the Student Services Administrator and principals were asked details regarding model of service delivery and special education program evaluation procedures). Interview instruments and focus group protocols were available in both languages. Some case studies also incorporated questionnaires developed for use with school staff (teachers and para-professionals). One case study also utilized parent questionnaires. Some case studies which focused on particular special education programs also included observations of special education classrooms.

c. Data Collection

A team consisting of six experienced interviewers conducted the data collection. Not all interviewers were involved in the data collection for every case study. Composition of the teams varied depending on the size of the case study, as well as people's schedules and skills. (For example, two team members conducted the French language interviews.) However, team members had the opportunity to come together and de-brief following completion of the first three case studies. This allowed the team to check processes, ensure common understanding of interview questions, recommend minor revisions to the instruments, and to identify whether the case studies were missing anything when compared to relevant questions within the Areas of Inquiry.

It should also be recognized that the team had to be flexible in accommodating the realities of daily school life. Frequently the school would have established a detailed schedule for the interviews and focus groups. However, once in the schools, certain students might be absent, counsellors might be called away in the event of an emergency, it might be the day for bus ridership training, and/or interviews might take more or less time than anticipated. Therefore, the final sample and accompanying schedule did not always match exactly what had been planned. All participating schools were sent packages of thank you letters for participants.

It is important to note that the case studies provided the opportunity to include student voices in the Review. In some instances, Level II or Level III students were interviewed with their para-professional present, either to promote student comfort or to assist with interpreting student responses.

While each case study was structured to ensure that all pertinent groups were included, there was some variation in numbers, method and focus, depending on the characteristics of the case. Furthermore, it was agreed at the outset that four of the case studies (one-third) would be conducted after the last community forum. Therefore, if a particular issue had arisen through the forums that required exploration in the case studies, there would be ample opportunity to address these issues. This approach proved helpful. Similar themes and findings were emerging across the case studies and many were reinforced by the forum discussions. However, it was determined that if some slightly different approaches were used in some of the final case studies, learnings from the case studies could be enriched and extended, while at the same time addressing the Areas of Inquiry.

The following table provides an overall picture of case study participation by population and method of data collection.

SUMMARY OF CASE STUDY PARTICIPANTS			
Role/Position	**Number Personal Contacts** (In-person interviews, telephone interviews, focus groups)	**Number of Completed Questionnaires***	**Totals**
Students	295		295
Parents	105	114	219
School administrators (principals vice-principals)	38	25	63
Specialist teachers (Special education, resource, counsellors, special class teachers)	106	74	180
Regular classroom teachers	54	359	413
Para-professionals	62	166	228
Division/District Administrators (Student Services Administrators, Superintendents)	21		21
Other supports (e.g., Clinicians, Mental Health Workers, Social Workers, RCMP, Public Health Nurses, Liaison Workers)	62	4	66
Missing position identification or other		12	12
TOTAL	**743**	**754**	**1497**

** "Staff" includes all groups completing questionnaires with the exception of parents.*

3. Analysis and Reporting

Case evidence tables were constructed based on the Areas of Inquiry and the questions used in the case studies. (See Appendix J2 for a copy of the Case Evidence Table Template.) For each case study, the pertinent evidence was transferred into the case evidence table. The results in the categories of the case evidence tables formed the basis for the cross-case analysis. The case study section (Chapter IX) presents the cross-case analysis, with the supporting results. Overall results of the staff surveys are also found in the case study chapter.

The detailed case evidence tables, that identify the school divisions/districts as well as the roles of participating individuals, exist as a confidential appendix to which the Steering Committee had access. The consultants felt strongly that the Review was not intended as an evaluation of particular school divisions, schools or communities. Therefore, while the evidence had to exist to support the cross-case analysis, it did not have to be considered

as part of the public record in a form that identified participating schools or individuals.

The cross case analysis compares cases by geographic area, as well as by size. The breakdown by geographic area is presented in the table illustrating the case study sample (pages 90-91). In addition, cases were grouped by population of division and the community. For example, Frontier School Division has a student population that would move it into the "medium" category if this were the only size consideration. However, the community used for the case study in Frontier was very small and remote. This consideration prompted us to think of this case study as more comparable to the small communities which constituted the Red River and Turtle River cases.

< Large: all urban Winnipeg school divisions (The Winnipeg School Division No. 1, St. James-Assiniboia School Division No. 2, St. Vital School Division No. 6, Seven Oaks School Division No. 10, and Transcona-Springfield School Division No. 12) plus Brandon School Division No. 40;

< Medium: Agassiz School Division No. 13, Swan Valley School Division No. 35, Mystery Lake School District No. 2355;

< Small: Red River School Division No. 17, Turtle River School Division No. 32, Frontier School Division No. 48.

The reporting of the cross-case analysis includes the liberal use of quotations in order to bring the "voices" of case study participants directly to the reader.

CHAPTER IV
LITERATURE REVIEW

A. INTRODUCTION

Over the last two decades the move towards greater inclusion of students with special needs has challenged educators', parents', policymakers', and administrators' understanding of how best to educate exceptional students. Researchers as well, have attempted to understand the challenges through international, national, and local studies. While it may sometimes seem as if the issues arising from varying perspectives concerning special education are long-standing, this Review takes the position that special education is still a young concept, and current policies and practices of integration and inclusionary approaches are first-generation efforts. From within such a perspective, early and current practices can help us to identify a set of expectations for the next generation of special education policy and practice in Manitoba.

It is important to note that a great deal has been accomplished in the past 30 years. Most people today agree that all children have the right to an appropriate education at public expense. Debates have shifted from a focus on where an exceptional child should be taught, to what kind of education exceptional children should receive (Lupart and Snart, 1994; Zigmond and Baker, 1996). Today, children with disabilities who were previously denied access to educational opportunities receive free and, to our best efforts, appropriate education. The number of students served in residential facilities and separate schools has declined significantly and the placement of students in general education classes in neighborhood public schools has increased. Almost all children with special needs in Manitoba are educated (at least to some extent) in general classrooms with their peers, rather than in segregated settings.

However, special education is a complex and challenging area, with emotional responses, and historical and cultural beliefs often shaping how people understand and respond to the issues. Educators, parents, advocacy groups, and policymakers often disagree, among and within groups, about

how best to provide learning opportunities for students with special needs. Debate continues between advocates for a fully integrated system for all students, and those who argue for preserving a dual system of special and general education to provide special services for "those who need it" (Lieberman, 1992). Furthermore, while some individuals feel that categorizing disabilities often leads to further confusion about definitions and interpretations, others feel that categories are useful.

The purpose of this literature review is to provide background information useful to understanding the current context of special education, and to identify and illustrate promising work in the education of students with special learning needs[1]. Our review of best practices examined the international literature on special education. Generally speaking, we found that the North American, British and Australian literature had a greater focus on inclusion than did the European literature. Consequently, references and illustrations in this literature review are primarily taken from North American, British and Australian literature. We have focused on current research (both qualitative and quantitative) that points to practices or policies that produce desirable outcomes for students with special needs. At the same time, we recognize that policies and practices are affected by a multi-level context for program and service delivery, and that family structure and environment have an impact on a child's development.

Although special education researchers, educators and policymakers frequently point to the need for longitudinal studies that feature assessment and tracking of outcomes, much of the literature in special education is comprised of specific philosophical arguments or illustrations of teaching strategies that have been successful at the local level. In our examination of the literature we found only a precarious link between "research studies" and "best practice". Frequently, research did not specify the implications of its findings for practice. Conversely, studies of what is named "best practice" did not necessarily ground their experience in research or theory. However, findings from this research can inform, and may affirm, current practice, as well as help us make informed choices about future educational directions.

Following the introductory section, the literature review is organized in three major sections.

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[1] Due to the broad scope of the project we are unable to provide extensive reviews of literature that focus on particular exceptionalities. Appreciation is extended to those who submitted articles on specific topics, as these were still useful background information.

< Brief Historical Overview of Special Education - provides an overview of special education in the United States, Canada, and Manitoba in particular.

< Issues in Special Education - provides research and best practice findings related to special education.

< Issues in Special Education Within the Manitoba Context - provides research and best practice findings related to three areas of particular interest to educators in Manitoba: Fetal Alcohol Syndrome/Fetal Alcohol Effects (FAS/FAE), Emotional Behaviour Disorder (EBD), and "at risk" students.

B. Brief Historical Overview

As recently as the 1960s and 1970s, many individuals with physical, cognitive, and/or emotional needs were separated from the general public, living and receiving their education in residential facilities under the administration of provincial authorities. As people began to recognize the debilitating effects of institutionalization, the normalization movement emerged (Wolfensberger, 1972). Proponents of normalization believed that all individuals, no matter what their level and type of handicap, should be provided with an education and living environment as close to normal as possible. The movement set into motion significant changes for both society in general, and for people requiring special services, in particular. Children who had been placed in institutions returned to their homes or to community residences. Simultaneously, the issues of educational rights for these children became matters for the legal system.

In the United States, The American Rehabilitation Act, Section 504 (1973), "guaranteed the rights of persons with handicaps in ... educational institutions that receive federal moneys" (Stainback, Stainback, and Bunch, 1989). The Education for All Handicapped Children Act (PL 94-142) passed by Congress in 1975, required each state and its local school districts to educate all children with disabilities. This Act was re-authorized in 1990 under the title of Individuals with Disabilities Education Act (IDEA) (PL 101-476) and states:

> To the maximum extent appropriate, children with disabilities ... are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be attained satisfactorily.

Advocacy efforts by the parents of children with special needs, the work of The Council for Exceptional Children (CEC), the United States Act (PL-94-142), and advocacy from individuals with disabilities contributed to a philosophical shift concerning special education (Kirk and Gallagher, 1985). This shift gradually led to the concepts of “mainstreaming” or “integration” and, for many, the compromise of “least restrictive environment”.

Like actions in Canada occurred more slowly. By 1970, the normalization movement in Canada had led to the development of a segregated special education system, paralleling the regular education system. From the perspective of some, the dual system often competed with the regular system for funds and personnel.

The patriation of the Constitution contributed to further changes in how special education was approached. Bill C-141 (1983) amended the Human Rights Act to enshrine the rights of the disabled in human rights legislation. At the same time, advocacy groups and parent organizations obtained legislation in Canada providing for additional programs, personnel and research to support students with special needs in the mainstream. The Charter of Rights and Freedoms which came into effect in 1985, stated that:

> every individual is equal before and under the law and has the right to equal protection of the law without discrimination and in particular, without discrimination based on ... mental or physical disability (s.15 (1).).

Given that each Canadian province has its own school system based upon provincial education legislation, each province has established its own education goals and priorities in policy documents, including policy in the matters of special education. Provincial and territorial governments have moved steadily toward integrating special education and regular education (Csapo, 1989). In Manitoba, the government amended the Public School Act

in 1967 with Bill 16. This legislation amalgamated existing school districts into school divisions and required that they assume the responsibility for educating children with special needs.

The de-institutionalization and integration of students with special needs into the regular classroom required a re-allocation of resources, and occurred to various degrees over time in Manitoba schools. Policy and procedural guidelines for the delivery of special education became available in 1989 when Manitoba Education and Training released Special Education in Manitoba: Policy and Procedural Guidelines for the Education of Students with Special Needs in the Public School System.. This document reflected a philosophy of integration for special education students, stating:

> It is the policy of Manitoba Education and Training to support the education of students with special learning needs in regular classroom settings whenever this is in the best interests of the students. A variety of special supports are available to facilitate such integration. Support is also available for students who require alternative learning environments for a portion or all of the school day (p. 1).

Since the policy was released, many schools have moved in the direction of more inclusionary practices, while at the same time expressing concern about the increasing number of students with special learning needs. Currently, Level II and III funding is provided to approximately 2,700 students or 1.4% of the total public school population. Level I funding is also provided to school divisions/districts to provide service to students with less severe special learning needs. How schools and school divisions/districts provide programs and services for these children is discussed in other chapters of this report.

C. Issues in Special Education

There are a number of issues in the literature on the provision of effective learning opportunities for students with special learning needs. The following section will present research and best practice findings on five major, and inter-related, issues: categorization; inclusion and integration; instructional practices; educational outcomes and transitioning; and

parental/community involvement. The discussion will show that much of the research literature opposes the categorization of learning disabilities (sub-section C1). The adoption or rejection of the practice of categorization, in turn, affects the chosen model of service delivery as many individuals who oppose categorization, advocate for an inclusive system. The sub-section on integration (sub-section C2) will discuss the impact of placing exceptional students in a regular classroom, students with special needs, and their peers. Relatedly, under Effective Instructional Practices and Assessment (sub-section C3) the necessary requirements for an effective inclusive environment are discussed, including teacher preparation, teaching strategies and assessment. The section on instructional practices is followed by a discussion of educational outcomes (sub-section C4) and explores the transition of the student from the school system to the larger community. As well, the role of parents and community in this transition process is explored (sub-section C5). As a whole, the presentation of these issues will provide an overview of current thinking on some of the major issues found in the special education literature.

1. Categorization

Many researchers question the validity and purpose of the categorization of learning disabilities. They contend that the practice supports cultural biases and limits the options and outcomes for those “dumped” into special education programs. Sleeter (1986) used a historical perspective in her research on the categorization of learning disabilities. She argued that the category of learning disabilities was socially constructed to “explain” the failure of lower class children and children of colour during a period when academic standards were raised in the late 1950s and early 1960s.

Lipsky and Gartner (1996) summarize the concerns of many individuals regarding the categorization of students for special education programs:

> Special education plays a sorting role, both for those assigned to it and for those students who remain in general education. It limits expectations of the former, and gnarls the attitudes of the latter.

Studies in the late 1960's supported a general perception that many of the children who entered special education never left. In the United States, Dunn (1968) published an influential study demonstrating that:

d) labels accompanying special placement were stigmatizing;

e) self-contained classes for mentally retarded[2] children tended to segregate black children from white children, as black children were disproportionately enrolled as a result of virtually complete reliance on IQ testing for placement decisions;

c) there was no clear evidence that the academic progress of mentally retarded children in special, separate classes was better than the academic progress of mentally retarded children in regular classrooms; and

d) regular education was capable of providing effective individual instruction to slow or mentally retarded pupils.

Later, research-based studies more systematically examined the differences in student performance between those who were categorized and those who were not. For example, studies conducted by Ysseldyke, Algozzine, Shinn and McGue (1982) found little difference between students classified on several psychometric tests as learning disabled (LD) and non-LD low-achievers. The researchers concluded that, "we must begin to evaluate very carefully the purposes and needs being served by identifying certain students as LD while not identifying others (who are very much their twins)".

Research is being conducted to examine the effects of tracking (categorizing students by ability) and untracking (eliminating separate groups of students categorized by ability). Wang, Reynolds, and Walberg (1988) found that:

> students may actually receive inferior instruction when schools provide them with specially designed programs to meet their greater than usual learning needs. In many cases, selecting and tracking students for instruction in "specially designed" programs, based on certain perceived student differences, involves delivering radically different and not always appropriate content to some students.... There is a tendency to neglect fundamental content in these special programs, and to provide less instruction in higher order, advanced skills.

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[2] Findings from some of the early research use terminology or language that we would not use today.

Results of two British studies that followed more than 9,000 students in grouped and ungrouped secondary schools for a five year period found little difference in average scores on standardized tests of math and reading achievements (Fogelman, 1983, Kerckhoff, 1986). However, the researchers noted that the absence of difference in test scores did not tell the whole story. In grouped schools, high-group students performed better than similar students in ungrouped schools, but low-group students did worse. Students in remedial classes performed especially poorly compared to ungrouped students with similar family backgrounds and initial achievement. In other words, the low-group losses offset high-group gains.

Those who support the abolishment of categorization point to the "indefensible labeling of students, inappropriate funding systems, development of miniature bureaucracies serving each of the various categories of students, adaptations of regular education learning environments, [and] extension of services to children who were officially identified as handicapped" as issues for concern (Lloyd and Gambatese, 1991).

While Wang, Walberg, and Reynolds (1992) argue that the placement of students in special education or compensatory programs can be justified only when the student classification has validity and when the programs have distinctive qualities which have been proven to be effective, they add that "unfortunately, we seldom meet such standards".

While much of the research literature opposes the use of categorization (or labeling), others have found categorization to be a useful tool in meeting the needs of students with specific learning needs. The work of Fuchs and Fuchs (1991; 1995) and de Denus (1995) suggests that for some students with learning needs substantially different from other students, categorization and specialized programs are more effective than regular classrooms in generating greater academic achievement. They contend that the practices that produce successful outcomes for these students, including small class size and individualized instruction, are not easily transferred to mainstream classrooms. (For a further discussion of integration see the following section. Also, see the section *Educational Needs of Children with EBD* (p. 141), under *Issues in the Manitoba Context,* for a discussion of a special need category which may require specialized placement.)

Summary

Overall, the literature suggests that support for categorization is often dependent upon the type of exceptionality involved. The research indicates that those in favour of categorization are more likely to work with persons with severe cognitive disabilities, while those opposed to categorization are more likely to work with individuals who represent a wider range of exceptionalities. However, proponents of categorization may not necessarily support alternative placements. The evidence in the literature suggests that alternative placements are justified only in specific situations where distinctive program qualities produce enhanced student outcomes.

2. Inclusion and Integration

The abolishment of categorization is generally supported by advocates of an inclusive system . The National Center on Educational Restructuring and Inclusion (National Study of Inclusive Education, 1995) defined inclusion as:

> the provision of services to students with disabilities, including those with severe impairments, in the neighborhood school, in age-appropriate education classes, with the necessary support services and supplementary aids (for the child and the teachers) both to ensure the child's success — academic, behavioural, and social — and to prepare the child to participate as a full and contributing member of the society.

Inclusive philosophy transcends the idea of physical location, and incorporates basic values that promote participation, friendship and social interaction. In a recent article, MacBride (1997) described how the concept of "inclusive education" has taken root in Scotland. He says:

> ...if all children are educable, then all children are entitled to a curriculum that is founded on the same qualities....[including] breadth, balance, coherence, continuity, and progression. There can be no suggestion that some children should be offered a curriculum that is narrow or limited because of their difficulty in learning ... Within Scotland, it is agreed that an inclusive system must recognize the individuality of each child, and, therefore, each child's particular needs must be addressed.

The practice of integration — placing exceptional students in regular school environments — falls under the philosophy of inclusion. While some school programs adhere to a broad interpretation of integration, integrating students to the maximum extent possible with general-education peers, others have a more restricted interpretation in which students with exceptionalities are placed in general education for a portion of the day.

Seminal studies conducted in the 1980's explored the effectiveness of integrated and non-integrated classrooms. Although the findings are mixed, they suggest that students with exceptionalities do somewhat better academically in integrated classrooms, as well as make significant social improvement.

In 1983, Madden and Slavin investigated the effects of integrating or not integrating students with mild academic disabilities. Their research concluded that the placement of mildly disabled students in regular classes, using individualized instruction with resource support, had positive effects on these students. Special classes were identified as more appropriate for low IQ students.

Wang and Baker (1985) conducted a meta-analysis of eleven empirical studies published between 1975 to 1984 which focused on the effects of integration on student outcomes. They reported that integrated students consistently outperformed non-integrated students with comparable classifications.

The benefits of integration have also been shown to extend to the general school population. In Pennsylvania, the Department of Education introduced a "Quality Education Initiative" (QEI) to assess the outcomes in integrated settings using innovative approaches that had been recognized for use in general education. Summarizing the results of three years of

implementation of the QEI, Wang and Reynolds (1996) reported the following findings.

< Regular education students in the integrated classes showed an above-the-national-norm mean score on standardized tests for all three years of QEI implementation.

< The achievement data indicated that the integration of special education students did not negatively affect the achievement of the regular education students.

< The students [without disabilities] in the integrated classes were found to have out-performed students in comparison classes in both reading and mathematics by the end of the second year of implementation.

< Special education students in the integrated classes made about a one-year gain in Normal Curve Equivalent (NCE) scores for all three years for sites where three years of gain data were available for analysis.

< No noticeable differences were exhibited in the behaviour patterns and classroom activities between integrated special education students and their regular education peers. Both groups of students were observed to exhibit a similar pattern of effective classroom behaviour.

< The comparatively greater frequency of interaction between teachers and support personnel and integrated special education students was achieved with no loss in positive outcomes for regular education students.

Integration has been shown to benefit not only student's academic performance, but their social relationships as well. Peck, Donaldson, and Pezzoli (1990) found that the benefits to students who developed friendships with special needs students included: improved self-concept; increased tolerance of others; reduced fear of human differences; development of personal principles; and interpersonal acceptance and friendship. However, physical integration alone does not ensure that the student with special needs will feel a sense of "belonging" to the class. Studies indicate that a sense of "belonging", both for students with special needs and their peers, requires: friendships with classmates; active participation in fun, meaningful and interesting class activities; interactions with peers; as well as respect and appreciation on the part of the teacher.

Wang and Baker (1985) identified some of the programming characteristics associated with integration that have influenced the current delivery of special education. These characteristics included:

< the use of continuous assessment;
< a variety of curriculum materials;
< individualized progress plans;
< peer assistance among teachers;
< instructional teaming; and
< consulting teachers.

More recently, Wang and Reynolds (1996) advocate for a policy of "progressive inclusion", one that requires immediate efforts to make regular schools into strong, valid resources for all children, including those with special needs. They make the following suggestions for the development of programs and practices that can better service students with special needs:

< educational teams consisting of resource and regular classroom teachers;
< effective instructional strategies based on student achievement needs;
< procedures that allow students to proceed at their own pace, frequent assessment, peer assistance;
< classification is strictly in terms of instructional needs, and may be relevant for only a brief time (the programs are labeled, not the children);
< monitoring of students;
< coordinated teacher preparation;
< school coordination with welfare and health agencies; and
< coordination of government offices and programs.

An Example of Best Practice: Inclusive Education in Scotland

Characteristics

Some of the features of the inclusive approach in Scotland include the following.

- **There is a recognition of structural inequalities underlie efforts to counter racism and sexism. In addition, early intervention schemes, mentoring programs, and links with higher education attempt to address socio-economic inequalities.**
- **Universal acceptance requires that students will not be streamed or tracked in primary schools or in the first two years of secondary schools.**
- **Curricula in all primary schools cover five specified content areas, and secondary schools cover eight specific areas. MacBride (1997) argues that this structure ensures that pupils are not segregated into high and lower status subjects, or follow traditionally gender-defined courses. Within the curriculum which is built on common principles, differentiated instruction occurs to ensure that the needs of individual students are met.**
- **All students are certified at the end their compulsory schooling. Students with disabilities are provided with the assistance required to enable them to pass the examination required for certification. Assessment is: positive, recognizes student achievements, criterion-referenced, and never norm-referenced; it uses both coursework and external examinations.**
- **Parents are recognized as partners in the education of their children. Parents form the majority on each school board.**
- **Teachers are involved in the process of educational planning.**
- **Teachers are supported in educational research.**
- **Students participate in assessment and in identifying their learning needs.**

Outcomes

The implementation of this inclusive approach resulted in the following outcomes:

- **certification at the end of compulsory schooling improved steadily;**
- **the number of young people opting to remain in school has increased many times over the past 20 years;**
- **the number of young people attaining higher-grade certification reached 50% (originally 10%); and**
- **43% of young people enter higher education (compared to a handful in the 1950's).**

Summary

Regardless of the variability on *academic* outcomes in the research, the literature generally concurs that integrating children with special learning needs has a positive impact on *social skill attitudes* and *social relationships*. Summarily, Snell's (1990) study identified the three most important benefits of integration as:

- the development of social skills in students with severe disabilities across all school age groups;
- the improvement in the attitudes that non-disabled peers have from their peers with disabilities; and,
- the development of positive relationships and friendships between peers as a result of integration.

3. Effective Instructional Practices and Assessment

Some research (Ault 1989; Carlberg and Kavale, 1980) suggests that placement may or may not be the critical variable affecting the social and academic performance of elementary students with special needs. They found that in addition to peer and student learning characteristics and type of needs, factors such as instructional techniques, class size, context, and teaching practices all influence performance. As many schools move toward more inclusionary practices, it is necessary for them to focus on effective instruction in an inclusive environment. The following section will explore the research related to three major components of effective instruction: teacher preparation, teaching strategies/ instructional practice, and assessment.

a. Teacher Preparation

Teacher preparation has been identified as an important factor in meeting the learning needs of students. While some studies on inclusive education found that teachers participating in inclusionary programs reported positive professional outcomes for themselves, others claim that many general education teachers feel unprepared to include students with special needs in their classrooms.

Brownell and Pajares (1997) found that teachers' beliefs in their ability to include students with special needs in their class can be changed if the proper supports and preparation for inclusion are provided. In the study, teachers indicated that they were more successful in their efforts to include students with disabilities and students with learning or behaviour problems when they had participated in inservice programs. In particular, inservicing could assist by providing information about the needs of exceptional students, ideas for curricular and instructional adaptation, and behaviour management techniques.

Findings from this study echo earlier research that suggests that pre-service preparation programs must redesign programs in instruction and curriculum to include coursework and experiences in special education. Several teacher competencies that have been identified as being supportive of inclusionary approaches include:

- skills in reflection and self-evaluation (Ainscow, 1992);
- familiarity with consultation and collaboration models of service provision (Freeze, Bravi and Rampaul ,1989);
- knowledge of curricular adaptations (Pugach, 1995);
- use of cooperative learning models, peer coaching, and behaviour management techniques (Thousand and Villa, 1990); and
- unification of special and general education in teacher education institutions (Lupart and Snart 1994).

In addition, the literature suggests that in order for general education teachers to perceive themselves as capable of teaching students with disabilities, they must receive support from their school administration. This support is important not only for fostering collegiality among regular and special educators, but also in assisting schools to better serve students with special learning needs.

Bunch, Lupart, and Brown (1997) recently released the findings of a large-scale Canadian study exploring educator attitudes to inclusion of students with exceptional needs. Participants in the study included regular classroom teachers, administrators, resource teachers, special class teachers, and university students. Practicing educators were drawn from traditionally structured school systems having both regular and special education structures, as well as inclusively structured systems having regular class structures but few special education structures. Results from the study indicated that educator attitudes toward inclusion fell under two major themes. The first was that teachers had strong reservations with regard to: workload and the effects of inclusion on regular class teachers; adequacy of pre-service and inservice professional development; and administrator support for teachers working in inclusive classrooms. The second theme focused on positive beliefs regarding inclusion and teacher ability to deal with inclusion. The researchers found that, overall:

> positive attitudes were expressed regarding professional ability to accept primary responsibility for included students, the ability of regular class teachers and resource teachers to work collaboratively, and the effect of inclusion on both regular and included students across social and academic domains, particularly the social.

In discussing the implications of the study, Bunch, Lupart, and Brown (1997) state:

> Positive steps must be taken now to assist the frontline regular class teacher who bears the greatest responsibility for and burden of response. Canadian educators believe inclusive education to be educationally sound practice, to be within the competencies of supported regular class teachers, and to be beneficial to all students. Given this basic attitude set, significant progress in inclusive practice should be possible once support needs are addressed.

Peer collaboration — a structured dialogue designed to foster teachers' development and implementation of alternative interventions for students with learning and behaviour problems — has been shown to contribute to teachers' level of confidence and effectiveness (Pugach and Johnson, 1995). In this study that included 95 teachers in the intervention group, and 96 in the comparison group, results indicated that the intervention group had reduced referral rates, increased confidence in handling classroom problems, increased positive teacher affects toward the classroom, and increased tolerance toward cognitive deficits.

The basic approaches to instruction of special needs students have been synthesized into a few models that may be found in combination within actual school settings.

In the *collaborative consultant model of instruction*, resource teachers who are trained to become consulting teachers provide consultative support services *to* regular classroom teachers. Rather than withdrawing students with special needs from the regular classroom for instruction, regular education teachers, with the support of resource teachers, offer instruction to all students. Resource teachers also prepare special intervention programs and materials for use by regular classroom teachers.

Similarly, in the *team teaching model*, special education teachers team up with regular classroom teachers to co-plan and co-teach within the regular classroom setting.

In the *resource/consulting model*, resource teachers provide both direct and indirect services to teachers and students. They provide resource room instruction to students with severe learning needs, and offer consultative support to regular teachers.

School-based *problem solving teams* combine the expertise and resources of the regular school staff and support personnel (social workers, special educators, school psychologists) to develop appropriate intervention strategies for helping students with learning disabilities within the regular classroom environment.

Teacher assistance teams are established so that teachers can better serve students with learning needs and behaviour problems in regular classrooms. Within this model, the teacher assistance team is composed of three or four faculty members who meet — usually weekly — to help other teachers and staff solve problems.

An Example of Best Practice: An Instructional Support Team (IST) in Pennsylvania

Since 1990, a project operating in Pennsylvania, called the Instructional Support Educators (Kovaleski, Tucker, and Stevens, 1996), has been shifting the focus of special education from categorizing the services to providing better instruction. Instructional Support Teams "function as pre-referral intervention groups that link all school resources to better meet the needs of students with persistent academic, social-emotional, or behavioural problems".

The IST serves as a bridge between special and regular programs by: providing peer support and assistance for teachers; providing initial screening for students; and assisting students who have special needs students in their classrooms. An IST team typically consists of the principal, the student's regular teacher, support teacher, parents, and therapists, depending on the student's needs.

Outcome data from this project suggests that the number of referrals for multi-disciplinary evaluation and inappropriate placements in special education have diminished. Grade retention (failure) has also been reduced.

Summary

While studies have indicated that many teachers feel unprepared to integrate students with special learning needs into their classroom, recent Canadian studies suggest that educators are positive regarding the inclusion of exceptional students in the regular classroom if the appropriate training and supports are available. Other research confirms that training programs, and provision of administrative support and collaboration help to prepare teachers to work in inclusionary settings.

b. Teaching Strategies and Instructional Practice

In addition to supporting teachers in their role, a number of other factors are involved in the development of a supportive learning environment, that fosters the growth and development of all children. Meyer, Eichinger, and

Park-Lee (1987) studied students having severe needs across age groups and identified a number of major practices that contributed to a positive environment for these students. These practices are:

- physical integration;
- contact with same-age non-special needs peers;
- normalized professional practices;
- data-based instruction;
- instruction geared to functional, generalized skills;
- trans-disciplinary programs;
- involvement in the regular education program;
- community intensive instruction; and,
- coordinated transitional planning.

Earlier studies (Algozzine, 1984; Valcante, 1984) explored supportive teaching strategies for specific learning categories within high-incidence populations (e.g. learning disabled, educable mentally handicapped, and emotionally disturbed), and found that the same methods tended to be successful across these groups. Morsink et al (1987) proposed clusters of effective methodologies for students having mild needs, including: intensive teacher contact and feedback, strong reinforcements, and differentiated instruction.

More recently, studies have explored the effectiveness of various teaching strategies in special education. Lloyd, Crowley, Kohler and Strain (1988) conducted a meta-analysis of the literature that explored the effectiveness of cooperative learning, pre-referral teams, consulting teachers, and peer tutoring. They found that cooperative learning can frequently alleviate problems of social rejection, and that pre-referral systems can reduce special education referrals. Tateyama-Sniezek (1990) also conducted a meta-analysis of 12 studies to review the effectiveness of cooperative learning in promoting academic competence of students with special learning needs. She found that while the opportunity for students to study together does not guarantee gains in academic achievement, cooperative learning was found to improve relationships between integrated students and their peers.

In addition, a national study conducted in the United States (National Center on Educational Restructuring and Inclusion, 1995) identified cooperative

learning as the most important instructional strategy supporting inclusive education.

Teaching strategies that have proven successful in inclusive classrooms are, for the most part, similar to ones that teachers have found to be effective for students in general. Best practices for instruction suggest that a move away from teacher-directed organization and delivery of lessons to approaches which are teacher-facilitated and child-centred are more conducive to individualized or personalized learning.

The following strategies have been used successfully to include all students in classroom activities.

< cooperative group learning;
< activity-based learning;
< resource-based learning;
< mastery learning;
< computer-assisted instruction;
< collaborative learning approaches;
< whole language strategies; and
< curricular adaptations that include all students involved in same lesson, providing physical assistance, adapting materials, utilizing multi-level curricula, overlapping curriculum, and substituting curriculum.

In 1996, Manitoba Education and Training issued a handbook on differentiating instruction Success for All Learners. The handbook suggests that facilitating students' various learning styles through differentiated instruction involves providing students options in:

< the degree of abstraction of materials;
< the complexity of the subject to be studied;
< the pace of learning;
< the degree of structure or open-endedness of a task;
< the degree of independence with which students work; and
< the types of products by which students demonstrate learning.

Summary

Based on findings from research and practice, instructional practices that best meet the needs of exceptional students are ones that are flexible, teacher facilitated and child-centered - mirroring practices that have proven beneficial for all learners. Successful integration of students is possible through differentiated instruction techniques, including the use of strategies such as cooperative learning.

c. Assessment

The trend to exclude special education students from large scale or standards assessment is changing. Increasingly, there is a move toward the inclusion of exceptional children in standards testing. Educational policy in general is placing greater emphasis on academic standards and performance, stressing accountability for outcomes and uniform standards for all students including those having exceptionalities. Advocates of assessment standards argue that assessments should: allow for both system-level and student-level assessments; measure knowledge and skills across the core disciplines as well as within them; and measure the ability of students to apply what they know to realistic problems.

Ysseldyke, Thurlow, and Shriner (1994) describe the three most prevalent perspectives on the assessment of exceptional students: group gains, separate standards, and Individual Education Plan (IEP)-based standards.

Group Gains: Within this system, a standard is set and improvement for all student groups is required. No one group of students is targeted for special education.

Separate Standards: A separate system of standards is created for the students in special education programs. It is argued that this system has many limitations, including lowered expectations for students with exceptionalities, category-specific standards, and narrow curricular choices.

IEP-Based Standards: IEP's provide a process of accountability for keeping track of numbers of students and placement. However, capitalizing on some of its components, the IEP can be used as a vehicle for outcomes accountability. Goals and objectives can be translated into relevant

outcomes that match the broader goals identified by the school and the division/district.

The literature suggests that in order to achieve effective student outcomes, individualized goals and instruction must be grounded in the general education program. This approach is reinforced by the research findings at the National Center on Educational Outcomes in Minneapolis (Ysseldyke, Thurlow, and Shriner, 1994) which recommend the following guidelines and performance standards for children:

- identify one set of standards;
- individualize the standards for students receiving special education services;
- specify the depth and breadth of instruction for each standard;
- require parent approval;
- assess all students for progress in performance within content standards;
- implement accommodations during assessment; and,
- use a supplement to the IEP document if individual student performance is of critical importance (for example, receiving graduation diploma).

Manitoba Education and Training (1998) echoes this approach, stating that an Individual Education Plan should be developed for students who "require a range of accommodations and supports" to ensure that their individual learning needs are addressed in a systematic way. The development of the IEP involves the following steps: prioritizing and categorizing student needs; identifying the student's current level of performance; and developing student-specific outcomes and objectives. Materials, instructional strategies, and assessment procedures are to be adapted based on the student's performance level. Collaboration with the student's family, school staff, and outside agencies is viewed as an integral part of this process.

An Example of Best Practice: An IEP Checklist in San Antonio

Schools in San Antonio Texas have developed an extensive adaptation checklist for the IEP. The checklist includes the following categories.

- Pacing: extend time requirements; vary activity often; allow breaks; send home school texts for preview.
- Environment: preferential seating; planned seating; alter physical room arrangement; define areas concretely; reduce/minimize distractions.
- Presentation of subject matter: teach to student's learning style (e.g. linguistic, logical/math, spatial, musical, etc.); utilize adapted curriculum.
- Materials: arrangement of material on page; taped texts, highlighted texts/study guides; note-taking assistance; and others.
- Assignments: give directions in small distinct steps; use written backup for oral directions; reduce paper and pencil tasks; adapt worksheets.
- Self-management: visual daily schedule; calendars; check often for understanding; have student repeat directions.
- Testing adaptations: oral; taped; pictures; read test to student; previous language of test question; shorten length; extend time; change format.
- Social interaction support: peer advocacy; peer tutoring; structure activities to create opportunities for social interaction; focus on social processes rather than end product; teach friendship skills.
- Motivation and reinforcement: verbal; nonverbal; positive reinforcement; concrete reinforcement; offer choice.

Summary

Increasingly, exceptional students are being included in large scale standards assessments. The literature also suggests that assessment practices based on standards for all students, with adaptations to materials and assessments based on individual education plans (IEPs), are most effective for students with special learning needs.

4. Educational Outcomes and Transition Out of School

Appropriate training, teaching strategies and assessments, resulting in improved social or academic skills, are components of a successful educational program. The overall success of a program, however, is usually measured by the degree to which students are prepared for full participation in the mainstream adult world. The following section will explore the transition process from the classroom to the larger community.

a. Educational Outcomes

Lipsky and Gartner (1996) suggest that the lack of regular curricula outcomes for students with special needs limits their options. Sleeter (1986) comments that society's expectation for schools to produce students with particular skills, developed to a certain level of competence, leads to ranking of students based on the achievement of those skills.

> Those who come out on the bottom will still be destined for the lowest paying jobs or the reserve labor force and will still experience the pain of failure when compared to their peers . . . Rather than attempting to remake children to fit social needs, we must first give greater consideration to the possibility that society's expectations for children and society's reward structure for their performance may need remaking.

The research literature supports Sleeter's concern, noting that, generally, young people with exceptionalities are not doing as well as their counterparts in the general population in terms of dropout rates, graduation rates, post-secondary training and education, and employment. Societal expectations appear to be reflected in school-based practices. In Madison, Wisconsin, Piuma (1989) found that over a fifteen year period, the employment rate for high school graduates with special needs, who had been in segregated programs, was 53%, while the employment rates for special needs graduates from integrated programs was 73%. A successful transitioning program can help overcome some of these post-high school challenges.

b. Post-High School Transition

A successful education program should ultimately prepare students for involvement in the arena outside school. Much of the research supports the concept of schools connecting with the broader community — employers and post-secondary institutions. Not only do these connections enhance learning opportunities, but they also assist in the successful transitioning of students out of the school and into the wider community.

Three frequently cited practices for supporting exceptional students in the transition from school to adult life are: vocational training, parent involvement, and interagency collaboration and services delivery (Kohler,

Johnson, Chadsey-Rusch and Rusch, 1995). The literature in this area supports practices such as social skills training, paid work experience, and individual transition plans. In California, state agencies recognized that if quality transition services were going to be offered, transition planning needed to be re-designed. (The features of this model are outlined below under *An Example of Best Practice*.)

Service consumers also support interagency involvement in the transition process. Knox and Parmenter (1990) interviewed 73 young people with a range of disabilities to learn what they identified as useful in making an effective transition from school to adult life. Participants suggested the need for a planned transition process, a job-related school curriculum, and structured procedures to facilitate community integration.

Current directions in the research include an emphasis on exploring the role and effect of integrating transition planning, consisting of specialists from a variety of fields, into the IEP process. Following is an example of a transition initiative involving interagency collaboration.

An Example of Best Practice: California's School to Work Interagency Transition Partnership (SWITP)

In 1991, the California Department of Education was awarded a "transitional system change" grant by the U.S. Department of Education. Over a five year period, California's School to Work Interagency Transition Partnership (SWITP) agencies developed a transition planning model based on forming local interagency transition teams. Agencies involved in the partnership included: California Department of Education, California Community Colleges, California Institutions of Higher Education, Consumer/Parent/Family Coalition, Department of Developmental Services, Department of Mental Health, Department of Rehabilitation, Employment Development Department, and Social Security Administration. The teams fostered equality among team participants, consensus decision-making, and shared responsibility to assist youth with special needs in reaching their desired futures. Features of the model included:

< interagency transition planning process, at local and state levels;
< collaborative interagency coordination;
< interagency training;
< interagency accountability; and
< shared resources and flexible funding.

One of the critical goals of the partnership has been to improve individual transition plans. The transition plans begin in the student's middle years and are amended and adapted throughout the remainder of the student's education.

Summary

The educational literature indicates that a major goal of education is to provide opportunities for individuals to develop the skills necessary to participate in the mainstream adult world. A major aspect of achieving this goal is an effective transitioning program with includes meaningful participation, parental involvement, and interagency cooperation and coordination.

5. The Role of Parents, Caregivers And Community

Cooperation and coordination between schools and the broader community is effective, not only in the post-high school transition process, but throughout the student's school life. Parental involvement has been shown to impact positively on student educational achievement, and programs utilizing interagency cooperation have implications for funding and allocation of resources.

a. Parental Involvement

In their review of the literature, Wang et al (1993) found that regardless of racial, ethnic, or class membership, the active participation of family members in student's learning improved student achievement, increased school attendance, decreased student dropouts, decreased delinquency, and reduced pregnancy rates. Parental participation in their children's education is broader than just coming into the school building. Direct in-school involvement by the parent was found to be less important than the availability of learning opportunities, frequent parent-child conversation, and higher educational expectations.

In light of these type of findings, schools are reaching out to parents and communities to support them in the work of educating children. At the same time, parents are increasingly calling on schools to keep them better informed about the school's philosophy of education and the progress of their children.

Parents play a critical role in "best practice" in special education. Working as part of an instructional support team, parents provide the context of family

values, insights into the child's ability to function in other environments, and ongoing support for achieving desirable outcomes for their child. Along with their child, they can be active partners in educational planning and decision-making.

Researchers in Indiana University (1992) identified five important factors that encourage parent participation in the special education process. These factors were:

< the development of effective two-way communication and collaboration between parents and teachers;
< the development of methods for parents to support actively their children's learning in partnership with the school staff;
< the development of methods by which the educational staff may provide ongoing support for parents;
< the development of methods for staff to involve parents in program improvement efforts; and
< the development of an ongoing parent training program.

An Example of Best Practice: Key Early Years Systems (KEYS) Program, The Winnipeg School Division No. 1

The KEYS program, an intersectoral program for early years students and their parents, is jointly operated by Winnipeg Child and Family Services (CFS) and The Winnipeg School Division No. 1. The school division contributes a teaching position and teacher assistants to work with K-3 students identified as having severe behaviour disorders, and a Family Support Worker contributed by CFS provides intensive support to the families of those children, their teachers and families.

The program is aimed at ensuring that homes and school work together. The role of the KEYS teacher is to design behaviour intervention programs and provide staff with professional development. The Family Support Worker works in collaboration with the KEYS teacher by providing support for the families, referring them to appropriate community resources, and providing in-home consultation.

The KEYS program is based out of a central school, but serves students in their home schools throughout the area. Students are bused to the central school for the morning, and return to their home school for the afternoon sessions. KEYS workers visit the family home on a regular basis to provide guidance, support, and suggestions. KEYS teachers work on developing appropriate social behaviour, through modeling and repetition. Consistency is stressed in both the home and school program.

An Example of Best Practice: Parent Involvement Project, Coeur d' Alene, Idaho

A Parent Involvement Project operating in Idaho focused on the parents of secondary students with a range of learning needs. The goal of the program was to develop ways in which parents and staff may help students to bridge the gap between the school and the working environment.

The program has been successful and attributes its success to parent participation, transitional team review meetings, development of strong two-way communication between teachers and parents, and the opportunity for students to work in a resource employability class. In addition, a Mayor's Committee for Hiring the Handicapped has been established with representation from the private industry council and the local press. The local newspaper runs a weekly column which highlights the positive aspects of local school programs. Students are employed in many production areas of the publication. Individual mentors from business and industry further meet the needs of the students, especially as transitions are made from the classroom to the workplace.

Adapted from: Council of Administrators of Special Education, Inc., 1992

b. Community Involvement

A publication from the University of Maryland (Center for Policy Options in Special Education, 1994) on comprehensive school-linked service states that collaboration, not just cooperation across agencies means:

> developing common goals and new organizational structures and operating procedures that work together to holistically address the needs of children and their families. It means sharing resources, decision making, and leadership.

The research indicates that the following program design considerations promote community involvement.

< Services need to be provided in a continuous fashion (ie. coordination across time, as well as cross-agency coordination).
< Provision for staff to coordinate efforts across agencies is required, involving both staff time and effort.
< Agencies must be ready to respond to leadership from various sources.
< A readiness to conduct services or programs in a variety of settings, beyond traditional arrangements is needed.
< Basic information needs to be communicated concerning services, and then coupled with steps to inspire trust and confidence in the agencies and personnel required.
< Opportunities must be sought to incorporate a number of all kinds of community resources, especially through projects of a broad multi-disciplinary and multi-professional nature.

The flexibility necessary for this type of comprehensive service is often limited by funding and governance policies of the agencies involved. Duttweiler (1995) suggests that the required flexibility "demands mechanisms that span political and organizational boundaries".

An Example of Best Practice: Multi-Agency Preventive Program for High Risk Youth (MAPP), Brandon, Manitoba

An interagency program for dealing with high-risk youth, MAPP has redefined how agencies work together. MAPP's goal is to respond to and program for a small number (40) of the highest-risk youth in Brandon. The program aims to:

- **ensure cooperative intervention planning among the agencies for these specially targeted youth,**
- **share information regularly on these youth by way of an interagency computer link, and**
- **integrate tracking and accountability expectations into each agency's regular activity.**

The objectives of MAPP are to:

- **coordinate an interagency treatment plan,**
- **make the best use of family and community support,**
- **prevent further problem behaviour,**
- **provide quick, consistent enforcement of court orders, and**
- **improve the level of community safety.**

Potential candidates are rated on a number of risk factors (e.g. background information, living situation, school situation, drug/alcohol use). Once a student is registered in the program, data are placed on the computer link and will be updated so that significant events (e.g. court charges, probation conditions, school suspensions) will immediately be known by all agencies.

An Example of Best Practice: Virginia

In 1992, Virginia enacted the Comprehensive Services Act for At risk Youths and Families (CSYF). The purpose of the act is to reduce the cost of services, while providing better and more collaborative services to youths and families. The Act intends to provide communities flexibility in the use of funds and to authorize communities to make decisions and be accountable for providing services. A joint effort by the Departments of Social Services, Mental Health/Mental Retardation and Substance Abuse, Health, Education, Youth and Family Services, and the Virginia Supreme Court developed a funding formula in which state funds are allocated to each community to ensure that families and youths are provided appropriate services in the least restrictive environment, while attempting to preserve families, protect the welfare of children, and maintain the safety of the public. In each community, a Community Policy and Management Team with representatives from all of the major human services agencies is responsible for the allocation and expenditure of these funds. The CSYF act requires that a central system be established to track services and costs of services provided to troubled youths and their families. Because these services may be provided by a number of agencies there is the basic requirement for a single intake point and the ability to share information. All youths served under this act are supported by a Community Assessment Team that includes a representative of each of the major human services agencies, a parent, and a representative of the private sector.

An Example of Best Practice: Tennessee

Tennessee implemented a "Children's Plan" in 1991, which provides for a major restructuring of its financing and delivery of services to children and families involved with four state departments: Education, Human Services, Mental Health/Mental Retardation, and Youth Development. All contracts for residential services were converted to a single state contract for a single daily rate. Claims processing was centralized with one department. Dollars budgeted for children's services in each child-serving department were pooled into a single children's account. Family preservation services were made available statewide so that every county has access to this services, ensuring that children get a uniform assessment regardless of where they enter the system. Assessment and Care Coordination Teams (ACCTs) established in many of the community health agencies across the state provide a single point of entry.

Adapted from University of Maryland (1994)

Summary

Studies have indicated that parental involvement in their child's education has positive impacts for the child and society. Programs in which schools, parents, and communities work together aid in bridging the gaps among these entities, thereby supporting efforts to holistically address the needs of the child. Parents along with their children become active partners in the planning and decision-making process. More effective community involvement has resulted from structures which allow for collaboration as well as cooperation among educators, parents, and other community members.

Concluding Note

In this review of the research, we have explored the issues of categorization, inclusion and integration, instructional practice and assessment, educational outcomes and transition out of school, as well as parental/community involvement. Studies indicate that categorization and alternative programs do not necessarily preclude their effectiveness if applied appropriately. The general trend however, is toward more inclusionary practices which have benefits for students with exceptionalities as well as their peers. For integration to be effective, training as well as administrative and collegial support, are necessary for teachers to feel confident in their role of providing effective education for all students in their classrooms. Overall, a major goal of education should be to prepare students for their roles and responsibilities in the larger community. Successful educational outcomes are dependent upon parental and community involvement in setting goals and assisting in the transition into the mainstream.

D. Issues Within The Manitoba Context

Across Canada, there is a perception that the education system is experiencing an increase in the number of students with special learning needs. In Manitoba, concerns are particularly prevalent around Fetal Alcohol Syndrome/Fetal Alcohol Effects (FAS/FAE), Emotional Behaviour Disorder (EBD), and students "at risk". This section will provide a description and definition of each issue and outline some the ways in which the educational needs of children may be addressed. This discussion presents an overview of current understanding on each of these issues. However, due to the emerging nature of these issues, the research is "very developmental", and the findings should be considered in this light.

1. Fetal Alcohol Syndrome and Fetal Alcohol Effects

Although the conditions associated with FAS/FAE have been with us for decades, it is only in the last two decades that knowledge and awareness about FAS/FAE has increased substantially. Today, governments, health, social services, and education, are recognizing the human and financial costs associated with FAS/FAE, and are now developing interventions and programs to address the issue. An April 1998 Manitoba Government Press Release, identified FAS as the leading cause of

preventable birth defects, and estimates that 240 children are born in Manitoba every year with FAS. Children with FAS often require extensive social supports from health services, education, child and family services, and income support, and are at a higher risk of becoming involved in crime.

a. What is FAS/FAE?

The term, fetal alcohol syndrome, or FAS, was first used as a medical diagnosis in 1974 by K.L. Jones and D.W. Smith, who identified the clusters of birth defects in children born to mothers who drank alcohol while pregnant (Aase, 1994). "FAS" is a medical diagnosis which describes a pattern of physical and physiological abnormalities found in children prenatally exposed to alcohol. For FAS to be diagnosed, there is a known, or strong suspected history of maternal use of alcohol. In addition, the following criteria are present:

< prenatal and/or postnatal growth retardation;
< central nervous system (CNS) dysfunction (children with FAS suffer some degree of brain damage, ranging from mild to quite severe); and
< a characteristic pattern of facial features (short eye openings, a thin upper lip, and an elongated flattened mid-face).

The term, fetal alcohol effects (FAE), has been used when there is a documented history of prenatal alcohol exposure and the presence of some, but not all, of the diagnostic criteria for FAS. Jones (in press) notes that, in the past, FAE was used as a "soft" diagnosis to suggest the possibility of alcohol related birth defects. Aase (1994) indicates that the FAE label attempted to capture a child's educational and/or social needs without a definitive medical diagnosis. Burgess and Streissguth (1992) explain the difference between FAE and FAS.

> ... physicians use [the term FAE] to describe children with definite prenatal exposure to alcohol but less severe physical effects. The mother of child diagnosed with FAE did not necessarily drink less during pregnancy than the mother of a child with FAS, but, for some biological reason, the baby was not as damaged physically. Unfortunately, children and adolescents with FAE may be just as severely affected cognitively as those with FAS.

Increasingly, the term FAE has been recognized as being ambiguous, and, consequently, unsatisfactory. Stratton et al (1996) reports that the American Institute of Medicine has proposed to redefine FAE into two categories: Alcohol-Related Birth Defects (ARBD) and Alcohol-Related Neurodevelopmental Disorders (ARND). Within these terms, children who exhibit physical anomalies would be recognized as ARBD, while children who evidence central nervous system damage, including patterns in behaviour or cognitive abilities inconsistent with other disabling conditions, would be categorized as having ARND (Stratton et al, 1996).

Children with FAS/ARBD/ARND are not a homogenous group, with the degree of brain damage (ranging from mild to severe) being dependent upon many factors including: the number of years the mother has been drinking; what fetal structures were developing at the time; and the genetic makeup of the mother and baby.

b. Limitations of the Research

Medical research, like all research, is influenced by cultural and social biases. For example, an oft-cited study conducted by Streissguth (1996) at the University of Washington which studied sixty-one adolescents and adults with FAS/ARBD/ARND, has significantly shaped understanding of what the future holds for children with FAS/ARBD/ARND. However, caution should be used in applying the results of this study to predict the progress of all children with FAS/ARBD/ARND, given that the participants had been identified as having FAS/FAE in the early 1970s and 1980s, when FAS diagnosis was new and many of the participants had experienced a great deal of emotional turbulence. As the author of the study points out:

> ... sixty-eight percent of the sample had suffered from child neglect, fifty-two percent had suffered from physical abuse, and thirty-five percent from sexual abuse (Streissguth, 1996).

The National Health/Education Consortium (1994) noted that minority populations are more likely to be diagnosed with FAS/ARBD/ARND, although again, other factors, including socio-economic status and myths about drinking patterns and race, need to be explored before any results are confirmed. In fact, almost half of the subjects in the Streissguth study came from screening studies on Indian reservations in the U.S. where, in some

cases, economic hardship and social problems may account for some part of the participants' difficulties and test scores. FAS/ARBD/ARND exists among the white population at all income levels, although Aase (1994) (cited in Jones, in press) argues that "there is a race/class bias to the diagnostic process, and that physicians are more reluctant to ask about prenatal alcohol use, especially with middle and upper income families".

c. Characteristics of Students with FAS/ARBD/ARND

While each child who has FAS/ARBD/ARND is different from each other, some "clusters" of characteristics exhibited by children with FAS/ARBD/ARND have been noted in the areas of cognitive functioning, social/emotional functioning, and physical functioning.

Cognitive Functioning

Very often, a child's difficulties in cognitive functioning, or in inappropriate behaviour, is the trigger for assessment and diagnosis. Some evidence linking alcohol and drug damage to cognitive functioning (Cicero, 1994, Streissguth, 1996, Nanson & Hiscock, 1990) has been described in the research, as well as evidence supporting the relationship between central nervous system (CNS) damage and behavioural symptoms (Stratton et al, 1996; Aase, 1994). However, much more research is required to understand these relationships better.

Students with FAS/ARBD/ARND tend to be fairly concrete, and while they may do well academically during the early years of school, as subject matter becomes more abstract they may have increasing difficulty keeping up. These students may not be able to work at grade level, a situation which may be compounded by their behavioural and social problems. Burgess and Streissguth (1992) identify functional skills as the greatest area of deficit. They state:

> Even students with seemingly normal academic skills may have difficulty generalizing them to settings outside the classroom. The inability to predict consequences or to use appropriate judgement in daily life makes it difficult for these young people to achieve favorable outcomes in vocational settings.

Children with FAS/ARBD/ARND may exhibit a wide range of conditions including: difficulty with sequencing; difficulty with memory; difficulty understanding cause/effect relationship; and/or weak generalizing skills. They may experience gaps in links, gaps in associations, and gaps in comparing and contrasting. The following table illustrates the effects that these gaps have on a child's cognitive and behavioural functioning.

Difficulty Translating Information from One Sense into Appropriate Behaviour (Gaps in Links)	Difficulty Generalizing Information (Gaps in Associations)	Difficulty Perceiving Similarities and Differences (Gaps in Comparing & Contrasting)
< difficulty linking what is heard with appropriate behaviour < able to "talk the talk" but not "walk the walk" < inconsistent mastery < spotty memory	< learning information in isolated pieces < inflexibility of thought < difficulty predicting outcomes	< difficulty distinguishing fantasy from reality < difficulty distinguishing between friends and strangers < trouble evaluating differences in environments < difficulty making associations and integrating behaviours < difficulty with abstraction — math, money, time < behaviour that is socially inappropriate, intrusive

Doctor, S. (1997) Presented at FAS/FAE/FDE Workshop, Winnipeg, March 21, 1997.

Streissguth et al (1992) reported that FAS has been diagnosed in 10 percent of intellectually impaired children, making it the leading known cause of mild intellectual difficulties. IQ scores for children with FAS range from low 60's to a high of 115, with average scores ranging from 68-78. However, a number of problems associated with testing children with FAS/ARBD/ARND have been identified. Most often, the children affected can read and write, and are adept at "presenting", masking low comprehension and appearing to be brighter than they may be.

Social/Emotional Functioning

Giunta and Streissguth (1988) describe several behavioural characteristics associated with children who have FAS/ARBD/ARND. They report:

> [the children] tend to be very outgoing and socially engaging, yet they are frequently perceived by others as intrusive, overly talkative, and generally unaware of social cues and conventions. Poor social judgment and poor socialization skills are common:

many patients are hungry for any attention, even if it is negative. Due to their social immaturity, these patients have difficulty establishing friendships, especially with children of the same age. The potential for both social isolation and exploitation of individuals with FAS is evident.

Children with FAS/ARBD/ARND may experience hyperactivity, impulsivity, and short attention spans. It is important to note that the behavioural characteristics of FAS/ARBD/ARND are the most difficult to research. It is virtually impossible to clearly distinguish among "acting out" behaviour that is intentional, or is the result of physical damage to the CNS, and/or is related to social or environmental problems. Jones (in press) notes that "unfortunately, [this confusion] often leads children to being either misdiagnosed or being punished for behaviours that they have difficulty controlling".

Physical Functioning

Basic physiological responses may be difficult or abnormal for some students with FAS/ARBD/ARND. This may be present in one or more of the following ways:

< a high threshold for pain which can result in the student not being aware of a serious injury or infections;
< no perception of hunger or satiation;
< difficulty perceiving extreme temperatures; and
< difficulty with visual/spatial perception with balance.

Some students with FAS/ARBD/ARND show significant delays in gross and fine motor skill development, while many others excel in individual sports that require gross motor coordination.

d. Educational Needs of Children with FAS/ARBD/ARND

Depending on the severity of the damage, most children with FAS/ARBD/ARND will require some level of external support throughout their life (Doctor, 1997, personal communication). In addition, Steissguth (1996) found that 60% of children over the age of 12, with FAS, have experienced trouble with the law. However, social and educational

interventions have been effective in assisting children and their caregivers to deal with the symptoms of FAS/ARBD/ARND and to develop their potential.

According to the FAS/FAE Community Consultation held in Winnipeg in June 1993, FAS/ARBD/ARND children and adults often "slip between the cracks" in society due to the low awareness levels, lack of appropriate identification, and assistance. Children with FAS/ARBD/ARND have special educational needs. Although the needs of all students, including all students with FAS/ARBD/ARND, are different, superintendents, school administrators, educators, resource teachers, parents, administrators, para-professionals, clinicians, and all others who contribute to a child's education, need to be familiar with a wide range of interventions which may produce positive results for children with FAS/ARBD/ARND. The process of assisting children with FAS/ARBD/ARND requires an understanding of the condition and of the interventions, a willingness to experiment with interventions, and time to evaluate and re-evaluate. Resource teachers, para-professionals and teachers, require the release time necessary to reflect on and plan children's progress.

Classroom Interventions

Burgess and Streissguth (1992) state that programming for students with FAS/ARBD/ARND to achieve independence and productivity involves: early intervention, targeting functional skills, teaching communication skills (including gestures, behaviours, making choices, and verbal skills), and teaching social skills. Further, Giunta and Streissguth (1988) state that students with FAS require small classroom settings, clear guidelines and individual attention to maximize their intellectual capabilities.

The following interventions have been selected from a resource guide for teachers prepared by the Special Education Branch for the B.C. Ministry of Education (1996). Additional interventions are contained in this document.

*To address **attention difficulties**:*

< keep visual and auditory distractions to a minimum;
< try to reduce competing noise (although sometimes background music can be calming);
< provide a quiet working area where the child may choose to go to complete his/her work;
< provide one-to-one assistance;
< make each activity brief;

< teaching concepts through music can be effective;
< rhythmic activities such as choral reading, spelling, and math chants are effective at holding attention; and
< allow a student who needs the stimulation of movement to do some activities.

To address conceptual difficulties with ***cause and effect*** *(and consequences):*

< take time to talk with the child to learn how the child thinks;
< decide what is most important and what is within the control of the child — ignore the rest;
< be as consistent as possible in imposing consequences, make them as immediate as possible and remind the student the reason for the consequences; and
< anticipate problems through close supervision or partnering with peers.

To address inappropriate ***social skills****:*

< give the student direct and immediate feedback about unacceptable behaviour, how it is affecting others and how it is affecting the student;
< be aware that negative behaviour may be a symptom of un-met needs;
< develop an entrance and exit routine for the day, or for each class;
< develop a plan with the student which can be followed when the student is feeling overwhelmed by people, sound, light, movement, or other things; and
< watch for signs of irritability or fatigue.

To assist in developing or enhancing ***memory skills****:*

< provide one instruction at a time until the student can remember two instructions; provide two instructions at a time until the student can remember three, and build up the amount;
< aim for over-learning of rote-skills;
< present concepts in a concrete fashion (i.e. with examples and visual representations);
< accentuate the student's strengths through art and music activities; and
< practise sequencing events.

To assist in developing ***reading and writing skills****:*

< speak face-to-face with student, use the student's name;
< keep the number of instructions and the explanations short;

< stop at key points to check for comprehension; be alert to “losing the student”;
< give instructions in more than one way, visual and verbal;
< slow the tempo and wait for the student to process and organize a response; and
< recognize the student’s difficulty in sustaining the motor activity of writing.

*To assist in developing **mathematics skills**:*

< be alert to the possibility of the student “freezing” under pressure to work fast in timed tests. Make allowances for extended time on tests and assignments;
< focus on practical, functional math, especially in the context of which the student will use it; and
< provide visual demonstrations of mathematical concepts.

Community Interventions

Although classroom interventions can benefit children with FAS/ARBD/ARND, they can only provide one branch of a network of necessary supports. A growing body of research suggests that educational interventions are most successful in combination with medical, family, and community supports. Holistic program development that provides a range of interventions at the prenatal, neonatal, infant and toddler, pre-school, school-age, and adolescent stages of development are increasingly recognized as effective (Smith, 1995). Prevention curriculums have been developed in the United States for grades kindergarten to 12, and are administered as part of the Health Curriculum. In Manitoba, Frontier School Division is developing an aboriginal focused FAS prevention curriculum for grades five to eight. The following suggestions are aimed at the prevention and intervention of FAS/ARBD/ARND at the community level:

< prenatal interventions that focus on services for the pregnant woman and include prenatal care, access to rehabilitation programs, adequate prenatal nutrition, and parenting training;

< perinatal services that focus on the critical period immediately prior to and after the birth of the child. (Important issues in this period include child and caregiver bonding, extended hospitalization, risk for abandonment, and medical issues for the child.);

< services for infants and pre-school children which help the child's caregivers to provide the best environment and effective parenting with access to developmental interventions for the child;

< programs for children of school age that emphasize the developmental needs of the child with health, mental health, and social services responding to a complex array of issues and needs of the child and family;

< programs and services for adolescents which provide access to counseling resources and address issues that may lead to inter-generational substance abuse by the youth.

In addition, the opportunity to participate in vocational programming and work placements when in school, assists many of these children to develop some of the skills required for independent living. Increasingly, a range of school-community programs are being developed to address a wide range of complex community needs, including those of students with FAS/ARBD/ARND. Community-based programs can also serve an important role in increasing the community's awareness about the role that poverty, racism, lack of housing, unemployment, and multi-generational family dysfunction and abuse play in contributing to the "problem" of FAS/ARBD/ARND.

An Example of Best Practice: A Community Development Project in Manitoba, Norway House FAS Committee

A community mentorship approach was implemented in this remote northern Manitoba community to combat the problem of Fetal Alcohol Syndrome. The community organized a local FAS Coordinating Committee with key community leaders including members of government and non-government agencies, community groups, business leaders, elders, and parents. The Committee has focused on general public awareness with an emphasis on locally designed initiatives. The project has:

< developed a referral protocol and list for community professionals;
< improved networking and communication amongst individuals, and agencies and organizations working in the community, and improved early identification of children with FAS/FAE through the development of an FAS diagnostic team approach;
< started a prevention campaign targeting women and adolescent girls at high risk of having a child with FAS/FAE;
< introduced FAS curricula at the schools;
< increased support to parents and families caring for children with FAS/FAE; and
< provided training to staff working with children with FAS/FAE.

An Example of Best Practice: A School-Based Community Program Model Fulton County School District Atlanta, Georgia

The Fulton County School District developed a collaborative program model to address FAS/ARBD/ARND in cooperation with county and state departments of health, mental health, and family and children service agencies (Smith, 1995). The agreement provided for cooperating agencies to assign staff to selected schools for direct services to children and families, including assistance for Medicaid applications, physical health screening, referral for services, counseling and support groups for staff and children, and parenting support groups. Funding for the program comes from state and federal (Medicaid) funding. No funding is required for any excess cost from the district.

Three levels of leadership and staff involvement provided support for the program and facilitated interagency communication and cooperation:

1. An Executive Committee composed of the cooperating agency heads met quarterly to address program and administrative issues.
2. A Department head — level staff from each agency met monthly to ensure compliance with agency regulations and protocols; to address agency school and school district concerns or issues, evaluate the effectiveness of the services, and support continued planning for services.
3. Each school formed a team composed of school personnel and staff assigned by each community agency. The school principal chaired the teams which met twice per month (or more frequently, if required). Meetings addressed school-based program services, including referral of children and families, procedures, staff development, and evaluation of services.

Summary

As knowledge and awareness of FAS/ARBD/ARND has increased, so have the number of diagnoses. While there is great variation in the degree of intellectual impairment, children with FAS/ARBD/ARND often experience difficulties in cognitive functioning, physical, and social functioning. Educational interventions to address the cognitive difficulties of students with FAS/ARBD/ARND include providing a quiet, distraction-free environment with consistency, brief and concrete activities, and one-to-one assistance. Community-based programs can also contribute to the prevention of FAS/ARBD/ARND and provide vocational training of students with FAS/ARBD/ARND to develop skills for independent living.

2. Emotional Behaviour Disorder

There is growing concern in the education system regarding the number of school-age children with Emotional Behaviour Disorder (EBD). Postl (1995) estimates that, in Manitoba, between 18-30% of children aged 0-18 years have mental health problems requiring intervention. Of those, three percent experience severe psychiatric disorders.

This discussion presents an overview of current understanding on Emotional Behaviour Disorder. However, as mentioned previously, the emerging nature of this issue requires that the research findings be considered tentative at this point.

a. What is EBD?

The literature does not provide a definitive definition of EBD. The definition of seriously emotionally disturbed utilized by the United States educational system has been criticized for its ambiguity and inclusion of a clause excluding socially maladjusted children. According to this definition of Seriously Emotionally Disturbed,

(i) the term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

(a) an inability to learn which cannot be explained by intellectual, sensory, or health factors;
(b) an inability to build or maintain satisfactory interpersonal relationships with peers or teachers;
(c) inappropriate types of behaviour or feelings under normal circumstances;
(d) a general, pervasive mood of unhappiness or depression; or
(e) a tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed. (45 C.F.R. 121a.5[b] [8] [1978]) (from Nelson & Pearson, 1991).

A generally more accepted definition was passed by the Delegate Assembly of the Council for Exceptional Children in 1991. It states:

> Emotional or Behavioural Disorder (EBD) refers to a condition in which behavioural or emotional responses of an individual in school are so different from his or her generally accepted, age-appropriate, ethnic, or cultural norms that they adversely affect educational

performance in such areas as self-care, social relationships, personal adjustment, academic progress, classroom behaviour, or work adjustment.

Nelson and Pearson (1991) developed the following guidelines for identifying EBD.

< EBD is more than a transient, expected response to stressors in the child's or youth's environment and would persist even with individualized interventions, such as feedback to the individual, consultation with parents or families, and/or modifications of the educational environment.

< The eligibility decision must be based on multiple sources of data about the individual's behavioural or emotional functioning. EBD must be exhibited in at least two different settings, at least one of which is school-related.

< EBD can co-exist with other handicapping conditions.

< This category may include children or youth with schizophrenia, affective disorders, anxiety disorders, or with other sustained disturbances of conduct, attention, or adjustment.

b. Limitations of the Research

A major limitation of the research on EBD is the considerable variability in estimates of the prevalence of Emotional Behaviour Disorder (EBD) in the school-age population. According to a 1995 study by the U.S. Department of Education, only .89% of the student population is identified as having EBD, however, Kauffman (cited in Gable et al, 1998) estimates that the actual number of students with EBD is between three and five percent. A major factor contributing to this variability in estimates, and impacting on program eligibility, is the aforementioned ambiguity of defining EBD and therefore being able to identify the population.

c. Characteristics of Students with EBD

It is useful, for our purposes, to describe the characteristics of EBD children in terms of their adjustment to the school's academic and social expectations. Generally, EBD is characterized by a range of behaviour; from aggressive and psychotic, to as immature and depressed behaviours. Attention deficits, and low achievement may be exhibited by children with EBD.

It has been observed that in the school setting, students must make two adjustments: adjusting to the behavioural expectations and demands of the teacher and adjusting to the expectations and behaviours of peers in social settings. The characteristic behaviours of a child with EBD is dependent upon whether the disorder is *externalized*, in which case the child acts out, or *internalized*, in which case the child may withdraw from age-appropriate social interactions. The following table illustrates the characteristic behaviours of students for both externalized and internalized EBD.

Interrelationships of Bipolar Behaviour Patterns and School Adjustment Types		
Patterns	**Behaviour**	
	Externalizing	*Internalizing*
Teacher-Related	< Acting out, noncompliant behaviour < Teacher defiance < Behavioural excesses < Low achievement < Disruption of classroom ecology < High probability of referral < Resistant to social influence tactics	< High levels of appropriate classroom behaviour < Nonassertive behaviour patterns < Problems with self < Performance deficits < Low achievement < Low probability of referral
Types of Adjustment *Peer-Related*	< Variable peer status (some acceptance some rejection) < Failure to use social skills that support positive peer interactions < High levels of social engagement < High levels of negative/aggressive social behaviour	< Neglected or rejected peer status < Low levels of participation in peer controlled activities < Social isolation and withdrawal < Low levels of negative social behaviour

Adapted from: Nelson & Pearson (1991)

The table illustrates that students with externalized EBD exhibit high levels of conflict with teacher expectations and variable peer-related adjustment, leading to more visible problems. However, students with internalized EBD are less likely to exhibit behaviours in conflict with teacher expectations, but also exhibit low levels of social interaction with peers. These factors may account for the higher proportion of students with external EBD being

identified in school. Not surprisingly, Walker and Fabre, 1987 (cited in Nelson & Pearson, 1991) found that referrals for community services of children exhibiting acting out behaviours is higher than for withdrawn children.

d. Educational Needs of Children with EBD

Gable et al (1998) suggest that not all students with disabilities are equally well served in a mainstream setting. In particular they question whether inclusion, collaboration, and consultation practices are actually the best way to serve students with EBD. They express the belief that decisions regarding placement and instruction of students with EBD be made on a more individual basis.

> For students who engage in highly disruptive behaviour, regular pull-out services are essential ... When problem behaviour becomes too severe, even effective collaborative partnerships or expert consultation approaches likely will fail and a more restrictive classroom placement is justified.

Cartledge and Talbert Johnson (1996) also caution proponents of total inclusion regarding students with EBD, stating:

> To date, the research literature clearly points to significant differences in the adaptive classroom and interpersonal behaviour of students with EBD. It also indicates that the social integration of these students into general education classrooms presents one of, if not the greatest, challenges within the inclusion movement. School personnel typically have responded to the behaviour problems of troubled students by removing them from the general education classroom, but with the current emphasis on reintegration, the implications are twofold: (1) general education teachers need to be prepared and assisted in ways to manage aberrant behaviour and help students develop appropriate social behaviours, and (2) children with disabilities need direct and systematic instruction in social skills. The skills targeted for intervention should be those that build good peer and teacher relationships.

e. A Coordinated Approach to Service Provision

Students with EBD often require a range of services across many disciplines and agencies. Gable et al (1998) identifies a number of considerations which may present barriers to developing comprehensive programs to students with EBD. Firstly, there is the issue of identification. As mentioned earlier, the lack of an accepted definition affects how students are identified as EBD and identified as requiring services. Educators may also be unaware of the social biases that influence identification. For example, the behaviour and language styles of students from non-white, non-middle class backgrounds may be interpreted as a challenge to authority and/or disordered or disturbed behaviour. In addition, females may be under-identified because they are more likely to internalize the disorder or evidence it in sexual acting out, which is viewed as a moral issue, not an emotional disturbance.

Secondly, when students are identified, it is usually at an older age relative to other disabilities; while only 17% of EBD students are identified by age nine, by middle/high school, 60% of EBD students are receiving services. This finding complicates the task of targeting the services to the population.

Thirdly, students with EBD are usually placed in more restrictive settings which focus on behaviour management rather than academic achievement. Students with EBD are often the least successful students both in and after school. The focus of interventions on behaviour management may overwhelm other aspects of the student's education, and leave little attention being paid to academics or career/skill development. The focus of programs should be on education and treatment which foster positive outcomes, not on management/control.

Research from the University of Maryland (1994) states that the following are characteristics of an effective, comprehensive and coordinated school-linked service system, especially crucial for student with EBD:

< provide broad curricula accessible to all students that are culturally sensitive and address higher order skills such as creative problem solving and critical thinking, as well as basic academic content, life skills, and career skills;

- offer engaging subject matter that is challenging and reflects high expectations;
- collaboratively provide an array of services through the support of educators, communities, and families;
- use a variety of instructional strategies and other interventions to accommodate the needs of diverse students;
- provide high quality staff of competent professionals with differentiated skills; and
- provide continuous monitoring of the progress of all students and ensure accountability of all agencies.

An Example of Best Practice: Vermont

Vermont's Child and Adolescent Service System Program (CASSP) is used to emphasize the family collaboration necessary for responding to the needs of children and adolescents with severe emotional disturbance and their families. Following a five-year federal CASSP grant, the state passed legislation that codifies the system of care for children and adolescents with severe emotional disturbance. Two state-level structures were created to oversee needed services. The first of these is a Governor's Advisory Board made up of five parents, five advocates, and five professionals responsible for making broad policy recommendations to the heads of the major child-serving agencies including the commissioners of education, mental health and mental retardation, and social rehabilitation services. The second is a State Interagency Team, which functions to: 1) implement state policy for children and adolescents with severe emotional problems; 2) resolve local problems in meeting the needs of the target population; and 3) monitor the state's wrap-around services programs.

This Team consists of representatives of the state agencies mentioned above and a parent of the child who is experiencing severe emotional problems. Local interagency teams (LITs) will be established in each of the state's 12 districts. These teams, composed of local agency and parent representatives, are responsible for working together to deliver services to multi-need, cross-agency youth. Local treatment teams created to develop an individualized services plan can refer children, adolescents, and their families to the LIT for help in resolving problems of access to adequate services delivery.

An Example of Best Practice: New York

In Essex County, New York, the Families First Project developed a system of services for families with children with serious emotional or behavioural problems in a rural area with extremely limited resources. A process was established to enable parents to design and implement a system of care based on what parents said they needed and wanted. A Parent Planning Committee was established and parents were paid for each session, plus money for mileage and child care reimbursement. The committee participated in designing a system of services based on input from extensive interviews with families in the area. An Interagency Task Force involving all child-serving agencies was also established and meets monthly. A centre staffed by parents provides support and information. Two interagency teams meet monthly. One team focuses on individuals who are challenging to the system, and the other on policy issues affecting families. Funds are ear-marked that can be used in a flexible way to pay for wrap-around services.

From University of Maryland (1994).

Summary

Students with EBD are often misdiagnosed and their behaviour misunderstood. Integrating these students into regular classes presents a significant, and sometimes inappropriate challenge. It is important that school staff receive information on detecting and addressing EBD. A collaborative approach is again warranted in order to meet the individual needs of these students.

3. Students "At risk"

For years, researchers and practitioners in the area of risk theory have worked to eliminate or delay the onset of high risk behaviour by identifying factors that place an individual at risk. Factors associated with students being at risk of not succeeding in school include home, community, and school environments, as well as personal factors.

More recently, some researchers and practitioners expressed concern that the focus on the child's perceived deficits that resulted from identifying risk factors in the child's life could lead to lowered expectations. Furthermore, they believe that the focus on deficits does not necessarily lead to the introduction of appropriate services and may prevent recognition of their capacities. These individuals tend to support resiliency theory which focuses on the capacity of individuals to succeed despite risk.

The following section will present the characteristics of resiliency theory and the factors which promote resiliency. Once again, the emerging nature of this issue requires that the research findings be viewed in this light.

a. Resiliency Theory

Studies have shown a lack of the predictive power of risk factors, and demonstrate how individuals develop successfully despite risk (Benard, 1995; McMillan et al, 1992). The area of study which focuses on practices and attitudes that promote healthy development and successful learning is known as resiliency theory. Unlike the field of prevention, the notion of resiliency emerges from a focus on the positive aspects of a child's life. Resiliency theory examines the personal traits and environmental

characteristics that enable some children to thrive despite experiencing the same conditions as those who succumb to the negative influences of their environment.

b. Definition and Characteristics of Resiliency

Resiliency is defined as the capacity to rebound, spring back, successfully adapt in the face of adversity, and develop social competence despite exposure to severe stress. Resiliency refers to the ability of individual children to adapt to and overcome factors that place them in jeopardy. Gordon (1996) defined resiliency as "the ability to thrive, mature and increase competence in the face of adverse circumstances", whether they be biological abnormalities or environmental obstacles.

Long-term developmental studies have looked at children growing up in a variety of adverse conditions including war, poverty, families with alcoholism, drug abuse, physical and sexual abuse, and mental illness. The findings indicate that at least 50% and closer to 70% of these children did not develop high risk behaviours. While individually, responses to stressful circumstances vary, collectively, the literature identifies the personal and environmental traits that foster or reinforce resiliency.

Berliner and Benard (1995) identify the following common traits.

Social competence

< the ability to establish and sustain positive, caring relationships; to maintain a sense of humor; and to communicate compassion and empathy

Resourcefulness

< the ability to critically, creatively, and reflectively make decisions
< to seek help from others
< to recognize alternative ways to solve problems and conflict

Autonomy

< the ability to act independently and exert some control over one's environment
< to have a sense of one's identity
< to detach from others engaged in risk or dysfunctional behaviours

Sense of purpose

< the ability to foresee a bright future for oneself
< to be optimistic
< to aspire toward educational and personal achievement

Benard (1996) asserts that "we are all born with innate resiliency, with the capacity to develop the traits commonly found in resilient survivors" including social competence, problem-solving, autonomy, and a sense of purpose and belief in a bright future. This universal capacity for resilience is developed through external environmental resources, inner personal strengths, and social/interpersonal skills.

c. Fostering Resiliency

The literature suggests that providing opportunities for children to connect and feel a sense of belonging are crucial to resiliency. Resiliency research supports developing connectedness through relationships in families, schools and communities, where youth can find mutually caring and respectful relationships and opportunities for meaningful involvement.

Characteristics of families, schools and community environments that foster and elicit this innate resiliency include: caring relationships, grounded in listening, that convey compassion, understanding, respect, and interest, and establish safety and basic trust; high expectation messages that communicate firm guidance, structure and challenge while conveying a belief in the youth's innate resilience; and, opportunities for meaningful participation and contribution, including opportunities for valued responsibilities, decision-making and contributing one's talents to the community (Benard, 1996).

Henderson and Milstein (1996) present a six-step plan to foster resiliency. Steps one to three attempt to *mitigate the risks*, and steps four to six *build resiliency*.

<u>Six Steps to Fostering Resiliency</u>

< Increase bonding
< Set clear and consistent boundaries
< Teach life skills
< Provide caring and support

< Set and communicate high expectations
< Provide opportunities for meaningful participation

Characteristics of Schools that Foster Student Resiliency

Within an educational setting, fostering resiliency begins with the belief that all youth have innate resilience. As mentioned previously, resiliency can be fostered through caring relationships, high expectations and opportunities to participate and contribute. Teachers can foster resilience by teaching to the student's strengths, showing them they have innate resilience, and providing growth opportunities.

Berliner and Benard (1995) state that:

> resiliency research reveals that just one positive relationship, whether at home, in the community, or at school, can make a major difference for a child whose life is otherwise traumatic. So while district-level policymakers may have little influence on what goes on in a child's home or greater community, they can adopt policies ensuring that a child's school relationships and experiences contribute to his or her resiliency.

They identify the following educational practices for fostering resiliency:

< caring relationships that promote positive expectations and participation;
< a curriculum that is thematic, experiential, challenging, comprehensive, and inclusive of multiple perspectives;
< instruction that focuses on a broad range of learning styles, builds from perceptions of student strengths, and is participatory and facilitative;
< grouping practices that include inclusionary practices such as mainstreaming, cooperative learning and peer tutoring; and
< evaluation that focuses on multiple intelligences, utilizes authentic assessments, and fosters self-reflection.

Benard (1996) states that meeting the basic needs of individuals to feel connected with others, respected, challenged and cared for is the first step in creating socially competent people who have a sense of their own identity and efficacy, who are able to make decisions, set goals, and believe in their future.

Strategies which have proven effective with students in at risk situations involve a combination of: prevention, mediation, and intervention.

Prevention:

< ensure children have a healthy start
< teach socially responsible behaviour
< involve parents in the child's education

Mediation strategies to ensure a "learner-centred" environment:

< establish hospitable educational environment where students feel supported and cared for
< where failure is viewed as a step on the road to learning
< where needs of students govern decisions

Intervention:

< mentoring provides protective factor for youth growing up in stressful family/community environment, especially those who support their academic achievement
< peer tutoring
< peer mediation strategies

In addition, the following characteristics (cited in Gordon, 1996) have been identified as predictors of resilience in later years, and should be considered when designing programs that impact children/youth:

< nurturing and social supports (fostered by providing strong social supports to highly stressed families with young children to allow the primary caregiver to be more nurturing);
< internal locus of control (fostered by providing successful experiences with meaningful tasks and relating the success to the child's own abilities);
< autonomy (fostered by allowing the child to complete developmentally appropriate tasks on his/her own);
< androgyny; that is, demonstrating both traditionally male and traditionally female characteristics when appropriate (fostered by permitting it to occur and modeling it).

An Example of Best Practice: Profile of an Elementary School Classroom

The following is a description of an elementary classroom which fosters resiliency.

Some 28 children and four adults share the space. The room is filled with a quiet, subdued buzz of activity. At one table, Cheval works with a reading group; at another, a teacher's's aide helps children with a language assignment. In the reading centre, some children sit on the carpet at a listening centre, while others share big books. Three are curled up on the couch, engrossed in their books, and two others are reading aloud to a parent volunteer. Two students work cooperatively at the computer, animatedly discussing the problems they had chosen and laughing as they succeed in solving them. Another volunteer sits in a corner surrounded by a group of children who want to practice the new vocabulary for the day . . . .

The all important relationships between children are fostered in this classroom by child-developed "rights and responsibilities" [such as that everyone has the right to be safe, to be treated with kindness, to be heard, and to learn] that prohibit put-downs and affirm healthy social behaviour. Problems-solving skills have been taught and practiced in role-play situations, and students are expected to use these strategies before seeking intervention from the teacher. Appropriate behaviours and problems-solving skills are modeled by adults in the room, and are constantly affirmed and reinforced. As a result, children in the room treat each other with kindness and consideration, and readily volunteer to help one another. Outbursts and finger-pointing are rare occurrences. . . . The kids are also responsible for "running" the room--they set things up, clean up afterward, and inspect the clear-up. "They're tougher than I would be."

Caring also is fostered by active involvement with younger children. Each week the children spend time with their "kindergarten buddies," reading to them and sharing their experiences. "I really love to read to my buddy," bubbles Rachel, "and she really likes it, too."

Incentives accentuate the positive. The class earns time that may be used for social activities. Sanctions emphasize logical consequences; for instance, throwing paper would result in a child spending time cleaning up the classroom.

Work expectations vary from child to child. All children are expected to do their best and are encouraged to do so, but Cheval helps where necessary. Some students receive personal assistance from a teacher or aide, some get peer tutoring, and some spend time with parent volunteers . . . .

Engagement in learning is fundamental . . . In [this] classroom, one rarely sees teacher-centred "chalk and talk," whole-group instruction. Nearly all teacher-directed instruction occurs in small groups focused on individual abilities and needs. Much of the rest of the learning occurs in cooperative groups or with partners.

Hugs and smiles are shared in this classroom! A hug to welcome you to school, a quick "squeeze" for a job well done, a smile and nod of encouragement--all these are ways that adults and children alike show their caring.

The pervasive caring that is so evident in the classroom goes beyond its walls. Cheval has an extensive networking system set up to communicate her caring to parents. She already enlists their help in the classroom, and keeps them busy with meaningful tasks when they are there. She sends home newsletters about the classroom activities every week, and solicits feedback from parents. When there are problems or issues to be resolved, she (and often the child involved) phones to enlist the parents' help. She also makes it a point to phone at least one parent each week to report an achievement or improvement. . . .

Appropriate behaviours are reinforced by quiet, usually private, praise. Inappropriate behaviors are dealt with by private conferences and opportunities to “try again”. Rather than externally imposed discipline, problems solving is the key to conflict resolution.

< Identify the problem
< Identify the inappropriate course of action
< List options for next time
< Role-play as appropriate

‘It is time consuming,” Cheval says. “But by spending time at the beginning of the year, I find that the kids learn to solve conflicts in appropriate ways. In the long run, I end up spending less time intervening, and the kids develop some really important skills.”

From: Henderson and Milstein (1996).

An Example of Best Practice: Profile of a High School Classroom, Louisville, Kentucky

There are no rows of desks. Instead students sit in clusters of four or five desks spaced around the room like satellites. One group of students is having an animated discussion about a short play they are writing about life in the 1920s and 1930s. Across the room another cluster of students is putting the final touches on a video documentary on the life of D.W. Griffith, who is buried a few miles away . . . A third group of students is over near the lockers trying on period costumes to wear when they will dance the Charleston and show their fellow students how to do it, while a fourth group is finishing up a gigantic Hooverville house constructed from cardboard. As they work, they discuss the life of the homeless of yesterday and today.

Streible keeps track of all this independent activity, unobtrusively moving from group to group, observing and listening, answering questions, prodding. . . . "I see myself as their academic coach. . . . They are the ones who do the teaching and learning. They teach themselves, and they teach each other."

Streible. . . . genuinely enjoys teenagers. He listens closely to the words they use, and corrects them when a word is mispronounced. . . . While students are working in groups, he may take a student to the side of the room and talk with him or her seriously, individually. There is no room for humiliation in Streible's class.

Streible reports that for many years he was a traditional teacher who primarily taught by lecturing but that he now believes students must take an active role in learning--no easy task, because most students haven't ever experienced taking responsibility for their own learning. He believes this type of teaching, in which students teach themselves and one another, creates true understanding. He says that the students he now teaches are learning much better than previous classes and believes it is because they are motivated by their own interests and control over class projects.

Students agree with Streible. Their reactions convey most clearly the resiliency building that is going on in his classroom. Jenny Abner . . recalls her doubts at the beginning. "I was confused at first," she says. "Can this really work? What if we can't learn from each other? But you really can learn if everybody works together. . . . It makes you feel in control. You learn not only the book skills and facts but the social skills."

The first time I got up in from of the class, I was scared to death." Bonnie [Ford] admits. . . . "I was afraid to move and I spoke very softly so the other kids could barely hear me." She also recalls the doubts she had when Streible explained his approach. . . . "But I've really grown. This year I just get up, and it's nothing. Mr. Streible coaches us, encourages us, cheers us on. He sets up a classroom environment where we learn more, and I mean we learn it, not just memorize it. It's like a dream. . . . Now you can get up in front of class. . . . You can talk. . . . You talk about what you want to, and it makes you feel good. . . . Now I do things. I don't know if it's because of Mr. Streible's class, but I think it's a big part. Before, I'd never go to a party. Now I'm holding my own graduation party." (Fiske, 1992, p. 76)

The same adult attitudes of caring and encouragement, expressions of high and clear expectations, opportunities to learn life skills, taking charge of and participating in education (and extracurricular activities) in meaningful ways, and varied, engaging teaching strategies that bond students to school create an environment that builds resiliency in both elementary and secondary classrooms.

from: Henderson and Milstein.(1996)

Summary

Resiliency theory, with its focus on the innate abilities of individuals to overcome risk, provides a new perspective on working with children from at risk backgrounds. While risk theory sought to identify and overcome factors that place an individual at risk, resiliency theory builds upon the individual's ability to successfully adapt in the face of adversity. This perspective provides educators an opportunity to foster resiliency in children by developing supportive, caring relationships, conveying high expectations, and providing opportunities for meaningful participation of students.

E. Concluding Remarks

This review of the literature has highlighted some of the critical findings from research which relate to students with special learning needs. We have attempted to focus on "best practice," or rather practices, in the research literature that provide some evidence of success with students. We have chosen to discuss the literature surrounding five major issues surrounding special education, followed by exploration of particular issues that have been raised as concerns within the Manitoba context. However, we recognize that a literature review on special needs could be much more comprehensive. We have not discussed current thinking on "best practice" for all the possible exceptionalities within the arena of special education (for example children who are deaf or hard of hearing, children with autism). Each of these exceptionalities could, in itself, be the subject of its own review of literature. Although we encountered research on many of these exceptionalities (and appreciate those who provided us with specific articles), it was not feasible for us to explore all exceptionalities within this literature review.

In these concluding remarks, we would also like to mention that we noted some significant gaps in the existing literature. For example, while we did uncover some research which explores the difficult question of assessment, or more specifically, whether or not large scale assessment should include test scores of exceptional children, this literature is in its early stages. Further, although some literature about the learning needs of Aboriginal children exists (Greenough, Schwean, and Saklofske, 1993), it primarily focuses on the effects of poverty, alcohol, and FAS/ARBD/ARND rather than cultural "best practices" for those Aboriginal children who may have special learning needs. In fact, discussion of special education in varying cultural contexts is not evident in the prevailing literature. As we have also noted,

research on issues such as FAS/FAE and EBD is still in its early development.

We observed that many of the findings in the literature on special education which focused on a philosophy of inclusion are echoed in the growing body of literature on school effectiveness and school improvement. By thinking of special education within the context of educational reform, we are attempting to illustrate that schools focused on improvement are attempting to act in ways that will be supportive of all students and their families. School reform should help to address the special learning needs that many students will exhibit at some time in their school career. The following table illustrates the relationship between inclusive education and school reform.

Issue	Current System	School Reform	Inclusive Education
Students	Divides students into "regular" and "special"	Acknowledges a continuum	Acknowledges a continuum of educational needs
Diagnosis	Requires much time/effort to determine category/label	Identifies needs in relationship to curriculum and learning goals	Identifies needs in relationship to curriculum and learning goals
Instruction	Presumes "special" strategies; emphasizes individualization for special needs students	Effective instruction for all students; individualization important for all	Is concerned with effective instruction for all students.
Services	Special services in separate places	Special support in regular places	Special support and services in regular places.
Professional relationships	Establishes barriers Principal as primary leader	Promotes collaboration Shared leadership	Promotes collaboration Shared leadership
Outcomes	Academic achievement is most valued outcome	Lifestyle, job, home, friends, and choice combined with achievement are valued	Academic achievement is one important value of many, including social skills

Adapted from: Lipsky and Gartner (1997).

"Best practice" whether in the domain of special education or in education more generally, is rarely confined to a single way of teaching and learning that is appropriate in all contexts and for all students. While certain approaches have proven more productive that others, specific practice may need to be adapted or personalized depending on the situation and the child. Also, certain approaches, such as differentiated instruction, are defined by their inherent flexibility and attention to the use of multiple strategies. Ultimately, best practice must be considered that which is most likely to promote positive learning outcomes for the individual child.

CHAPTER V

CROSS-JURISDICTIONAL REVIEW of SPECIAL EDUCATION POLICIES, PRACTICES and PROCEDURES

When reading the following chapter, the reader should remember that the policies being discussed are based upon information provided by the jurisdictions. The extent to which these polices have been implemented is not known and was beyond the scope of this Review.

A. BACKGROUND TO THE REVIEW OF POLICIES, PRACTICES AND PROCEDURES

While findings from the research literature often inform policy decisions, budgetary considerations, and political factors are an important influence on policy matters. Examining the developments in other provincial and territorial jurisdictions in the area of special education provides insights into current polices, practices and procedures which serve to complement information found in the research literature.

As part of this Review, special education representatives in each provincial and territorial department were contacted. In addition, provincial government "Internet Home Pages" were accessed to retrieve information. These activities resulted in the receipt of information from the following jurisdictions:

< Ministry of Education, British Columbia;
< Alberta Education;
< Saskatchewan Education;
< Manitoba Education and Training;
< Ontario Ministry of Education and Training;
< Ministère de l'Éducation, Gouvernement du Quebec;
< New Brunswick Education;
< Nova Scotia Department of Education and Culture;
< Prince Edward Island Department of Education;

< Department of Education, Newfoundland and Labrador;
< Northwest Territories, Education, Culture, and Employment;
< Yukon Department of Education; and
< selected American jurisdictions.

The following discussion will be presented according to policy and practices/procedures identified in the information reviewed. As one might expect, the amount of information and level of detail provided varied greatly. Furthermore, not all the information provided was included in the discussion that follows, as it was not seen as being relevant to the overall Review.

The following discussion presents the information according to jurisdiction using the "policy/philosophy" and "practices/procedures" categories as conceptual guidelines. All Canadian jurisdictions are discussed, followed by selected examples from the American experience.

B. Overview

Upon review of the policies and practices in Canada, a number of commonalities surfaced. They can be summarized in the following points.

< Provincial jurisdictions in Canada (like their counterparts in the United States and elsewhere), are attempting to redefine the relationship between regular and special education. In the past, policy directions were focused on where a child with special learning needs should be placed. Recent Canadian policy in special education is challenging school boards, educators, parents, and students to rethink their understandings about special education as something different from regular education, to one which considers the individual learning needs of all students. At the same time, however, all provincial policies have continued to opt for a model that allows for alternative placement when it is considered to be in the best interests of the student. Concurrently, there is a movement away from funding based on the categorization of students and towards a belief that individual student needs should drive funding decisions.

< Provincial special education policies also recognize that children with special learning needs often have multiple needs and, therefore, provinces, are developing interagency agreements to better support children and youth.

< Many provinces/territories have become more prescriptive in the roles, procedures and responsibilities to be followed by all stakeholders. Their directions to divisions/districts are based on a desire to implement legislation and policy dealing with the provision of supports and services to students having exceptionalities.

< Policies in special education are also reflecting findings from the research literature. Findings from the literature indicate the benefits of inclusion with alternative placements, flexible funding, early identification programs, active parental and community involvement, transitional support, collaborative/team teaching, and meaningful links among related organizations. Recent provincial special education documents from across Canada are addressing these issues, and are involving parents as critical members of the support team when planning and implementing supports for children with exceptionalities. In addition, the special education policies in a number of provinces/territories including Yukon, New Brunswick, Newfoundland and Labrador reflect many of the best practices identified in the literature on school improvement and inclusive schools.

1. Policy/Philosophy

Canadian provincial and territorial governments, either through policy directives or legislation, have moved to ensure that children with exceptionalities have access to education. Inclusion is the philosophy currently being advocated by almost all Canadian jurisdictions. This approach calls for the delivery of educational programming to students with special needs to be set in regular neighborhood classrooms with age appropriate peers. When it is determined that the needs of the students with exceptionalities cannot be met in a regular setting with supplemental supports, other options (i.e., the most enabling) are to be considered. The integration - inclusion debate has been resolved by recognizing that integration is a method to achieve inclusion. Provinces/Territories commonly state that the pursuit of a philosophy of inclusion is predicated upon the desire to ensure that all individuals have equity of access and opportunity in education as well as in the larger society.

2. Practice/Procedures

Canadian Jurisdictions speak of the relationship between "regular" and "special" education, with many suggesting that the provision of supports and services occur along a continuum of need. Many of the provinces/territories have publications/manuals which outline, policy, legal requirements, procedures and roles/responsibilities at the Department, division/district, school, parent and student levels. A number of different formats are used to detail policies, definitions, procedures and guidelines. Manitoba has published a series of documents which outline policy and preferred procedures, however, they are not available as a single document or from a single source.

3. Coordination of Services

There is a move across Canada towards for a more coordinated approach in the provision of services to children. Attempts at improving the coordination of service delivery reflects the realization that, historically, service delivery has been fragmented, and specialized services have not been available at every school. There is also a desire to utilize more effectively existing resources in order to meet the needs of children. To achieve this end, jurisdictions have developed policies, as well as multi-department protocols and initiatives. One focus of the coordination of services and supports is the planning and implementation of effective pre and post-school transition. While some jurisdictions require school divisions/districts to have planned service delivery coordinated with other service providers, other jurisdictions provide guidelines which they suggest are followed.

Manitoba is no exception to this move towards a better coordinated system of service and program delivery having itself developed protocols and pilot projects. One of the objectives in the establishment of the Manitoba Children and Youth Secretariat was to facilitate the coordination of services for children, youth and their families. All jurisdictions emphasize the importance of parental involvement in planning the provision of services and supports to students.

4. Identification/Assessment

Provincial/territorial jurisdictions recognize the importance of early childhood identification and intervention and have a number of different policies/procedures to address this reality.

For students having exceptionalities not identified prior to entry to school, the identification/assessment process consists of several phases moving from identification to assessment to program planning. The process of identification/assessment can take a number of stages including classroom based identification; referral to school-based teams, and referral to outside specialists for extended assessment. Information resulting from the assessment process provides a better understanding of the students' strengths and needs important in the development of an effective student individualized program/education plan.

Jurisdictions have outlined appropriate procedures and guidelines for use in the process of identification and, assessment. All jurisdictions acknowledge the importance of parental involvement and where appropriate, the student. A number of jurisdictions require written parental consent process prior to formal individual assessment, while others suggest meaningful parental involvement prior to decisions regarding identification, planning, monitoring and placement. Manitoba is similar to other jurisdictions in that assessment is seen to be systematic and is a pre-requisite for special programming and placement. Both program and placement decisions are to be made in "the best interest of the student" in order to provide the most appropriate education within "the most enabling learning environment". Manitoba suggests the approach be cooperative involving all persons having information relevant to the student. As with other jurisdictions, Manitoba recognizes the importance of early identification and intervention stating that "school divisions/districts shall provide early identification and intervention programming".

5. Individual Education/Program Plan (IEP/IPP)

IEPs/IPPs include goals, measurable objectives and expected outcomes and strategies for obtaining these outcomes. Most jurisdictions specify that they are to be reviewed and updated at a minimum of once a year, while Nova Scotia requests a review of at least twice a year. The Yukon requires a review of the IEP within two months of implementation and then the

student's progress towards IEP goals is to be reviewed during the school's normal reporting period.

The IEP/IPP is the action plan developed to ensure that appropriate programming is in place to meet the needs of exceptional students. A team approach is utilized in the development of this document, including parents. Many jurisdictions require that the document be signed by the parents prior to the implementation of the plan. The IEP/IPP provides information to parents of the accommodations and adaptations being made for the student. Types of information found in this document include: descriptions of services required, description of program modification, long-term goals, objectives, assessment information, areas of strengths and needs, areas of responsibility and review dates. Manitoba's approach is similar to other jurisdictions in that the IEP is linked to daily instruction, is developed by a team which actively includes parents and outlines responsibilities. The IEP is reviewed at the end of the school year, or if the student transfers to another school making recommendations for the coming year.

The above discussion provides a brief overview of information from other jurisdictions in Canada. In Canada today, special education programming is inclusionary in philosophy, providing supports and services to students along a continuum. All jurisdictions speak for the need for meaningful involvement of exceptional students and their parents in education. The degree to which this has been successfully accomplished has not yet been systematically determined across the country.

C. Policy Review - Canadian Jurisdictions

1. British Columbia

a. Policy/Philosophy

The primary goal of the school system in British Columbia is to support, with families and communities, the intellectual development of students. Schools, families and community are seen as jointly sharing the responsibility for enabling students to realize human, social and career development. These goals apply to all students, including students with special needs. School boards are to make available educational programs

to all school age persons resident in the district. There is a requirement that special needs students be integrated with students who do not have special needs "*in most instances*".

British Columbia pursues a philosophical position of inclusion, defined as "equitable access to learning by all students and the opportunity for all students to pursue their goals in all aspects of their education" (The Province of British Columbia Ministry of Education, Special Education Branch, Special Education Services*:* A Manual of Policies, Procedures and Guidelines). While the approach is one of meeting the special needs of students in their neighborhood classrooms with age and grade peers, there is an acknowledgment that inclusion does not preclude the "appropriate use of resource rooms, self-contained classes, community-based training or other specialized settings". Any attempt to place a special needs student in a setting other than a neighborhood classroom is to occur only after it becomes clear that an integrated setting, in combination with supplementary supports, cannot meet the needs of the student or that the partial or full placement in another setting is the only option after considering the educational needs of the special needs student and others.

According to the British Columbia Ministry of Education, Skills and Training, students with special needs are defined as having "disabilities of an intellectual, physical, sensory, emotional or behavioural nature, or have a learning disability or have exceptional gifts and talents".

In British Columbia the Ministry's policy related to inclusion is as follows:

< school boards are to provide students having exceptionalities with an educational program in a classroom where they are integrated with other students not having special needs, unless the educational needs of the exceptional students or of other students indicate that the educational program for the exceptional student should be provided otherwise;

< classroom teachers in neighbourhood schools whose classrooms include exceptional students are to adapt instruction and evaluation methods and materials as necessary;

< students having exceptionalities are to be placed in settings other than a neighbourhood school classroom with age and grade peers only when the school board has made all reasonable efforts to integrate the student, and it is clear that a combination of education in such classes

and supplementary support cannot meet their educational or social needs, or when there is clear evidence that partial or full placement in another setting is the only option after considering their educational needs or the educational needs of others; and

< placing students with exceptionalities in settings other than neighbourhood school classes with their age and grade peers should be done as part of a plan that is regularly reviewed and updated with a view to returning these students to neighbourhood school classrooms as soon as it is feasible.

b. Practices/Procedures

The Ministry maintains a separate branch responsible for ensuring the equitable participation of special needs students in the education system. The Branch is responsible for a number of activities including: the setting of standards; developing policies and procedures; reviewing and monitoring special education programming; coordinating ministerial directions in special education; working with other ministries to increase the efficient delivery of non-educational supports to exceptional students; establishing and maintaining appropriate special education evaluation procedures; fostering professional development for teachers, administrators and support staff; and the identification and provision of advice regarding best practices in special education.

The Ministry also has outlined the roles and responsibilities for each of the partners collaborating in the formulation and delivery of services and programming for special needs students. School districts are responsible for ensuring that special education services and programs are delivered to all students having needs.

Districts are to ensure that services generally available to all students and their parents are also available to students having exceptionalities. In order to meet this responsibility, the Ministry has outlined roles and responsibilities for the districts that include: program development and delivery; staff development; information dissemination; what should be included in local policies and procedures; and organizational considerations and administrative considerations at the district level. The roles and responsibilities of schools include administration, teachers and teacher

assistants. Parents and students also are provided with an outline of expected roles and responsibilities.

i. Coordination of Services

As previously mentioned, to the greatest extent possible, exceptional students are to be integrated into the regular classroom with adaptations to instruction and evaluation methods. The necessary adaptations may involve a variety of supports including school-based resource teachers, itinerant teachers, or other specialists. It is believed that a small number of exceptional students require specialized services only available from agencies at either the community, regional or provincial levels. Specialized services that cannot be provided at every school level are to be made available at the district level, or else the districts are to arrange for them to be provided from other community sources.

Schools and school districts are to organize themselves in order to ensure that they can provide the programs and services to students with special needs.

> This includes planning with other ministries and community agencies where necessary. Many of the services required to support students with special needs are available through community-based agencies or other ministries through inter-ministerial protocol agreements.

On those occasions when the size or location of the school district prevent the services from being provided, school boards are directed to plan collaboratively with other districts.

Schools are to provide “timely supports” to classroom teachers having special needs students in their classroom. Formal problem solving units, such as school-based teams, are to provide a planning and coordination function for the delivery of services to special needs students, as well as assisting teachers with the development of effective strategies.
When students require services and supports provided by other community-based agencies (e.g., medical or therapeutic services, mental health workers, rehabilitation counsellor, social worker), coordination must occur to avoid duplication. The school-based team is seen as being responsible for cooperating with the community services and is to play a key role in:

- keeping school staff informed;
- acting as a referral source;
- planning the delivery of services with community partners through the case manager;
- ensuring school-based services are coordinated with community services;
- documenting in the IEP the community services that are provided and who responsible for delivering them;
- assisting in the review and evaluation of service delivery;
- facilitating and planning the transition of students from the school to the community;
- documenting the need for services; and
- facilitating the continuity of coordinated supports when students transfer between schools/districts.

The Ministry states that the process to ensure appropriate programming for exceptional students should be continuous and flexible. The process, as conceptualized by the Ministry, consists of five components: identification/assessment; planning; program support/implementation; evaluation; and reporting. For each component, the Ministry outlines stakeholder roles and responsibilities.

ii. Identification/Assessment

The following discussion presents an overview of the identification and assessment beginning with pre-school identification.

Early identification is viewed as an essential element of successful program planning for exceptional students. For those students identified prior to entering school, support personnel are directed to request assessment and programming documentation “with haste” in order to permit planning.

In instances when students have exceptionalities which are not identified prior to enrolment, or have obvious and severe special needs not previously identified, the school-based team is directed to respond “promptly” to a teacher’s request to determine the need for assessment, planning and intervention.

The Ministry suggests that the process of identification/assessment consists of several phases which include: pre-referral, referral to the school-based team and referral for extended assessment.

Again, the roles and responsibilities for all stakeholder groups are outlined for each of the identification/assessment phases. For example, the school-based team is seen as consisting of regular members as well as specific members determined on a case-to-case basis. It may involve parents or students "as appropriate". When approached for assistance in the identification/assessment process, the school-based team is to be responsible for:

< extended consultation on possible classroom strategies;
< planning for and coordination of services for the student;
< access to additional school, district, community or regional services; and
< planning for and coordination of services in the school.

Referral for Extended Assessment

Again, the extended assessments are to provide a better understanding of the student's strengths and needs. As part of the extended assessment process, school districts are directed to ensure that:

< informed, written consent for the assessment is received from the parent and, as appropriate, the student;
< specialists are sensitive to cultural, linguistic and experiential factors when selecting assessment procedures and interpreting assessment results (The use of interpreters may be necessary to facilitate the assessment and planning process.);
< information gained is readily usable for purposes of planning, and easily integrated into the student's Individual Education Plan;
< specialists communicate and interpret assessment findings to the parents, the student and staff; and

< the written report of the assessment is made available to the parents, the staff and, when appropriate, the student, in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act.*

Individual Education Plan (IEP)

Once identified as having special needs, the planning process is to begin, which results in the development of an IEP. The student, parents and educators identify appropriate educational goals and objectives as well as strategies for attaining them. The IEP is to also identify the commitments the education system makes to assist the student in realizing the stated goal and objectives. An IEP is to be developed for each student identified as having special needs, unless:

< the student with special needs requires only minimal adaptations to educational materials, or instructional or assessment methods;
< the expected learning outcomes established by the applicable educational program guide have not been modified for the student with special needs; and/or
< the student with special needs is receiving, in a school year, 15 hours or less of remedial instruction by a person other than the classroom teacher in order for the student to meet expected learning outcomes.

Minimally, the IEP's are to be implemented, reviewed and undated annually. When goals established for students differ from the expected outcomes for age or grade they are to be set high but attainable in order to encourage parents, students and staff to hold high expectations. These goals are also to be accompanied by measurable objectives in order to allow for IEP review and evaluation.

2. Alberta

a. Policy/Philosophy

The mandate of Alberta Education is to ensure that students have the opportunity to "acquire the knowledge, skills and attitudes needed to be self-reliant, responsible, caring and contributing members of society" (Guide To Education for Students with Special Needs, (Alberta Education, Special Education Branch, 1995).

Policy 1.6.1 which deals with the Educational Placement of Students with Special Needs states that regular classrooms in neighbourhood or local schools are to be the first placement options considered by school boards in consultation with students, parents and school staff. This policy reflects a philosophy of equality, sharing, participation, and valuing the worth and dignity of individuals. This policy goes on to state that:

> ... most Albertans agree that students with special needs must be full participants in school and society. These students have the right to take part in regular school activities, and when they do so, they have a better chance of developing their full potential. School boards are ultimately responsible for making placement decisions that are in the best interest of individual children and all of the children they serve (Policy 1.6.1.).

Integration is seen as occurring when appropriate supports are provided to allow for meeting the physical, intellectual, social, and emotional needs of special needs students in regular neighbourhood classroom settings with non-disabled, same age peers.

Alberta Education defines students having special needs as needing special education programming because of behavioural, communicational, intellectual, learning, or physical characteristics; students who require specialized health care services or, students who are gifted and talented.

Furthermore, Alberta Education recognizes the importance of early childhood in human development and have a policy which "supports Early Childhood Services' programs that address the learning needs of children before they enter grade one" (Alberta Education Policy 1.1.3 - Early Childhood Services). Early Childhood Services (ECS) provide additional supports for special needs children.

b. Practices/Procedures

As in British Columbia, Alberta Education has a Special Education Branch. This branch is responsible for ensuring that all students having exceptionalities are provided with the programming and services they require to realize success in school. In carrying out this responsibility, the branch plays a leading role in the formulation of legislation, policy and

programming delivery requirements and expectations related to special education programming in Alberta. Their responsibilities are in the areas of funding approval and monitoring; administration and coordination of the Special Needs Tribunals; development, authorization and dissemination of resource information; supporting improvements in the coordination of services for children; and promoting safe learning and teaching environments and the reduction of violence in Alberta.

i. Coordination of Services

A need was recognized "for fundamental change to the way children's services are provided in Alberta" (Alberta Education - Special Education Branch Update, January 1997). A number of protocols, initiatives, plans, policies, bulletins and guidelines have been released since 1995 which outline expectations in the area of service coordination. The document Guide To Education for Students with Special Needs (1995), outlined requirements for the coordination of children's services, which required school authorities to have planned delivery coordinated with other community service providers. In addition, school authorities were to develop procedures that maintained ongoing communication with parents, community agencies and other professionals in order to facilitate the provision and coordination of appropriate services and the development of transition plans. School authorities were also to plan and provide services to children that were consistent with the recommendations of the Commissioner of Services For Children.

The latest initiative, Redesign of Children's Services Initiative, is a province-wide thrust to increase the coordination of services for children provided by Education, Family and Social Services, Health, Justice, Community Development, Aboriginal Affairs, and the Alberta Alcohol and Drug Abuse Commission (AADAC).

Guidelines for transition planning reinforce a coordinated approach. Transition teams are to include the student, family members, teachers, other school personnel, social workers, speech therapists, and/or other appropriate specialists. The teacher is to play an important role in Transition Planning by initiating the process and coordinating the development of the plan, making parents aware of alternatives, identifying referral needs, and ensuring referrals are made. It is recommended that transition planning start in elementary school. Alberta Education also highlights the importance of

transition plans in linking youth to the community as they prepare to graduate from secondary school.

Decisions concerning the provision of services to students having exceptionalities sometimes depend on whether the service is distinguished as fundamentally educational (e.g., academic or behavioural), or medical (e.g., physiotherapy or catherization). If the service is found to be medical, the local health authority may be required to provide the service during the school day. The Ministry advises parents, school staff and local health authorities to work together to meet the medical needs of the student during the school day. Similarly to British Columbia, Alberta emphasizes the responsibility of parents to participate with schools as effective team members.

ii. Identification/Assessment

Alberta Education require assessments "to determine suitable educational goals, instructional strategies and services in support of the student's program". In order to accomplish this requirement, school authorities are responsible to:

< use results of assessments provided by specialists, school staff and/or parents to plan programs;
< require that qualified individuals conduct assessments and interpret to parents, teachers and others involved with the student's program, the assessment results and any program planning recommendations;
< require that assessment results be used to develop IPPs (Individualized Program Plans);
< require that when psycho-educational assessments are necessary, they are conducted and results are interpreted, recorded and used according to Alberta Education's expectations outlined in Standards for Psycho-Educational Assessment (1994);
< require that where students require special provisions for testing, these are available for school-based and provincial assessments; and
< use a variety of assessment strategies to assess student performance.

The assessment process, which is ongoing, moves from the informal to the formal. Assessments can be required by teachers in consultation with parents. Assessments can also be requested by other school staff. Once a request for assessment is made, it is to occur within four weeks of the

referral date. Assessment results are first used by the school jurisdiction to determine if the student is in need of special education or related services and to determine appropriate placement, programming and supports for the student. While the Ministry notes that, ultimately, the school jurisdiction is responsible for placement, they advise that placement decisions should be made by the administrator in consultation with school staff, parents and, where appropriate, the student.

Parents are advised that they should keep the following factors in mind when considering placement options.

< What environment best meets the overall educational needs of your child?
< What is best for all students in the classroom and the school?

Parents are also informed that "school jurisdictions should be able to provide alternative placement options so that every student with special needs has an appropriate program".

If the results indicate that the student requires special education support or an Individualized Program Plan (IPP), the school jurisdiction is directed to establish a student support team which includes: parents, teachers, the student (when possible), and appropriate others such as social workers and teaching assistants. This team is responsible for the review of the assessment information and the development of an IPP for the student.

iii. Individualized Program Plan (IPP)

According to Policy 1.6.2 - Special Education, school authorities are required to provide special education programs based on Individualized Program Plans which are designed to meet the educational needs of identified exceptional students. Educational programming for special needs students is to be based upon the results of ongoing assessment and evaluation and the IPP. As outlined to parents by Alberta Education, an IPP:

< is a mandatory requirement of Alberta Education for each student identified as having special needs;

- is a written agreement by an educational team;
- is meant to ensure the provision of appropriate programming for students with special needs;
- establishes learning goals for the child;
- states the special education and related services the school will provide for the child; and
- describes
  - what the student now knows and is capable of doing,
  - what and how the student should learn next,
  - where the instruction will take place,
  - who will provide it,
  - how long it may take, and
  - what the student will do to demonstrate learning.

As stated in the Alberta Education policy, the IPP is to be a concise action plan which addresses the student's special needs, is based on diagnostic information and provides intervention strategies. All students with special needs, from severely disabled to the gifted and talented, require an IPP.

An appeal process has been established in which the parent and/or the student, if s/he is 16 years of age or older, can appeal a decision which "significantly affects the education of the student" to the board. As directed by the Ministry, if the board makes a decision on appeal, the parent and/or student, has the right to appeal to the Minister. If the board determines that a student has exceptional needs that cannot be met through programming provided by the board, the matter is to be referred to a Special Needs Tribunal. The Tribunal is charged with the responsibility to either confirm or reject the board's decision. If confirmed, the Tribunal determines services required and allocates the costs of providing these services under the special needs plan between the board and the government. If rejected, the board is to provide the needed programming and services. Both the board and parent are to comply with the Tirbunal's decision which is to be reviewed at least every three years. A parent or the board has the right to request in writing that the Minister review a decision made by the Special Education Tribunal.

3. Saskatchewan

a. Policy/Philosophy

As noted in the Special Education Policy Manual - Draft, April 1996, Education in Saskatchewan is based on a commitment to addressing the needs of the individual, including children and youth with exceptional needs. Furthermore, legislation in Saskatchewan requires that educational services are provided to all students between the ages of 6 and 22 years of age, at no cost to their parents. The goals of education are to direct the efforts to develop the potential of all students through the affirmation of the worth of each individual and the laying of a foundation for life-long learning.

Saskatchewan Education believes that "the purpose of special education is to provide appropriate educational opportunities and equitable benefits for all children and youth with exceptional needs". The placement of students with exceptional needs is to occur through inclusion in the regular classroom in the neighbourhood school. This is viewed as being the norm and "alternative placements are to be used only when a legitimate case can be made for using the alternative". Educational needs must be met in a program that is "appropriate to the requirements and circumstances of the student with exceptional needs".

As stated in the Saskatchewan Special Education Policy Manual, the following beliefs reflect the philosophy upon which special education in Saskatchewan is based.

< Educational programming enhances the individual's capacity to grow as a member of a community where people learn, work and live together in supportive relationships that accept individual differences and foster shared responsibility.

< Early special education intervention prevents more serious educational problems and improves the chances of educational success.

< Students with exceptional needs require educational experiences in the most appropriate environment that allows them to achieve their individual learning goals. The determination of the most appropriate environment is based on the student's educational program.

- It is essential that educational programs for students with exceptional needs reflect a balanced curriculum that is consistent with the Goals of Education for Saskatchewan.

- Educational programs are adapted and modified and educational support services are provided to meet the individual requirements of students with exceptional needs.

- Education of students with exceptional needs is a responsibility shared by Saskatchewan Education, Boards of Education, parents, and students.

- Educational programming involves collaboration and cooperation among those involved. There must be systematic program planning based on the strengths and needs of students, involving parents, students (where appropriate), professionals from related disciplines, and para-professionals.

- Students with unique cultural or linguistic backgrounds may require special attention when educators are planning and organizing educational programs and services. Care must be taken to ensure that students with unique cultural or linguistic backgrounds are not inappropriately placed in special education programs.

Saskatchewan policy places an emphasis on the importance of inclusive education. It describes inclusive schools as being characterized by:

- a school-wide philosophy that supports inclusive education;

- curricular offerings that are broad enough to meet the diverse needs of all students;

- a common knowledge, language and skill level that fosters effective communication and promotes adaptations to meet student diversity;

- opportunities for teachers to meet, problem-solve and plan for individuals or groups of students; and

- school-based and system-based administrators who support and facilitate inclusion.

School divisions/districts are responsible for the delivery of programming and related services to students residing within their jurisdiction. Boards of education are required to prepare a Special Education Master Plan which includes the policies, organization and management of special education in the school division.

Students are defined as having exceptional needs if they have been identified as having "physical and/or intellectual needs that are more specialized than those usually found in the regular classroom". These students may require adaptations to the regular program, alternate programs, special services, and/or special equipment.

b. Practices/Procedures

The Special Education Unit is part of the Curriculum and Instruction Division of Saskatchewan Education and has responsibilities within the K-12 system. Unit policies apply to students until the age of 21 years and also include pre-school children with disabilities. The Unit's mandate also includes transition policies related to adult and post-secondary settings. The Regional Coordinators of Special Education have as their responsibilities; consultation, monitoring, data collection, and in-servicing related to special education in their region. The major functions of the Special Education Unit are in the areas of support services, programming, administration, funding, and policy.

The Unit provides support and assistance to school divisions in their role as the providers of appropriate programming and support services to children and youth with exceptional needs. As defined by the Special Education Unit, children with exceptional needs include students with visual disabilities, chronic illness, orthopedic disabilities, intellectual disabilities, multiple disabilities, deaf and hard of hearing, learning disabilities, social and behavioural disabilities, speech and language disabilities, mild and moderate disabilities, and gifted learners.

i. Coordination of Services

The integration of school-linked services for children with exceptional needs is to follow the guidelines of the provincial policy framework Working Together to Address Barriers to Learning (Saskatchewan Education, Training and Employment, September 1994).

The "Children First: Integrated School-Linked Services Program" is one initiative undertaken in partnership with the Saskatchewan Government and the Saskatchewan school system. This initiative resulted from a desire to respond to the growing numbers of Saskatchewan children entering the school system with complex social, emotional, behavioural, health, and developmental problems. This initiative also recognized the central role the school plays in many communities and the importance for community, government, and non-government organizations to work together more effectively. In order to put the existing resources to most effective use it was believed that the services have to be available in a coordinated, comprehensive manner. The document postulates that there is a need to re-think how service is provided. How can the school, community, government, and non-government provide integrated and coordinated services focused upon the child and the family?

Saskatchewan policy document, Working Together to Address Barriers to Learning: Policy Framework (1994) puts forth four reasons for needing a collaborative, integrated approach. The first is the estimated 30% to 40% of Saskatchewan children who are at risk. The second reason is the history of service fragmentation and lack of coordination for families at the community and provincial levels. The third reason is the desire for an increasingly efficient and effective use of government and community resources. The fourth and final reason is that this new approach is seen as addressing the need for prevention, reducing the risks and disadvantages experienced by children. The initiative strives to ensure that all students "will have the physical, social, emotional, cultural, and spiritual supports needed to learn and grow to become self-fulfilled, caring, and contributing adults. Saskatchewan's human service delivery system will be coordinated, comprehensive, and responsive in meeting the needs of children and families at risk".

The guidelines for the development of school board policy identify the need for ongoing and collaborative working relationships with other agencies and government departments. It is suggested that school and local level

services need to be organized "to make the most effective use of available resources in meeting the needs of children and youth with exceptional needs and ensuring the maximum parent and family involvement". Therefore, school boards are encouraged to develop guidelines for the development of protocols or local agreements dealing with the integration of support services. It is also suggested that where possible local service providers should be involved in the development and implementation of a student's Personal Program Plan.

ii. Identification/Assessment

The policy dealing with student assessment stipulates that students with exceptional needs are to have a "comprehensive formal assessment" at least once during each major transition period which includes: pre-school - elementary; elementary - middle; middle - secondary; and secondary - post-secondary/adult. Parents are to be informed and consulted regarding any assessment which precedes a recommendation or decision regarding the placement of their child.

When differences arise regarding a student's placement that cannot be resolved at the local school division level, the parents have the right to request Saskatchewan Education to review the school division appeal or review process as it applies to their child.

Additionally, Saskatchewan Education recommends that school boards have procedures to deal with complaints from parents regarding education programming in their division. It is suggested that the procedures include a formal appeal or review of a school division decision related to special education. Saskatchewan provides a number of guidelines to boards for the formulation of appeal and review policies.

The assessment process is predicated upon the assumption of "fair treatment". Saskatchewan Education provides guidelines for the development of policies related to fair treatment. However, it is assumed that fair treatment implies that parents are consulted and their views are considered prior to decisions being made regarding identification, planning, monitoring, and placement.

iii. Personal Program Plan (PPP)

In Saskatchewan, the Individualized Program Plan, is called the Personal Program Plan. It is to serve as a guide for the day-to-day work of all teachers and resource personnel involved with the student. It is also intended to provide parents with information regarding accommodations and adaptations being made for the student. Policy stipulates that a plan must be developed for each student with a designated disability. The plan should be available for review by the Special Education regional coordinator. Furthermore, each student receiving ongoing special education interventions should also have a Personal Program Plan. Alterations to the student's education programming must be done in consultation with parents.

iv. Special Education Master Plan

The Special Education Master Plan appears to be similar to what were Manitoba's Annual Divisional Action Plans (ADAP). In Saskatchewan, each school division is to submit a written Special Education Master Plan to the Special Education regional coordinator. Policy also directs that changes to service delivery necessitate amendments to the Plan. The Plan is to address areas such as: the division's commitment, delivery system, quality indicators, and emerging needs.

4. Ontario

a. Policy/Philosophy

Over the last several years, the Ontario Ministry of Education and Training has been engaged in a major restructuring of the education system. Bill 82 provides the foundation for the current legal framework for the education of exceptional students in Ontario. This Bill made it mandatory for all school boards to provide, or purchase from another school board, special education programs and services for their exceptional students. The Ministry of Education and Training "remains committed to the principle that the integration of exceptional pupils should be the normal practice in Ontario, when such a placement meets the student's needs and is in accordance with parental wishes " (Resource Manual for The Special Education Grants Intensive Support Amount (ISA), Ministry of Education and Training, 1998).

While integration is the desired option, other options remain available, such as placement in a special class or provincial or demonstration school. These options are available to those students whose needs cannot be met in a regular classroom setting.

b. Practices/Procedures

Ontario is currently undergoing a process of reviewing and changing major aspects of the design delivery and funding of education in the province.

i. Individual Education Plan (IEP)

This plan includes specific objectives and an outline of the programs and services that will be delivered to meet the needs of the exceptional student. The IEP is to clearly demonstrate the level of support that is required to meet the student's needs. Students receiving categorical funding are to have IEP's which will be used to "develop and deliver an appropriate program and to be able to report the child's progress to parents clearly and honestly".

The IEP is to include: description of the special education services required, personalized special instructional equipment, related health issues, the student's areas of strengths and needs, a description of the program modification, general classroom accommodation, program area of focus, long-term goals, achievement/assessment data, achievement review methodology, and a transition plan if the student is 14 years of age or older.

ii. Identification/Assessment

Assessments are to be used to support the need for equipment and/or specialist teachers, as well as to document the level of need for high needs students. Qualified practitioners and/or professionals are to be used in providing sufficient evidence required to qualify for categorical funding.

5. Quebec

a. Policy/Philosophy

In the fall of 1994,the Minister of Education published the main guidelines for education reform in the Province of Quebec. There were seven main lines of action, one of which provides more autonomy to schools. It was argued that one of the main factors in ensuring that as many students as possible achieve success is the ability of the school to adapt their services to the needs and characteristics of the population they serve. In order to achieve this, a number of proposed amendments are currently under review.

The Province of Quebec's policy on special education was first released in 1982, and was updated in 1992. The Ministère (MEQ) believes that all individuals should have the opportunity to develop their abilities regardless of their limitations, and supports this through Section 1 of the Education Act which stipulates that everyone of school age is entitled to educational services provided by school boards.

The Ministère believes "that all students with handicaps or difficulties have access to quality educational services in the most normal environment possible" (Educational Success For All - Ministère de l'Éducation, 1992, page 4). The Ministère believes that there are five components that must be taken into consideration in the pursuit of the realization of this objective:

< the complimentary nature of learning and integration into society;
< the role of regular classes;
< the participation of parents;
< the nature of the standards for the organization of educational services; and
< other aspects of educational success.

The Ministère suggests that particular care must be taken with special needs students as they are the most susceptible to the dangers of segregation in larger society. They argue that given that the regular classroom is an environment well suited to learning it is the preferred means of integrating students into society. Therefore, the Ministère believes that the regular classroom should be the first placement choice for all boards. As they suggest, "with appropriate adaptations, a regular class can be effective for

all students even if it serves students with considerably different needs" (Educational Success For All - Ministère de l'Éducation, 1992).

The school system is called upon to meet the following challenges:

< to ensure that all young people of school age receive education, regardless of their handicaps or difficulties;
< to adapt educational services to ensure quality education for all; and
< to favour integration into regular school and classes in order to promote integration into society.

b. Practices/Procedures

In order to more effectively coordinate services between the two departments, in 1990, The Government of Quebec developed an inter-departmental agreement with the Departments of Social Services and Health Services.

6. New Brunswick

a. Policy/Philosophy

Over the past decade, the Province of New Brunswick has made a number of changes to the organization and structure of their educational system. In 1986, the province introduced legislation to improve the programs for exceptional children. Passed in 1988, Bill 85 was significant in that:

< the Minister of Education and school boards were responsible for the education of all children in New Brunswick who qualified by age and residency, repealing a previous Act that permitted school boards to refuse admission to certain children;
< an emphasis was placed on individual programming and learning needs, rather than on category of handicap; and
< school boards were instructed to place exceptional children in regular classrooms with non-exceptional pupils, unless the placement was detrimental to the needs of the child or other children.

According to Bill 85, students with exceptionalities are defined as being individuals for whom a special education program is considered a necessity. This may be individuals having behavioural, communicational, intellectual, physical, perceptual or multiple exceptionalities.

In 1987 the Department of Education released a document which outlined its philosophies and working guidelines on integration. As argued in an article written by Porter and Roberts (1989), the department's position can be summarized as follows:

< students having special needs will have those needs met;
< exceptional students are to be educated with their same age peers in the most enhancing environment in which their educational and related needs can be met;
< removal of exceptional pupils from the regular class environment should occur only when extensive and appropriate individual program planning indicates that education in regular classes with the provision of supplementary supports and services cannot meet the students' educational and social needs; and

< if removal from the regular class is deemed necessary, this should occur for a limited time period and with a goal oriented plan focused on returning the child to the regular class.

In 1991-92, the Student Services Branch of the Department of Education initiated an integration review process which included public consultation and structured data collection. This information formed the basis for establishing new standards of practice to meet the needs of exceptional students in integrated settings. As a result of this process, a framework of beliefs and principles was developed and published in a policy document entitled Best Practices for Inclusion (1994). The beliefs and principles are considered to reflect a commitment to inclusive education and include:

< all children can learn;
< all children attend age-appropriate regular classrooms in their local schools;
< all children receive appropriate educational programs;
< all children receive a curriculum relevant to their needs;
< all children participate in co-curricular and extra-curricular activities; and
< all children benefit from cooperation and collaboration among home, school and community.

New Brunswick policy reflects a view that “all children are special” and, accordingly, each child is to have an individual learning plan.

b. Practices/Procedures

i. Coordination of Services

The 1994 policy document also included directions for best practices for the School Learning Environment; Collaborative Planning; Administration; Social Responsibility; Curriculum Planning and Implementation; Support Programs and Services; Classroom Practices; Planning for Transition; Partnerships; Systems and Staff Growth; and Accountability. These directions include:

< school districts hold regular public consultations to promote community involvement and support;
< schools use various models of peer collaboration to ensure mutual assistance, professional support and problem solving; and
< schools promote students’ participation in community volunteer organizations, student government and decision-making on school and community issues.

ii. Identification/Assessment

According to Bill 85, a special education program is “based on the results of continuous assessment and evaluation and which includes a plan containing specific objectives and recommendations for education services that meet the needs of the exceptional pupil”.

Once identified as experiencing difficulty in the regular classroom, the teacher collaborates with the Resource and Methods Teacher. Collaboration might occur in the area of identifying the student’s strengths and needs, teaching styles and adaptations. Parents are involved in the planning, implementation and follow-up of educational interventions. If the teacher desires additional support, s/he may access the Teacher Assistance Team. The intent of the current approach is to spend time supporting the teacher in adapting the regular setting to meet the student’s needs.

The Resource and Methods Teachers are required to have special education qualifications in the following areas: communication; collaboration and liaison; assessment; program development; resources; instruction; and monitoring.

7. Nova Scotia

a. Policy/Philosophy

The Department of Education and Culture believes that "all children in Nova Scotia need a broad-based, quality education. Quality education is demonstrated by the excellence of individual courses, programs and shared experiences. Quality is also demonstrated by the diversity of educational experiences in which students are actively involved and by the extent to which individual student's need are met" (Public Programs 1993-95).

The special education policy, as outlined by the Department of Education and Culture (1996), was seen as ensuring that all students receive programming to meet their needs. The policy advocates an inclusive approach to special education.

> The school's function is to do all it can to inspire its students with the desire to achieve the highest degree of excellence that is possible for them ... Thus, each school has the responsibility to provide a learning environment for each student that encourages growth and development in all aspects of learning.

b. Practices/Procedures

The Division of Student Services is responsible for the planning and coordinating of special education programs and services for the Nova Scotia public schools. One of the objectives of this division is to maximize the learning opportunities for exceptional students in the province. In Nova Scotia the responsibility for the development of policy is shared between the department and the school boards however, the department is responsible for the establishment of policies and guidelines regarding special needs programming and services.

The Department of Education and Culture is committed to a policy of inclusion. The successful practice of inclusion is seen as being dependant upon a number of factors, which include:

< an understanding of and commitment to an inclusive philosophy at all levels of the education system, including an acceptance of all students, a belief that all students can learn, and a social ethic of acceptance and diversity;
< leadership at the board and school level to bring about a collaborative culture within schools and between schools and communities and other agencies to address the needs of students;
< public awareness strategies that explain the philosophy of inclusive schooling and showcase exemplary practices;
< the early and ongoing involvement of parents in the educational programming for their children; and
< the provision and creative use of supports for teachers and students.

i. Coordination of Services

There is recognition that the traditional context of education must expand to include the community, parents, agencies and other government departments. In order to accomplish this task, school boards have been provided with the responsibility to ensure that the individual program planning process is collaborative. Furthermore, boards have been given the responsibility for collaborating in the development of programs and services for special needs students. "School boards are to focus on regional planning, student outcomes and management of regional resources and procedures".

The Department of Education and Culture has assumed the responsibility for actively participating in inter-departmental initiatives and interagency collaborative efforts. To this end, protocols have been developed and representatives from Education and Culture sit on a number of inter-departmental and interagency committees. Education and Culture is a signatory to the Atlantic Provinces Special Education Authority (APSEA). APSEA has the authority to provide education programs, services and opportunities to residents of Atlantic Canada between the ages of 0-21 having impaired vision and hearing.

ii. Identification/Assessment

In the past, the assessment process was used for the provision of direction and confirmation of placement decisions. The Ministry believes that assessments are now to be used by school boards to focus upon students' individual strengths and needs in order to develop the appropriate program goals and objectives. According to policy in Nova Scotia, each school board is responsible for the establishment of identification, assessment program planning and evaluation for special needs students. The Ministry recommends that each procedural step is clearly outlined in the school board's special education manual.

School boards are encouraged to follow an identification, assessment and program planning process which involves the following steps: screening and identification; exploration of instructional strategies; referrals to a program planning team; team meetings which lead to the development and implementation of a program plan; and monitoring and review of the plan. Schools are encouraged to actively involve parents at the beginning and throughout the process.

The program planning team is to consist of members having responsibility for the student's learning, including but not limited to the principal/vice-principal, teachers and parents. It is at the team meeting where the decision is made whether or not to develop an Individualized Program Plan (IPP). If an IPP is to be developed, it is to address the priorities, goals and approaches set at the meeting.

The principal is responsible for ensuring that parents are involved in the identification, referral and assessment process. Regardless of procedures developed, all school boards are encouraged to: inform parents of their policies and procedures at time of registration; consult with parents as well as other team members prior to referral for assessment; receive written parental consent prior to undertaking individual assessment; confirm in writing the nature of the formal assessment; indicate the time and date for a follow-up meeting with parents; and recognize that parents have the right to obtain results of the assessment upon request.

iii. Individual Program Plan (IPP)

Individual Program Plans are to be developed when "the manipulation of instructional variables is not sufficient to address student needs in the context of the prescribed curriculum". The IPP is to include:

< a summary of student strengths and needs;
< annual individualized outcomes (goals);
< specific individualized outcomes (objectives);
< recommended services;
< responsibility areas;
< review dates; and
< signatures.

The IPP is to be signed by the parent and is to be reviewed at least twice a year. The signature is to indicate an agreement to the program plan and in the cases where agreement is not forthcoming, an appeal process may be initiated.

Transition planning is to be part of the team planning process and the process of school-to-community transition is an important part of the IPP. Each special needs student is to have a transition plan as part of their IPP.

8. Newfoundland and Labrador

a. Policy/Philosophy

The mandate of the Newfoundland and Labrador Department of Education is to ensure that students throughout Newfoundland and Labrador have the opportunity to acquire knowledge, skills and attitudes needed to be self-reliant, responsible, caring and contributing members of society" (Draft Special Education Policy Manual, 1997).

Special education is seen as being linked to regular education in that education must provide a a full continuum of services to meet the diverse needs of the total student population. However, there is a recognition that, while part of the same continuum, special education is different in that it is primarily built on a process which focuses on students having some form of

exceptionality. Underlying the basic principles for special education in Newfoundland and Labrador are the assumptions that: all personnel are willing to be responsible for all students; there is a shared vision for the success of all students; and diversity within the student population is met with an attitude of full acceptance.

The Ministry also notes that it is important to acknowledge the sameness and distinctiveness of the two components of education known as regular education and special education. The draft policy identifies the fundamental principles supporting the policy as:

< equal Educational Opportunity;
< all Students Can Succeed;
< effective Learning Support System for All Students;
< all Educators Play a Vital Role in Supporting Learning; and
< effective Programming for All Students.

The Ministry outlined 17 policies which are to be used to make decisions regarding planning, organizing, delivering, monitoring and evaluating special education programs and services. The key policies deal with identification and level of need, assessment, individual support services planning, inter-departmental service coordination, and outcomes accountability.

b. Practices/Procedures

According to the Ministry, the translation of policy into practice reflects the values and beliefs held regarding educating students with special needs. The purpose of special education programming is to ensure that specialized supports are provided to students who experience difficulty either periodically or throughout their school career for reasons identified through comprehensive assessment. The Ministry goes on to say that in practice, “special education is based on the same sound education principles and practices as regular education... [Special education] is “special” in that educators must understand the impact of various abilities and/or disabilities on learning and on individual growth and development. As a valued part of the education continuum, it is facilitated when it occurs in natural or facilitating environments”.

The Student Support Services Division is responsible for special education programming, guidance services, student retention, speech and language services, itinerant services to children who are deaf and hard of hearing and visually impaired, educational psychology services, and the Newfoundland School for the Deaf. This division also coordinates programs through the Atlantic Provinces Special Education Authority (APSEA).

i. Coordination of Services

Newfoundland and Labrador have also adopted an Integrated Service Management approach through the Departments of Education, Health, Justice and Social Services. The Integrated Service Management Approach is defined as:

> an approach that coordinates the actions/supports of all service providers, and one which allows for coordination of various services into a common and cohesive program for the child and family.

One of the features of the approach is the Program Planning Team, which represents the coordination of service providers at the child's local/community level. The role of the Team is to ensure that service providers, in conjunction with the child and family, collaborate on the development of a common program plan. The program planning document reflects the agreed upon contributions of all team members to meet the child's needs. A Regional Team is also established to ensure barriers to coordinated service delivery are minimized and that resources are appropriately allocated and utilized.

An important initiative established in Newfoundland and Labrador's Integrated Service Management Approach is the development of a profiling system to capture information on the needs of children/youth identified in the Program Planning Process. Local Program Planning Teams and Individual Support Services Managers are responsible for ensuring that the Child/Youth Profile information is completed and updated for each child on a regular basis. This information is then forwarded to a Coordinator who uses the information to develop a regional demographic picture of the range of needs and services required for the region. In this way early identification may begin, if necessary, at birth. If a newborn or a family member is identified as being at risk by social services agencies or by the Community

Health Nurse in the district, a plan is developed among the parents and service providers in order to meet the needs of the child.

ii. Identification/Assessment

School districts are directed to profile the needs of students with exceptionalities on an annual basis. Students to be included are those assessed as having: cognitive delay; emotional behaviour disorder; exceptional ability; learning disability; hearing impairment; visual impairment; physical disability; and speech and/or language disorder.

Students with exceptionalities who require or are receiving support services are to receive a "comprehensive assessment based on appropriate domains, understanding of exceptionalities, appropriate techniques and utility for support services".

The assessments are to identify student strengths and needs, suitable educational goals, appropriate instructional strategies, and supports. Additionally, the assessment is to be used in the development of the Individual Student Support Plan (ISSP). Each student with an exceptionality is to be reassessed at least once a year.

iii. Individual Support Services Plan (ISSP)

Each student meeting the provincial criteria for special education service or who is receiving support services must have an Individual Support Services Plan. An ISSP is a specific program developed for an individual child/youth by an Individual Support Services Planning Team. The ISSP is to include a summary of strengths and needs, accommodations required, responsibilities of team members, and review dates. An ISSP is necessary if the student requires: one or more services; special services (e.g., Speech/language Therapy, Itinerant services); or adaptations or accommodations to scheduling, facilities, resources, instructional strategies, or evaluation procedures.

The objectives of the Individual Support Services Planning process are to:

< ensure that the relevant contribution of each service provider to the plan reflect a holistic child-centered approach;
< ensure that the child and family are full partners in the planning process;
< ensure that service planning reflects the sharing of knowledge and expertise among the service providers;
< ensure continuity of service provision, reduce fragmentation and duplication of resources; and
< ensure a common format to service planning, which does not preclude the unique contributions that each provider may bring to the plan.

The components of the ISSP are the child's strengths and needs, annual goals, short-term objectives (outcomes), specific support services, responsibility areas, and review dates. There are four classifications based on the intensity of support to be provided. None of the levels necessarily mean that the child needs one-on-one support. Level I support is intermittent, that is, the child requires between one and six hours of service, in all settings, per week. The children receiving this level of support can keep pace with their peers and may not need this support every week. This level of support is required in certain areas of learning only.

Level II is classified as "limited" support in that the child needs seven to 12 hours of service per week. The support does not have to be one-on-one but must be in a small group setting. They require modified courses, methods of output and evaluation. These children must have an ISSP.

Level III is classified as "extensive" support meaning that the child requires between 13 to 18 hours of support per week. These children also require an ISSP. They are enroled in alternate or modified courses and receive instruction in small group settings.

Level IV support is seen as being "pervasive" in that the child requires 19 or more hours of service per week. These children also require an ISSP. All of their courses are alternate courses or an alternate curriculum and instruction takes place in a small group setting. They may require access to instruction in alternate group settings.

Students with exceptionalities are also to receive transition planning as part of the ISSP. Planning occurs one year prior to school entry, one year prior

to moving between levels/schools, four years prior to graduation and between grades where the exceptionality indicates the need.

9. Prince Edward Island

a. Policy/Philosophy

The purpose of the public education system in Prince Edward Island is to "provide for the development of children so that each may take a meaningful place in society". The education system is based on a set of principles which includes the value and respect for the individual and the development of each child. Another of the principles is the need to ensure equality of access for individuals with exceptionalities.

The Department of Education is currently engaged in a review of special education programs and services. Results of the review are to be used to provide a more comprehensive special needs curriculum.

10. Northwest Territories

a. Policy/Philosophy

On July 1, 1996 a new Education Act was enacted in the Northwest Territories. Inclusive schooling was mandated in the new Act. As stated in the Departmental Directive on Inclusive Schooling (1996), all children coming to school are viewed as being capable of learning. Changes in educational philosophy and practice in recent years have resulted in the expectation that regular and normal practice now includes children who might have been previously excluded. This practice recognizes and values diversity, and as such, benefits all children. The Directive goes on to state that "in order for each student to learn and grow, education must be based on individual strengths and needs and be relevant and meaningful for that person. Exceptions to including all students in the regular classroom ought now to be rare and must be justified by the education body".

The Department of Education, Culture and Employment suggests that inclusive schooling is directly tied to a belief system that values diversity. An inclusive approach is to respond to individual student needs, while ensuring equal access for all students to educational programming and services offered in a regular classroom setting. "Inclusive schooling is mandatory within the Northwest Territories school system [Education Act; Subsection 7(1)]. The philosophy of the education system has been to not label nor categorize students. Student support services were defined with a recognition that: any student may require some support services at some time in their schooling; several students will require additional supports at various stages of their schooling; some students will not be able to access or participate in schooling without a constant level of support; and a few students require a level and type of support service that the school system cannot provide on its own".

Inclusive education is to "facilitate membership, participation and learning of ***all*** students in regular classrooms in community schools". Support is provided to students to prevent, reduce or eliminate barriers to learning.

b. Practices/Procedures

According to the Directive, inclusive schooling: provides equal access to educational opportunities; builds upon students' strengths while responding to their needs; is community-based; and promotes the involvement of all parents in their child's education.

The Ministry has directed each education body to adopt its own inclusive schooling policy, which must contain an appeal process.

i. Identification/Assessment

The Ministry notes that there has been a move from a "testing" culture to an "assessment" culture. An assessment process is used to determine students' strengths, needs and progress, plan instructional strategies, identify the need for program adaptation and modification, and identify individual learning styles. The Ministry recommends that the assessment process begins with the classroom teacher when assessing all student learning. The procedure utilizes more formal instruments, and involves an increased number of outside professionals for a progressively smaller

number of students. Education bodies have been directed by the Ministry to develop their own assessment policies. Interpretation of assessment results are to produce program recommendations for classroom teachers, parents and support staff having daily contact with the student. The interpretation outlines particular strategies that provide for student growth.

ii. Individual Education Plan (IEP)

An IEP may be developed when educational programming is found to be either too challenging or not challenging enough for a particular student. An IEP is viewed as being necessary for a wide array of exceptionalities, ranging from giftedness to developmental delay. The IEP is student-specific, not program-specific. As such, it maintains a record of the programs and services provided to the student, monitors student progress, provides a baseline for regular program review, and coordinates the activities and responsibilities of team members. The IEP is also to be developed with parental involvement.

The Ministry has directed education bodies to have a process for the development, implementation and evaluation of IEP's. The process is to include practices which allow for:

< the identification of students needing IEP's;
< assessment procedures which identify student strengths and weaknesses;
< parental involvement;
< diverse instructional strategies;
< the provision of needed supports to the teacher and/or students; and
< an ongoing review of IEP effectiveness.

As specified in the Education Act, all IEP's must have parental written consent prior to implementation. Where it has been decided that an IEP is not necessary for a particular student, the parents can appeal the decision. Where parents disagree with the IEP developed for their child, they may appeal the decisions about their child's plan. Parents may also appeal decisions regarding supports provided for their child.

While the Ministry sets the regulation for the appeal procedure, it does not hear appeals. Parents may only make appeals to the body that made the decision they are appealing; there is no higher level to which one may appeal. The decision of the Appeal Committee is final.

Transition planning is to take the form of cooperative planning among family, school staff, and personnel from appropriate agencies in order to meet the programming and service needs of individuals. Key transition times are seen as being school entry, changes within the school system and school exit.

11. Yukon

The Yukon Department of Education released a handbook in August 1995 which provided a detailed outline of the procedures and guidelines to be utilized in the provision of special program services. The preface of the handbook acknowledges input from the British Columbia Ministry of Education document entitled Manual of Policies, Procedures and Guidelines. The Yukon manual, similar to the British Columbia manual, outlines procedures, practices, roles, responsibilities, and strategies to be utilized in the planning and implementation of special program services.

a. Policy/Philosophy

As stated in Special Program Services: A Handbook of Procedures and Guidelines, "public education in the Yukon aims to develop the individual, intellectual, physical, social, emotional, cultural and aesthetic potential of all students to the limits of their abilities so they may become productive, responsible and independent members of society who can lead personally rewarding lives in a rapidly changing world". It is recognized that some children will require additional supports to facilitate their participation in public education. As noted in the handbook, these students are to be referred to as students with "exceptionalities or students with special educational needs". As stipulated by the Education Act, schools in the Yukon are responsible for educating all students.

< Students with special education needs must have these needs addressed through school-administered programs.

- School programs must recognize and be adapted to meet the wide range of needs and abilities of students.
- School programs should provide opportunities for all students to experience success and to acquire knowledge, skills and positive attitudes to function in society.
- School programs must ensure a continuity of service from primary school through secondary school.

b. Practices/Procedures

As stipulated in the handbook, the needs of all students are to be dealt with in the regular classroom. Services required by students having exceptional needs are to be provided at the school level by "specialist teachers", such as Learning Assistance Teachers, Program Implementation Teachers and Counsellors. The provision of services occurs on the basis of identified need. It is believed that all students should have access to appropriate education. As noted in the handbook, "all students should have equitable access to learning, opportunities for achievement, and the pursuit of excellence in all aspects of their education".

Students having exceptionalities are to be integrated into the regular classroom where adaptation of instruction and evaluation practice will allow for the meeting of their needs. The emphasis is on educating all students in the regular classroom with their age and grade peers. A cascade model of service provision is utilized, recognizing that different students require different services and supports including resource rooms, self-contained classes, community-based programs or specialized services. Placements are to complement the goals of the Individualized Education Plan (IEP).

i. Coordination of Services

As in many other jurisdictions, the coordination of community services is seen as being critical to avoid duplication. The coordination of the services is also seen as resulting in an integrated approach to service delivery, marked by consistent interventions and consensus regarding goals. Parent and student involvement are suggested in order to ensure the effective coordination of services.

As part of the attempt to ensure coordination of services, an inter-departmental protocol agreement has been developed between the Departments of Education, Health and Social Services, and Justice, regarding inter-departmental information exchange on children and their families.

ii. Identification/Assessment

The in-school intervention process outlined consists of a series of five inter-related continuous steps: identification/assessment; planning; program support/implementation; evaluation; and reporting. Each of these steps are outlined with associated procedures, roles and responsibilities. One example is that of the identification/assessment stage. Much like British Columbia, the process of identification/assessment in the Yukon consists of:

< pre-referral activities;
< referral to the school-based team; and
< referral for extended assessment and programming.

Assessment is defined to be a "systematic process of collecting data to answer educationally relevant questions about a student's characteristics, learning behaviour, and current level of performance in order to plan appropriate educational activities". Information resulting from the assessment process is to be shared with parents and staff having programming responsibilities for the student.

Identification is viewed as a continuous process, utilized to determine the programming supports and services required by students having exceptionalities. Identification is not to be used to classify the students according to her/his exceptionality.

iii. Individual Education Plan (IEP)

All students designated as having exceptional needs are to have an IEP. The IEP is to reflect the complexity of the student's needs and is to be used as a tool to allow for "collaborative planning among the school, the parents, the student (where appropriate) and as necessary, Special programs consultants, other department and/or community agencies". A case manager approach is utilized for the development of an IEP. That is, while

the school administration is responsible for the development of the plan, the case manager is appointed to coordinate the development, documentation and implementation of the plan. The development of the IEP is to be the responsibility of the school-based team. This team is to consist of the parents, teachers, student, school support staff, and relevant personnel for the Ministry.

The IEP is to address strengths and needs identified in the assessment process. The plan is to be implemented within two months of the student being designated as exceptional, and is to be reviewed within two months of implementation. Parents may make a written request of the school administrator for an additional review of the IEP by the IEP team if the period between reviews is at least two months. Results of all reviews are to be reported to the school-based team. Student progress towards the goals of the IEP is to be reviewed during the school's normal reporting period. Progress reports relating to the goals and objectives of the IEP are to be provided to parents.

12. Manitoba

a. Policy/Philosophy

In 1967, Manitoba enacted legislation requiring school divisions to provide educational programming and services to students having special needs. According to Manitoba Education and Training, parents, educators, school divisions, and the department itself share the responsibility of ensuring that special needs students have the opportunity to benefit from education.

In 1989, the document, Special Education in Manitoba: Policy and Procedural Guidelines for the Education of Students with Special Needs in the Public School System was released with the purpose of bringing together "the policies and guidelines which direct the provision of special education programs and services in Manitoba". Manitoba Education and Training view the goal of special education as being consistent with the goal of regular education, which is to support the development of knowledge and skills students require to live "meaningful self-fulfilling lives with as much independence as possible, in their communities". The government's policy reflects an integrated approach to special education. As stated in the document:

> It is the policy of Manitoba Education and Training to support the education of students with special learning needs in regular classroom settings whenever this is in the best interests of the students. A variety of special supports are available to facilitate such integration. Support is also available for students who require alternative learning environments for a portion or all of the school day.

This document suggests that, as a matter of public policy, all children, including children with special learning needs, are entitled to a public school education according to Section 41[4] of the Public Schools Act. In order to ensure that all children having exceptionalities have learning opportunities commensurate to their needs:

< divisions/districts are responsible for offering appropriate educational programs, and the support services students need to benefit from these programs;
< education programming is to be provided in the most enabling environment available or possible under the circumstances. In the majority of cases, integration in the regular classroom, with the provision of special supports, affords such a setting;
< education programs will be individualized when appropriate; and
< the programming planning process will involve a team approach.

Teams are seen as consisting of all relevant supports including parents, educators, support personnel, and the student, when appropriate.

The mission of Manitoba Education and Training is to “ensure high quality education and training programs for Manitobans to enable them to develop their individual potential and contribute to the economic, social and cultural life of Manitoba”.

b. Practices/Procedures

In 1996-97, five provincial special education specialists provided consultation throughout the province to support resource teachers, student services coordinators, and administrators. Support is provided in developing appropriate programming for children with having exceptional needs which include: severe multiple disabilities; autism; emotional/behavioural disorders; extreme learning problems; and communication disorders. Services are also available to Franco-manitobaine and French Immersion schools in Manitoba. Department staff also supervise speech-language pathologists and psychologists employed by school divisions/districts. In addition, clinical supervision, consultation and recruitment support is provided to school divisions/districts providing clinical services in rural and northern Manitoba.

i. Coordination of Services

In November 1994, the Manitoba Government established the Manitoba Children and Youth Secretariat which was charged to:

< facilitate a coordinated approach and integrated system of services for children, youth and their families where the needs of children and youth cross departmental mandates and resources;
< facilitate change in current organizational culture, structure and service delivery system; and
< develop holistic approaches to prevention, treatment, rehabilitation, safety, and care for children, youth and their families.

In March 1995, an Inter-departmental Protocol Agreement between the departments of Education and Training, Family Services, Health, and Justice was released for the coordination of services for children/adolescents with severe to profound emotional disorders. There have been a number of inter-departmental protocols developed. These documents are intended to provide policy and procedural direction to educators as well as staff in other government departments and agencies.

The Manitoba Education and Training publication, Special Education Policy Guidelines, reinforces the desirability of interagency cooperation and coordination. It also suggests that education personnel take responsibility

for coordinating the involvement of outside professionals such as health, mental health and/or community service professionals.

The cooperative involvement of parents and professionals is seen as being essential if "appropriate educational opportunities are to be provided to all students". The complexity of the design and delivery of educational opportunities to special needs students is seen as making this partnership critical.

In recent years a number of Manitoba Education and Training documents have been released including the series of "Renewing Education: New Directions" documents. These documents provide the most current governmental directions for education and implications for special education and in some areas hold implications for special education.

ii. Identification/Assessment

Manitoba Education and Training suggests that a systematic assessment of a student's educational needs is a pre-requisite to the planning and implementation of special programming and placement. The results of the assessment are to be used to make program and placement decisions that will be in the best interests of the student "in order to provide the most appropriate education within the most enabling environment available or possible under the circumstances." Decisions made regarding programming and placement are to be made using a "cooperative approach" which involves all people having relevant information. The special education team is to include; educators, parents, support personnel, and the student if appropriate. The team is responsible for making recommendations regarding placement or program alternatives.

Manitoba Education and Training directs that all decisions regarding the placement and programming for exceptional students are to be based on a comprehensive plan, the Individualized Education Plan which is to be developed and reviewed on a regular basis by the education team. Parents are to be involved early in the process of considering options, identifying relevant information, assessments to be undertaken and the programs that might be in the best interest of the child. Parents are to be fully informed regarding placement options, the contents of their child's file, appropriate ways to interpret the information in the files and to be provided "the opportunity to add information to their children's file or to change information

that is factually incorrect". As stated by Manitoba Education and Training "parents have the right to enquire about any aspect of the special program at any stage of the process".

In cases where there is disagreement with placement decisions that cannot be resolved at the school level, Manitoba has an appeal process in place. The parent may request, in writing, that the school board review the matter. Manitoba guidelines suggest that the superintendent's office or the appropriate authority acknowledge the request in writing; advise the principal of the request; and, establish a date within 15 working days of the date of filing for the review. At that time, the parent will meet with the representatives of the school and of the school board to review the request. If the dispute cannot be resolved at this level, the parent or the school board can refer the dispute to Manitoba Education and Training which is to provide conciliation services to help resolve the dispute. The department is to respond to the request within 10 working days of receipt of the request. If the dispute is still not resolved, the matter may be referred to the Special Needs Arbitration Panel for final arbitration. The student is to remain in the original placement until the dispute has been resolved.

iii. Individual Education Plan (IEP)

All students with special learning needs are required to have a goal-directed written IEP to serve as a guide for the implementation of specific programs and services, and as a basis for evaluation and program adjustment.

Parents are to be kept fully informed of placement alternatives, the content of their children's files, as well as allowed the opportunity to add or change information in the files. While the policy expresses that parental involvement is "essential", more recent provincial policies emphasize a stronger sense of partnership or shared responsibility among parents and educators, as well as other agencies and organizations that may be involved with a child.

In the fall of 1998, Manitoba Education and Training released the document, Individual Education Planning - A Handbook for Developing and Implementing IEP's Early to Senior Years. As defined in this handbook, IEP refers to "a written document developed and implemented by a team, outlining a plan to address the individual learning needs of students". This document goes on to suggest that IEP's are most effective in promoting learning when they:

- are linked to daily instruction;
- involve all members of the team assessing student performance within their area of expertise;
- clearly identify who is responsible for the student's instruction;
- link consultant and clinician reports and programming to daily instruction; and
- involve parents as active and equal team members in planning and implementation.

The process of developing the IEP is seen as occurring in four stages: setting direction; gathering and sharing information; developing and writing; and implementing and reviewing. The following table summarizes Manitoba Education and Training's current policy and practice regarding the use of IEPs.

Policy	Implications for IEPs
Individualized Programming (I) *Towards Inclusion: A Handbook for Individualized Programming Designation, Senior Years* (1995) Senior Years students with significant cognitive disabilities who benefit from a highly-individualized and functionally-appropriate learning experience outside curricula developed or approved by Manitoba Education and Training. Eligibility is determined by the programming team.	IEPs must be developed and implemented for Senior Years students receiving the individualized (I) programming designation.
Modified Course Designation (M) *Towards Inclusion: A Handbook for Modified Course Designation, Senior 1 to Senior 4* (1995) Senior Years students with significant cognitive disabilities who benefit from curricula developed or approved by Manitoba Education and Training, provided that the curricular outcomes have been modified significantly to meet the student's unique learning requirements. Eligibility is determined by the programming team.	IEPs must be developed and implemented for Senior Years students receiving a modified (M) course designation on an individual course basis.

Policy	Implications for IEPs
English as a Second Language Course Designation (E) *Towards Inclusion: A Handbook for English as a Second Language Course Designation, Senior 1 to Senior 4* (1995) Senior Years ESL students who benefit from curricula developed or approved by Manitoba Education and Training that have been adapted to facilitate their acquisition of English and to assist the student in transitioning to regular Senior Years programming. Eligibility is determined by the programming team.	IEPs must be developed and implemented for Senior Years students receiving an English as a Second Language (E) course designation on an individual course basis.
Adaptations and Exemptions to Provincial Examinations and Standards Tests *Policies and Procedures for Provincial Examinations and Standards Tests* Students are eligible for adaptations and exemptions to provincial examinations and standards tests. Such cases should be well-documented and request made in writing to Assessment and Evaluation Branch at the time of student registration for the examination or test. Exemptions are granted at the local level in consultation with parents.	For some students, this documentation will take the form of an IEP An IEP by itself does not imply that a student will require adaptations or be exempt from writing provincial examinations or standards tests. Requests for adaptations and exemptions are granted for each specific provincial examination or standards test.
Special Needs Categorical Support Categorical funding for students with special needs beyond the usual clinician and Level I support.	IEPs must be developed and implemented for students receiving Level II and Level III Special Needs Categorical Support.
Unified Referral and Intake System (URIS) *Unified Referral and Intake System Manual* The URIS protocol is an inter-departmental mandate (Departments of Family Services, Health, and Education and Training) created to support children living with special health care needs to live safely at home and to participate to the fullest extent possible in community life (e.g., school). The protocol also applies to the eligibility of a student for Level III Special Needs Categorical Support.	IEPs must be developed by a multi system team and contain multi system interventions that are developed around the student's special health care and learning needs. IEPs are a component of the information submitted to the URIS committee in Group A applications.
Emotional/Behavioural Difficulties *Inter-departmental Protocol Agreement for Children/Adolescents with Severe to Profound Emotional/Behavioural Disorders* The protocol acts as a mandated basis for multi system cooperation in the development of systems of care for children and adolescents who are experiencing severe to profound emotional/behavioural difficulties. The protocol also applies to the eligibility of the student for Level III Special Needs Categorical Support.	IEPs must be developed by a multi system team and contain multi system interventions that are developed around shared service goals and implemented in all of the student's living/learning environments and educational interventions that are implemented by the school.

** Source - Manitoba Education and Training*

IEPs are to be reviewed at the end of the school year or if the student transfers to another school. The IEP team is to review the plan, document student progress through the school reporting process and write recommendations for the coming year. This review is seen as facilitating continuity of the student's learning from year to year.

D. Selected Review of Policy - United States

1. Special Education Policy

In the United States, the Education for All Handicapped Children Act (PL 94-142) passed by Congress in 1975, required each state and its local school districts to educate all children with disabilities. The Act was re-authorized in 1990 under the title of Individuals with Disabilities Education Act (IDEA) (PL 101-476). It requires that States receiving funding under IDEA, make free appropriate public education available to all eligible children with disabilities, ages three through 21. The U.S. Department of Education, through it's Office of Special Education Programs (OSEP), assesses the impact and effectiveness of efforts of individual States to fulfill their responsibility to:

< ensure that all children with disabilities have available to them, a free appropriate public education that includes special education and related services to meet their unique needs;
< ensure that the rights of children with disabilities and their parents are protected;
< assist States and localities to provide for the education of all children with disabilities; and
< assess and ensure the effectiveness of efforts to educate those children.

To ensure that the goals of IDEA are being realized, specially designed instructional services, procedural protections, financial and informational assistance to educational agencies, and ongoing assessment of system effectiveness are necessary. Therefore, OSEP implements a multi-faceted program review process including:

- technical assistance to States on legal requirements and best practice strategies;
- review of policy documents;
- approval of State Plans;
- compliance monitoring reviews;
- verification of corrective action plans;
- review of complaint resolutions;
- ongoing communication with groups including: government organizations, parents, and advocates; and
- specific issue reviews.

2. Practice

A survey conducted by the National Association of State Directors of Special Education in the U.S. found that:

> state special education funding programs have the capacity, inadvertently or intentionally, to influence programs at the local level, as they can affect the number and type of children served as handicapped, the type of programs and services provided by local school districts, the duration of time students spend in special education programs, the placement of students in various programs, and class size and caseloads. (O'Reilly, 1989)

At the level of policy direction, several untracking initiatives are currently occurring in the United States with the direct support of district or State level funding. The Massachusetts Department of Education (1990) issued a policy advisory and sponsored professional development to encourage alternatives to ability grouping, and has tied funding to discretionary dropout prevention and untracking. Nevada (1990) and Maryland (1989) policies suggest that middle-level schools group their students heterogeneously.

Following are samples of other innovative policy approaches in the provision of special education.

a. Minnesota: Interagency collaboration

In Minnesota, the Department of Children, Families and Learning brings together all educational programs and other programs that address family breakdown, violence, and poverty. This collaboration encourages State agencies to work together to meet the needs of children and their families. The Minnesota State Board of Education provides direction, establishes priorities and goals, as well as approves and adopts major initiatives for the Department of Children, Families, and Learning (CFL).

The mission of CFL is to "increase the capacity of Minnesota communities to measurably improve the well-being of children and families". The CFL aims to meet this goal by coordinating programs, focusing on prevention, and improving local decision making, collaboration, and accountability. One of the federally funded projects undertaken by the CFL is promoting or evaluating the participation of students, with limited English proficiency and students with special needs, in Minnesota's Graduation Standards. The project will examine ways in which these students can participate in basic standards tests and performance-based assessments.

b. Washington: A funding approach with impact on students

In Washington State, the Edmonds School District gave its 31 schools the flexibility to "group and service students according to their instructional needs, not their labels and funding sources" (Fink, 1992, p. 42). Although some similarities existed among schools, each school developed its own program model. A major obstacle identified in this initiative was accessing targeted funds while dismantling categories. An outgrowth of the project has been state legislation that provides funds for learning disabled students without having to formally label students for special education. Over the six years that the project has been operating, targeted students have made statistically significant gains compared to their non-targeted counterparts.

c. Vermont: Fiscal policy promoting inclusion

Vermont has attempted to combine concrete policy direction while, at the same time, allowing for greater local flexibility. In 1990, Vermont passed legislation to increase the capacity of its schools to meet the needs of all students in a way that increased flexibility, and removed fiscal incentives for identifying students with special needs. Funding was re-directed to staff development and school districts.

d. Kentucky: Funding reform

Kentucky's comprehensive education reform streamlined special education funding and supports a collaborative teaching model (students with various ability levels are maintained in the general education setting and collaborative teams develop appropriate educational strategies for student success). Directors in that State report that the new funding system has increased their control over funds, enhanced inclusion, and promoted collaboration among special and general education teachers. The flexibility created through the blending of special and regular education funds was viewed as one of the reform's major benefits, providing opportunities for staff development and purchasing ability, and moving toward greater funding equity between districts.

CHAPTER VI
LEGAL ARRANGEMENTS for SPECIAL EDUCATION in MANITOBA

A. INTRODUCTION TO THE LEGAL ANALYSIS[1]

This analysis considers the legal arrangements for special education in Manitoba. It reviews the content in law of a basic education, as well as the nature of the right to an education. While it is true that pursuant to the legislative provisions all children have the right to attend school, the substantive nature of that right — the legal dimensions of it — are, at best, founded upon a constructive or inferential argument based upon recent developments at common law, and at worst, uncertain.

The paper also considers other jurisdictions in Canada and how they have treated the subject, from a legal point of view. Other Provinces/Territories, in most cases, have enacted, clear and specific legislation aimed directly at the rights of special needs children.

Special Education in Manitoba: Policy and Procedural Guidelines for Education of Students with Special Needs in the Public School System, the 1989 document produced by Manitoba Education and Training which provides the core guidelines for special education activities, is also reviewed in terms of its legal authority. And here again, there are serious questions about the way in which policy instruments appear to fill in legislative gaps, but without the usual indicators in the statute itself to point the way.

The materials leading up to the 1989 document were reviewed but not included in this paper. It seems, however, that other studies and other work done by interested professionals have consistently recommended changes to legislation which would address the needs of special needs children in Manitoba.

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1 Given the legal expertise required to undertake an analysis of this nature, Stuart Whitley, Q.C. was engaged to prepare this Chapter of the report. His biography is found in Appendix K.

The legal analysis concludes with the thought that recent advantages in our understanding of special needs children, the intensity of legislative reform in this area across the country, the constitutional requirements for equal and substantive benefit of the law, current developments in the common law (particularly as reflected from the Supreme Court of Canada), and the emerging perspective of 'child as person' all combine to suggest that Manitoba's education laws require attention.

B. BACKGROUND

No voice divine the storm allay'd
No light propitious shone
When snatch'd from all effectual aid
We perished, each, alone;
But I beneath a rougher sea
And whelm'd in deeper gulphs than he.

- from *The Castaway*
Cowper, 1799

Two centuries ago, Cowper captured the loneliness and despair which can accompany the exclusion that is often attendant upon disabilities. The poet suffered recurrently from a debilitating mental illness, ultimately dying from its indirect influence. The story of formal education of children, like the history of childhood itself, is one that has countenanced incalculable harm[2], frequently in ways less subtle than that expressed by Cowper.

It may be considered that there are two visions of schooling and teaching. To understand the difference between the traditional model, as opposed to that which is self-actualizing, is to appreciate that a revolutionary change is taking place in the theory and practice of public education[3]. This change involves a shift from the classical bureaucratic paradigm of public education, to a post-bureaucratic paradigm that is characterized either by a return to nationally arrived-at standards of achievement, or the production of independent citizens who are problem-solvers, capable of reaching rational decisions on their own. As an aside, the word 'paradigm', popularized by Thomas Kuhn in *The Structure of Scientific Revolutions* (1962), refers to

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2 The history of childhood is a nightmare from which we have only recently begun to awaken." (1974), cited by E. Boulding (1979) *Children's Rights and the Right to Life* New Jersey: Transaction Books, at p. 71.

3 In the realm of special education, there seems to be no doubt that there is a revolution in thinking going on, at least as it has affected the legislatures in this country. Of the 10 jurisdictions that have changed their laws to reflect the rights of exceptional children to an education, and the manner in which that right may be asserted, most have done so only within the last ten years.

widely held assumptions about reality in a particular discipline or field. New knowledge and accumulated experience can increasingly bring these assumptions into doubt until a crisis occurs, a new paradigm is articulated, and a fundamental shift in perspective takes place. It is important to consider perspective in this way, because no useful legal analysis occurs in a vacuum; it takes place in the context of what it is that is sought to be accomplished, whether by legislative or by policy approaches, and whether in turn it is constitutionally permissible.

While social policy choices generally are not considered to be within the purview of the courts, in the sense that judges ought not choose one option in preference to another - abjured as 'political' choices, rather than 'juridical' ones[4] - nevertheless, legislation, policy or conduct which violates the Constitution of Canada, the "supreme law of the land"[5], will attract the review of the courts. And whereas in the United States, the federal courts have struggled to define their own limitations in the constitutional context,[6] the courts in Canada are experimenting with a constitutionally-entrenched Charter of Rights and Freedoms which is still in its infancy. The consequence of this is that, from time to time, the courts in Canada will inevitably stray into areas involving the selection of social policy options as silent partners of the lawmakers. The risk increases where the legislature has hesitated to act, has cast its net too broadly, or has otherwise overwhelmed the citizen.

Quite apart from Charter considerations, however, the operation of law in a democratic society clings to what might be termed a central ideal; that of insisting that policy selections be at once both rational and fair. Ronald Dworkin put it this way:

> The legislative principle of integrity demands that the legislature strive to protect for everyone what it takes to be their moral and

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4 "The task of the court is not to choose between substantive or procedural content *per se*, but to secure for persons the full benefit of the Charter's protections ... while avoiding adjudication of the merits of public policy." per Lamer, J. (as he then was) in *Re section 93 of the B.C. Motor Vehicles Act*, [1985] 2 S.C.R. 486, at p. 504.

5 This is the language in section 52 of the *Charter of Rights and Freedoms*, hereinafter simply the *Charter*

6 In the U.S. the tension between the legislature and the courts finds resolution in doctrinal approaches that include the 'political question doctrine', which like other justiciability issues reflects a balanced mixture of constitutional interpretation and judicial dissertation which is in turn an inevitable by-product of refining the blurred edge of competing jurisdictions. Simply: American courts will defer to the legislature on policy choices that are purely political one to make. See: L. Tribe, *American Constitutional Law* (1978) at p. 79.

political rights, so that public standards express a coherent scheme of justice and fairness.[7]

But of course, the legislature makes many decisions that favour one group over another, not necessarily on the ground that the best conception of justice declares that this particular group, or that, has a *right* to a benefit, but simply that benefiting the chosen group happens to work for the general interest. The difference is that statutory entitlements can be enforced through the courts; and absent a violation of a right to be treated equally (to be discussed below), other groups have no right to insist that similar programs or entitlements be maintained for them.

Concerning subject areas such as education and, in particular, special education programs, how the legislature chooses to treat the subject, or in what manner public funds are expended, will depend upon what view that body takes of the way in which the subject matter ought to be regulated. That scheme may be minimal, or it may be comprehensive, according to the philosophical context of the time of drafting. In the case of Manitoba's statutory arrangements over education, the result has been pieces of legislation, subordinate rules, and policy statements, all of which do not convey a coherent theme.

Perhaps even more evident is what the laws respecting education in Manitoba do not say. The belief systems they seem to embrace reflect the educational context of another time. Certainly the absence of clear reference to the purpose of education, the roles of educators, or even the nature of knowledge itself, suggest that much was taken for granted, and only the barest of rules was necessary for the regulation of public schools.

The Public Schools Act and the Education Act in Manitoba seem, on their face, to ignore the changes that are taking place in educational thought including, no doubt, what is actually happening in the classroom. The Act appears to reflect earlier conceptions of education. For example, our thinking about knowledge, and how it is acquired, is different than hitherto.

Most of the knowledge that matters to us - the knowledge that constitutes our conception of the world, of other people and of ourselves - is not developed in a passive way. We come to know through processes of active interpretation and integration. We ask questions, which may or may not be

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7 R. Dworkin, *Law's Empire* (1986) Cambridge: Harvard Press, at p. 220.

put into words and which may or may not be answered. We struggle - and it can be a long, hard struggle - to make sense.[8]

In this view, knowledge is not a commodity that is outside the person, waiting to be brought in, or acquired as one might make a purchase. "It is a construction of the learner through interactions with other people... . "[9] Legislation which incorporated such a view - or at least, facilitated such a perspective - would have powerful implications for learners with disabilities, even as it led aspirationally for all students in the classroom.

Similarly, it might be said that there are significant changes going on with respect to the teaching function. While more recent documents emanating from Manitoba Education and Training provide direction regarding educational renewal, there is virtually no assistance in the *Public Schools Act* or the *Education Act* which would bear on understanding either the teaching role as it was, or as it is becoming.

The traditional, or transmission model of education rests upon a belief that there is one essential way to educate (or transmit information to) children, which would allow all students to learn the standard curriculum in a uniform way. There is, in one traditional view of education, an anxiety that graduates are not well-prepared for the 'real world', the realities of the workplace. The requirements of economics and business, it is said, outstrip what is presently being provided as a product of current teaching methods.[10] A belief that market-driven demands on the school population should yield structured, disciplined and standardized results, ends with highly directive, bureaucracies which generate regulations and policies to accomplish those ends.

Education reform in the United States frequently reflects this view. Schools are seen to be bureaucracies themselves, which are:

> ... run by carefully specified procedures that yield standard products (students). Based on faith in rationalistic organizational behaviour, in the power of rules to direct human action, and in the ability of researchers to discover the common procedures that will produce desired outcomes, 20th century specifications for schoolwork will

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8 M. Donaldson, *Human Minds: An Exploration* (1992) New York: Allen Lane, at p. 19.

9 J. Irwin, "What Do We Understand Professional Development to Mean?" (1993) Unpub. paper prepared for MTS, at p. 9.

10 See for example: Lewington, J. & Orpwood, G. (1993) *Overdue Assignment: Taking Responsibility For Canada's Schools* Toronto: Wiley & Sons, at p. 2

change the nature of education that is delivered in the classroom - and will do so in ways desired by policy makers.[11]

On the other hand, the more contemporary, learner-centred or transactional model of education views the teacher's job as "... no longer (just) to 'cover the curriculum', but *to enable diverse learners to construct their own knowledge and develop their own talents* in effective and powerful ways (emphasis added)".[12] Implicitly, it accepts that knowledge is not immutable, but what is known may change as the edges of ignorance are pushed back. All learning is tentative and provisional, open to revision in light of further evidence and experience.[13]

The principal distinction between the two views of education is the approach taken to the concept of power or authority: in the latter, the object of the teaching process is to allow the learner to become independent in thought and action. "An empowered learner is one who is an autonomous, inquisitive thinker - one who questions, investigates, and reasons."[14]

It seems apparent that policy choices which see educational bureaucracies play a rigid central role in determining what 'knowledge' is the most important, and what levels of 'accumulation' each group must achieve, are those which potentially risk exclusionary and relegative practices, and in consequence may attract scrutiny of the Charter.

In Manitoba, as elsewhere in Canada and the United States, we are in a period where both visions are in use in our schools[15]. If one imagined a line which was a continuum from (one model to another), we would find classrooms and schools all across that continuum. These classrooms and schools fit into communities which have the same range of beliefs and expectations as they do. Unfortunately for classroom teachers, however, the fact that both visions can exist in the same classroom at the same time

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11 Darling-Hammond, L. "Reframing the School Agenda" *Phi Delta Kappan* June, 1993, at p. 753-761. At p. 754, she observes: "This model fits with a behaviouristic view of learning as the management of stimulus and response, easily controlled from outside the classroom by identifying exactly what is to be learned and breaking it up into small, sequential bits."

12 *ibid.*

13 Wells, G. (1990), quoted by Newman, J. (1991) *Interwoven Conversations: Learning and Teaching Through Critical Reflection* Toronto: BISE Press

14 Fishnet, C. (1989) *Enquiring Teachers, Enquiring Learners: A Constructionist Approach to Teaching* New York: Teachers College Press At p. 20, he writes: "Learning is an organic process of invention, rather than a mechanical process of accumulation".

15 (Students) must meet the needs of the new education paradigm, in which learning to learn and mastering higher-order thinking skills are as important as absorbing traditional categories of knowledge." A. Anderson, "A New System of Education: World-Class and Customer-Focused" (1989), 71 *Phi Delta Kappan* 1, at p. 3.

creates tension and dissonance for them. Teachers are pulled in both directions as they receive conflicting messages about their work.[16]

Students, particularly those who historically have been marginalised, can get caught up in this tension, which may have consequences for educators as a matter of law. Here lie both claims of actual discrimination and indirect or consequential discrimination (whereby rules of general application happen to have a discriminatory adverse effect on a particular student because of that child's disability).

The right to an education which means more than the bare assertion of equal opportunity (the least able may line up at the starting-gate with the fleet of foot), has three essential (and sometimes overlapping) approaches: a statute-based right; a constructive right, and a Charter-based amplification of one or both of these existing rights, howsoever minimally expressed. In the contemplation of any 'right' to special education in Manitoba, it is necessary to consider all three, for the entitlements of exceptional children here, while not precarious, are nevertheless far from certain or entrenched.

C. 'Basic' Education

Upon contemplating the hurdle of establishing a right to an education, a preliminary but separate question arises: what *is* a basic education? The legislation in Manitoba affords no assistance on the point, though elsewhere, laws have attempted to address the objective[17]. Moreover, inspiration may be found in the form of international documents. The *Universal Declaration of Human Rights*, Article 26 provides that:

> Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

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16 *op. cit*. n. 8.

17 In the Preamble to the *Education Act*, 1989-90, Stats. Yukon, Chap. 25, for example, the goal of the education system is said to " work in cooperation with the parents to develop the whole child including the intellectual, physical, social, emotional, cultural and aesthetic potential of all students to the extent of their abilities so that they may become productive, responsible, and self-reliant members of society while leading personally rewarding lives in a changing world".

The *American Declaration of the Rights and Duties of Man (The Americas)* holds in Article XII that "(e)very person has the right to an education, which should be based on the principles of liberty, morality and human solidarity".

The UN *Convention on the Rights of the Child* provides in Article 29 that education of the child shall be directed to the "development of the child's personality, talents and mental and physical abilities to their fullest potential"; to the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; the development of respect for the child's parents ... cultural identity, language and values of the child's country; the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship among all peoples; and the development of respect for the natural environment.[18] Other democracies such as the United States and Australia have addressed what constitutes a basic education, so that when one considers what the goals for children - special needs or otherwise - in the schools ought to be, that exercise takes place in the context of what it is that the legislation intends.

Instead, perhaps because of the legislative vacuum, the *Administrative Handbook for Manitoba Schools*[19] - the policy statement which guides the definitional approach - states that " ... the concept of a core curriculum rests on the assumption that there exists a common, definable body of knowledge, concepts, skills and attitudes which the majority of students should be expected to acquire ... "[20] Not only is this a surprising basis upon which to proceed (as opposed to establishing the goals which a core curriculum is intended to reach), it can be viewed on the face as discriminatory. How much better to require an educational program which would enable the student, within his or her particular ability and talent, to attain those things of which the international documents speak. Indeed, the subsequent paper High School Review, Answering the Challenge: Strategies for Success in Manitoba High Schools tabled by the Minister of Education in 1990, insists that the high school program must address the educational needs, abilities and interests of each student. This probably accords with the reality of the educational experience in Manitoba, rather than what any legal framework does or does not provide.

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18 As of Jan. 1, 1992, this document had been ratified by 107 states including Canada, and signed by another 35. See: Alston et al (eds) *Children, Rights and the Law* 1992 Oxford: Clarendon, at p. viii.

19 Manitoba Education and Training document, February, 1988.

20 *ibid*. s. 1.2.00

As children prepare for the "unexpected non-routine world they will face in the future"[21] can all children be confident that their right to a basic education is secure? Currently being proposed in some quarters is educational reformation based on contracting with the private sector:[22] How will special education needs fare in such an environment?

The point surely is that the objects of a basic education - which will necessarily include at least notionally what an 'appropriate' education is - are concepts that are capable of being captured in legal drafting. Legislative assurance offers comfort that these questions would be resolved in favour of the special needs student.

Next, it is important to review briefly how Charter-based arguments are brought and applied by the courts; in the context of special education, section 15, or the equality provisions of the Charter, will be of particular interest.

D. Constitutional Analysis

1. Background to the Constitutional Analysis

The Charter operates to place limits upon the ordinary jurisdiction of law and policy makers. How this works in general terms precedes specific consideration of the regime for special needs students in Manitoba.

The Charter has changed the legal landscape in Canada. Prior to 1982, there were few practical limits on the powers of the legislature, and fewer still to fetter the actions of officials, ostensibly acting pursuant to existing legislative provisions. No limit existed to interfere with policies internal to the operation of government, such as that formulated by Cabinet.[23] There is, as

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21 Green, M. "In Search of a Critical Pedagogy" (1989), 56 Harvard Ed. Rev. 12, at p.12.

22 See for example: *Reinventing Public Education: How Contracting Can Transform America's Schools* P.T. Hill/L.C. Pierce/J.W. Guthrie (1997) Chicago: University of Chicago Press

23 This of course is changed now with the dramatic assertion by the Supreme Court of Canada that even the activities of Cabinet may be the subject of review by the Courts in *Operation Dismantle*, [1985] 1 S.C.R. 441.

well, a constitutionally-imposed demand for due process,[24] which includes such things as proper notice, a right to be heard, a freedom from bias, openness, and a more general obligation upon officials to deal fairly[25] with those whose rights or obligations are under consideration. (The duty to act fairly pre-existed the Charter, of course, but it was the constitutional amendment that brought the principle - at that time considered to be included under the rubric of 'natural justice' - into sharper consideration as part of 'fundamental justice', which is the more expansive term that was chosen for section 7 of the Charter.)

The Charter has compelled the shifting of the legislative exercise away from a general welfare, paternalistic orientation, to an individualistic, rights-based emphasis, which in turn speaks to self-direction, autonomy[26], and the expectation of minimal intrusion[27]. How these principles will play out is hinted at by the former Chief Justice of Canada, in these remarks:

> Inclusion of [free and democratic society] as the final standard of justification for limits on rights and freedoms refers the Court to the very purpose for which the Charter was originally entrenched in the Constitution; Canadian society is to be free and democratic. The Court must be guided by the values and principles essential to a free and democratic society which I believe embody, to name but a few, *respect for the inherent dignity of the human person, commitment to social justice and equality,* accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society. The underlying values and principles of a free and democratic society are the genesis of the rights and freedoms guaranteed by the Charter and the ultimate standard against which

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24 The term reaches back at least to *Magna Carta*, in 1215. It has to do with the relationship between the individual and the state. There must be a definable process by which power is exercised against an individual, that at minimum observes the rules of natural justice.

25 "Natural justice is but fairness writ large and juridically." *Furnell* v. *Whangarei High Schools Board*,[1973]2 N.Z.L.R.705, at p. 718.

26 "Personhood" is the American term. See: L. Tribe, *American Constitutional Law* (1978) New York: Foundation Press, at p. 888, where he writes about such things as the notion of 'personhood' might encompass: privacy, reputation, appearance, choosing of one's vocation, the right to procreate and raise one's children, and so on.

27 Where the legislation limits a basic freedom, as it will frequently do, there is a threefold test that is applied under the saving section (section 1 of the Charter): I. the measures must be carefully designed, not be arbitrary, unfair or based on irrational considerations; they must be rationally connected to the legislative purpose or objective; ii. the means must impair as little as possible the right or freedom involved; iii. there must be a proportionality between the effects of the limiting measures, and the objective identified as of sufficient importance. *Oakes* v. *R*. [1986] 1 S.C.R. 103 (Ont.) at p. 139.

a limit on a right or freedom must be shown, despite its effect, to be reasonably and demonstrably justified.[28] (emphasis added)

Equality has a place of primacy in the determination of who will have benefit and protection of the law. Section 15 of the Charter is explicit both on this point and in respect of the exceptions which may be created to accommodate affirmative action programs. The way in which section 15 governs scrutiny of state action is one of the most important legal considerations for this review.

In brief, when section 15(1) of the Charter is invoked, the first question to be asked is whether there is a denial of the right to equality before the law, under the law, or equal protection and benefit of the law? Does the law draw a distinction on its face? If the answer is 'yes', then the next question is whether the distinction has a discriminatory impact? If the answer to the first question is 'no', then one must ask whether or not it, nevertheless, has a disproportionate impact on a particular group. This is a human rights concept that is relatively well-developed in Canada.

Does the denial of the equality right perpetuate discrimination? It is important to consider that (i) no intention to discriminate is required (ii) the denial often means the imposition of a comparative disadvantage on a group or individual (iii) the denial is often based on harmful or prejudicial group stereotypes. Two recent cases from the Supreme Court of Canada illustrate the way in which the equality provisions have been brought in aid of disabled persons.

2. Cases Related To The Charter

Brant County Board Of Education versus Carol and Clayton Eaton [29]

This case involved the parents of a 12 year old girl with cerebral palsy, who was unable to communicate in any way, and who was mobility impaired (confined to a wheelchair). She was identified as an exceptional pupil by a review and placement committee (in Manitoba there is no such entity, but policy guidelines address the issue of placement by means of an

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28 *ibid. at p. 136.*

29 [1997] 1 S.C.R. 241.

"educational team"[30]), but nevertheless at her parent's request she was placed in a regular classroom, accompanied by a full time assistant. After three years, it was the collective view of the teachers and assistants that this was not in the girl's best interests, and that continuation of those arrangements may well have harmed her. The same committee as before recommended that she be placed in a special education class (segregated). The parents objected, and appealed to the Special Education Appeal Board, which confirmed the decision. A further appeal to a tribunal set up under the Ontario Education Act confirmed that decision (there are similar kinds of processes envisioned in the Manitoba policy documents, though as will be discussed, they have no legislative basis). The parents proceeded to the trial court in Ontario, which dismissed the case (meaning that there was no change in the original order). However, the Court of Appeal in Ontario allowed the appeal, and set aside the order of the original tribunal. Upon appeal to the Supreme Court of Canada, which was joined by many other parties because of their interest in the case, that decision was overturned, and the original order to send the girl to a special education class was restored.

This case involved the relationship of section 15 (equality) and the education of children with disabilities, where sometimes competing interests of the child, the parents, teachers and administrators are unevenly joined.

Under the *Ontario Education Act*[31] exceptional pupils are defined as: "a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he or she is considered to need placement in a special education program by a committee of the board."[32]

Section 8(3) of the same Act requires the availability without fees of such programs, and regulations establish the process referred to above, including the mechanisms for appeal.

Section 15 of the *Charter* guarantees to all Canadians equality before and under the law, and the right to equal protection and benefit of the law without discrimination, in particular, "without discrimination based on race, national or ethnic origin, colour, religion, sex, age or *mental or physical disability*" (emphasis added).

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30 See: Special Education in Manitoba (1989) para. 3.4(3) at p. 6.
31 Appendix VI.
32 *ibid*.

Current thinking regarding the education of persons with disabilities is reflected in the present Ontario *Education Act*, which acknowledges the desirability of integration and 'de-institutionalization'.[33] The change occurred subsequent to 1980, spurred by the Williston Report in that province, "Present Arrangements for the Care and Supervision of Mentally Retarded Persons in Ontario". Where exceptional students have been identified, a determination of their needs and appropriate placement follows. This educational plan has parental involvement. When, after three years in the regular classroom, the decision was taken to refer the child to special programming, the parents challenged the ruling, arguing among other things that there was a violation of the *Charter*, s. 15. All this might occur in Manitoba, with the principal distinction that *Eaton* was governed by explicit statutory considerations while, in Manitoba, it would mainly be a case built upon the interpretation of policy.

The Supreme Court of Canada considered earlier decisions which held that not all distinctions meant a violation of the Charter. "Accommodation of differences is the true essence of equality."[34] Two streams of thought from earlier decisions considered that discrimination can be negated where the legislative goal or functional value of the legislation is not itself discriminatory. This has special significance when considering the condition of the mentally and physically disadvantaged, because of the enormous range of variation in that condition. The Court determined that the Charter does not seek to deny the reality of particular disabilities, but to ensure that reasonable accommodation is made.[35]

The failure to make reasonable accommodation, to make broadly available benefits that the government has decided to confer as part of its social policy objectives, so that its structures and assumptions do not result in the relegation and banishment of disabled persons from participation results in discrimination against them.

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33 "(I)n addition to advocacy, research on the integration of students with severe disabilities proliferated during the 1980s in many special education departments and institutes in universities around the country. The overwhelming data from this research supported and crystallized the benefits of integration for disabled and non-disabled children as well. These benefits cut across all educational domains - social, language, academic, and psychological areas. The research data also demonstrated that progress in these areas positively correlates with the amount of integration. The more disabled children participate in classroom activities with non-disabled peers with appropriate support services, the better they do." D. Lipton, "The Full Inclusion Court Cases: 1989-1994" D.K. Lipsky/A. Gartner *Inclusion and School Reforms: Transforming America's Classrooms* (1997) New York: Brooks, at pp. 300-01.

34 "(T)he interests of true equality may well require differentiation in treatment." *Per* Dickson, CJC in *R*. v. *Big M Drug Mart* [1985] 1 S.C.R. 295, at p. 347.

35 This term is well understood in human rights litigation. The law operates to impose this duty on those whose prescribed services must not discriminate on legislatively enumerated grounds.

This required, even if a change in attitude had not occurred, “a policy which assessed the true characteristics of the disabled person with a view to accommodating them”.

In this context, the paradox of segregation is that in the court’s opinion, it can be both violative of *and* protective of quality, depending upon the person and the state of disability. Integration ought to be the norm, the Court said, but to make it a legal presumption, which would have the effect of requiring the education authority to integrate unless they could prove that it was of no benefit, could “work to the disadvantage of pupils who require special education in order to achieve equality ... Integration can be a benefit or a burden depending on whether the individual can profit from the advantages that integration provides.” It must be remembered that this is merely the opinion of persons who have no particular background in such matters save that which had been put before them. The best place for such decisions is the floor of the legislature, following proper consultation with interested parties. This case affords some illustration of what occurs when the legislation is silent.

In its review of the Tribunal’s decision, it was clear that a ‘distinction’ was being made, on the basis of disability. The Tribunal also considered:

< the counter-productive effect of three years in a regular classroom, which, far from integrating her, had the consequence of isolating her;
< that it was not possible to meet the student’s needs without isolating her further;
< the child’s safety needs could not reasonably be met without radically altering the classroom;
< where the maximum opportunity for instruction would likely occur.

The Tribunal therefore:

< balanced the various educational interests of the child, taking into account her special needs;
< required an ongoing assessment of her best interests to reflect on her placement;
< considered that there was a continuing obligation to meet present and future needs.

In this case, as with many involving disabilities, the rights of the disabled were being exercised by the parents. However, the wishes of the parent are not always going to be dispositive. The test for these kinds of decisions is 'what is in the best interests of the child'. Older children and those able to communicate ought to play a role in the decision. The risk of deferring to parental wishes, if they are based on ignorance or apathy or intimidation by authority, is that decisions may get made by default, rather than what is in the best interests of the child.

There are several principles which one may usefully draw from this case.

< Disability, as a prohibited ground, differs from other enumerated grounds such as race or sex, because with the latter there are no individual variations. This produces the "difference dilemma", whereby segregation potentially can be both protective and violative of equality. But without clear legislative or policy direction, the risk of labelling a child becomes significantly increased. This is the case with the Manitoba regulations, to be reviewed shortly, which invite labelling in the cause of funding convenience.[36]

< Parental rights do not supercede those of the child. In the absence of a legislative standard for decision-making, the test will always turn on what is in the 'best interests of the child'. As will be considered, no test appears in Manitoba's laws in this area.

< Not all distinctions will result in a finding that the equality provisions of the *Charter* have been violated; consideration must be given to the intent or object of the exercise.

< There is an expectation that in each case involving persons with disabilities, there will be reasonable accommodations made to ensure that segregation does not occur except as a last resort. Manitoba's policy initiatives try to address this: "the most enabling learning environment available or possible", though the policy does not define standards which would not only ensure direction in particular cases, but would also address uniformity across the province.

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36 In *Schacter* v. *Canada*, [1992] 2 S.C.R. 679, at p. 709, the Chief Justice of Canada observed that: "This Court has held and rightly so that budgetary considerations cannot be used to justify a violation under section 1." See also: *Singh* v. *The Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, at p. 218. Rights violations cannot be justified on the basis of financial costs or administrative convenience.

< Integration or 'mainstreaming' is the norm, at least where the legislation provides or may be construed, but it ought not operate to create a burden or other insidious result, which might occur should it be approached as a presumption. The legislation in Manitoba is silent on the point. As observed above, the policy directive provides for programming in "the most enabling learning environment available or possible", which will be, in "the majority of cases, integration in the regular classroom".

< Important decisions of educational authorities ought to be supported by reasons which are clear, and reflect careful consideration of the competing interests involved, as well as the obligations imposed by the relevant statutory provisions (that is: is there a test set out in the legislation? what steps need to be followed? who has the authority? what limits are imposed on that authority? has due process been observed? is the overall process and result capable of being characterized as 'fair'?)

Robin Susan Eldridge et al versus Attorney-general of British Columbia [37]

This case will be discussed more fully later on, but in brief, the Supreme Court of Canada reviewed the case of a deaf appellant whose objection to a failure on the part of the province to provide interpretation services free of charge worked an adverse effect upon his right to effective communication with medical staff, which in turn was central to his right to benefit equally from the delivery of a medical service available to everyone. There was no obvious intention to treat differentially: the legislation was facially neutral. However, it was found to be sufficient if the effect of the statute (or policy, for that matter) would be to deny equal protection or benefit of the law.

The central rule in *Eldridge* is that in the implementation of a law, section 15(1), wrong occurs when officials exercise discretion in a way that results in a discriminatory effect, which has adverse consequences for a person or a group. In the special education context, this probably means that exceptional students must have such resources as are reasonably required to ensure that they can benefit equally from the law (the right to attend school). Expressions such as "when available", or "if possible"; "when appropriate", may not be sufficient to shield officials' decision-making with

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[37] October 9, 1997. As yet unreported decision # 24896 of the Supreme Court of Canada.

respect to special needs children, from Charter scrutiny. And, it will no longer be possible to resist the full sweep of that scrutiny by simply asserting that accommodating those who potentially are differentially treated will strain resources or jeopardize programs. To accept conjectural grounds is to diminish section 15 of its intended effect.

Finally, one ought to consider the emerging right to privacy, even though it has no specific mention in the constitutional arrangements. Privacy[38] as an essential aspect of one's integrity as a person, now enjoys an elevated level of assurance as a result of the Charter[39]. This has significance as one considers the effect of the Charter on the power to legislate with respect to children. It is important because the foundation of privacy is respect - both in its legal connotation and as a the foundation of a new relationship with children. Thinking about children as citizens, with the nascent forms of rights that attach to full participation in a democracy, demands a new approach in teaching as it does in legislating: the old forms of paternalism and *in loco parentis* no longer can have their exclusive way as before. Legislation or other legal devices must reflect what the Charter mandates.

Finally, and in more general terms, the Charter has brought with it increased demands upon the legislature to be clear, precise, and focused on the legislative objective. Legislation which affects rights cannot be overly-broad, which is a function of the 'minimal impairment' requirement discussed earlier, under section 1 of the Charter.[40] Nor can it be vague: that is, couldthe ordinary, informed citizen, on a reasonable construction, be able to construe the meaning of his or her obligation, and when it is triggered?[41]

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38 Section 8 of the Charter addresses the right to be free from unreasonable search and seizure; also impliedly it is protected under section 7 (the right to life, liberty and security of the person).

39 Section 8 has been held to include a right to a reasonable expectation of privacy in search matters: *Hunter* v. *Southam Inc.* (1984), 11 D.L.R. (4th) 641 (SCC). There is no privacy right in the American Constitution, though their Supreme Court has recognized this implicit liberty interest under the due process clause of the 14th Amendment, and the free speech and right of association guarantees of the First Amendment. An example where the right has been extended to children is in the area of abortion, and the rules that purport to condition the rules by which it can be obtained. See for example: *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52 (1976).

40 See for example: *R.* v. *Budreo* (1996), 45 C.R. (4th) 133 (Ont. H.Ct.). Also: *R.* v. *Heywood* (1994), 120 D.L.R. (4th)348 (S.C.C.) Does the measure restrict liberty far more than is necessary to accomplish the legislative goal? If so, it is unconstitutional.

41 "The doctrine of vagueness can ... be summed up by this proposition: a law will be found unconstitutionally vague if it so lacks in precision as not to give sufficient guidance for legal debate." *per* Gonthier, J. in *R.* v. *Pharmaceutical Society* (1992) 93 D.L.R. (4th) 36, at p. 59 (S.C.C.)

The question is whether the legislation has provided an intelligible standard according to which the judiciary must do its work.[42]

In the same case from which this passage was taken, the former Chief Justice of Canada observed that "absolute precision in law exists rarely, if at all."[43] And in yet another decision from the Supreme Court of Canada, involving the interests of special needs children,[44] the idea that legislation which was general could be made right by 'reading into' its provisions that which the court might think appropriate, was firmly rejected.

From this short analysis, it becomes apparent that any legal review of legislation, regulation, and policy which is specific to the special education program in Manitoba, must proceed carefully and in light of principles which set limits on the rights of lawmakers.

E. The Legal Framework

1. The Legislation

There are two sets of statutory instruments which govern education in Manitoba: the *Public Schools Act*, and the *Education Administration Act*. Each of course has its companion regulations. These Acts are predicated, upon certain widely (but not universally) held assumptions about the education of children, which were taken for granted by the drafters, at the time.

When one considers that special education programming in one form or another has been considered from the earliest beginnings of Canadian education,[45] it seems puzzling that no reference appears either specifically

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42 *Irwin Toy Ltd*. v. *Quebec*, [1989] 15 C.R. 927, at p. 957 (S.C.C.)

43 *ibid.* In *R*. v. *Morgentaler* (1988), 44 D.L.R.(4th)385, at p. 441, it was observed: "Flexibility and vagueness are not synonymous."

44 *Brant County Board of Education et al* and *Eaton et al* (Feb. 6,1997) #24668 (S.C.C.) Unreported.

45 Consider for example, the well-intended but misguided remarks of Egerton Ryerson, who in 1846 wrote: "The physical disease and death which has accompanied their (the poor) influx among us may be a precursor to the worst pestilence of social insubordination and disorder. It is therefore of the last (sic) importance that every possible effort be employed to bring the facilities of education within the reach of the families of these unfortunate people, that they may grow up in the industry and intelligence of the country, and not in the idleness and pauperism, not to say mendacity and vice, of their forefathers". (Cited in *Admittance Restricted* (1978)Report of the Canadian Council on Children & Youth, at p. 105.

or aspirationally related to the value of inclusion. The right to attend school[46] which is asserted in all education-related statutes, nevertheless, in Manitoba does not speak directly to the needs related to this right of those children whose requirements exceed those of the average child. In 1970, it was observed that the right to attend school was "less clear" with respect to mental and physical disability, and in particular, it was noted that there was considerable uncertainty over whether such a right "can somehow be stretched to cover individual differences, ... to include the provision of compensatory, remedial and special educational services for children who have special needs".[47] The national study which included this quite valid observation made several recommendations pertinent to this discussion, namely the following:

< that educational authorities be financially responsible for the education of all children in their community;

< that educational authorities make nursery and kindergarten programs available to all children who are likely to benefit from these pre-school experiences and that in the development of these services, *priority be given to children who are physically, educationally or socially handicapped* ....;

< that because of the negative effects of separate education facilities, educational authorities minimize the isolation of children with emotional and learning disorders, and plan programs for them that as far as possible, *retain children within the regular school curricula and activities;*

< that educational authorities avoid setting up or maintaining terminal special education classes except for very small numbers of multiply handicapped or severely retarded children ....;

< that in order to prepare adolescents with emotional and learning disorders for adult life, *it be mandatory for education authorities to provide appropriate educational and training opportunities* until the student is twenty-one years of age (emphasis added).

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46 Section 25 of the *Public Schools Act* provides that any person between 6 and 21 has the right to attend school. This provision presumes a minimum threshold of physical or mental capability. However, the old legal maxim provides: *ubi jus remedium* (there is no right without a remedy), though this is a poor way to ensure protection.

47 C.A. Roberts/D. Lazure *One Million Children: A National Study of Canadian Children with Emotional & Learning Disabilities* (1970) Toronto: Crainford, at p. 70

These obligations, which breathe life into the right to attend school for special needs children, could be simply expressed in provincial legislation.

2. The Right To Attend School For Special Needs Children

The right to attend school is an important right; a right without which meaningful participation in a free and democratic society would be severely curtailed[48]. "If rights make sense at all," wrote Ronald Dworkin, "then the invasion of a relatively important right must be a very serious matter ... it is worth paying the incremental cost in social policy or efficiency that is necessary to prevent it."[49]

Dworkin considered that there are three grounds which exist to limit the definition of a right: one might show that the right is not really at stake in a marginal case; that some strong competing right would be abridged; or that the cost to society would not be incremental, but of a degree far beyond the cost paid to grant the original right.[50] Manitoba's statutory regime does not provide much assistance on the point, in these or any other terms. The risk to the education system is that in some future determinative case, the nature of the right may be determined by a court, probably the last place to consider the appropriate dimensions of such a complex issue.[51]

So the preliminary question becomes: in Manitoba, is there a legislated right to an education which is reasonably appropriate to the particular child?

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48 *Brown* v. *Board of Education* [1954] 347 U.S. 483, at 492: "Today, education is perhaps the most important function of local and state governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities ... It is the very foundation of good citizenship. Today, it is a principal instrument in awakening a child to cultural values, in preparing him for later professional training, *and in helping him to adjust normally to his environment ... it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms* (emphasis added). These words apply with the same force to the subject under discussion.

49 R. Dworkin, *Taking Rights Seriously* (1977), at pp. 190-91.

50 *ibid*.

51 There is abundant authority to suggest that a court might return the matter to the legislature for remedial steps to be taken. In a case nearly on point, *Re Dolmage et al and Muskoka Board of Education et al* (1985), 49 O.R. (2d)546 (Ont. H.Ct), the court was not persuaded to enter into the policy realm, saying that such was the exclusive purview of the Minister. "I readily confess to possessing no aptitude for such a role." However, courts may not always be so reluctant. In *Badger* v. *Manitoba (A.G.)* (1986), 39 Man. R. (2d) 107; affirmed: 39 Man. R. (2d) 230 (C.A.) at p. 234: "In a proper case it might be possible for the court under section 24 of the Charter to establish (a mechanism not provided for in the statute - in this case, voting rights for prisoners -) if a Legislature were to show itself contumacious in denying rights ... "

A full definition of appropriate education specifies the following conditions: instruction must be specially designed, follow proper evaluation, offer the student an opportunity to benefit, conform with the requirements of the individual education plan, and include the non-handicapped; it must be in the proper education setting; and the school must observe procedural safeguards.[52]

As previously stated above, the starting place for this inquiry is the *Public Schools / Education Administration Act.* The legislatively-asserted right to attend school, without more, has the potential to defeat the right effectively, for to be meaningful, the right must be accompanied by the means by which it is to be realized. The legislation in Manitoba has been characterized as a "near right", which deals with the issue on a "special interest" approach.[53]

Section 41 of the *Public Schools Act* sets out that school boards must "provide adequate school accommodation for the resident persons who have the right to attend school as provided under section 259". It is an open question whether the expression "adequate" could be expanded to further the needs of exceptional children.

Pursuant to the yet-as-unproclaimed section 41(q), which requires that "every school board shall ... screen every pupil who has not been previously screened entering the school system in that division or district, for physical, emotional, mental or learning disability", it may have been possible to infer the requirement for special education programs. But since 1980, there has been no move to make the provision law .[54]

Probably the most profound legal development in the right to education in its broadest dimension has been the decision of the Supreme Court of Canada in *Eldridge*,[55] and *University of British Columbia* v. *Berg*.[56]

In *Berg*, the administration of the university had refused to provide a student with a key and other things that were provided to all other students as a matter of course. This was done because of her mental disability. The way in which the discretion was conferred upon officials to grant or withhold a key was not offensive in the way it was drawn: the key could be given, or not, as

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52 D. Poirier / L. Gougen / D. Leslie *Education Rights of Exceptional Children* (1988) Toronto: Carswell, at p. 92.

53 D. Cruickshank, "Human Rights and Charter Rights in Special Education", J. Balderstone & J.Holmes (eds.) *Legal Issues in Education: Canadian School Executive Conference Proceedings* (1982), at p. 42.

54 Not that legislation by itself assures success. See for example, J.A. Leroux, "Are the Rights of Young Gifted Children Really Protected Under Legislation?" (1990) 6 Can J. Spec. Ed. 72.

55 *op. cit.*, n. 36.

56 [1993] 2 S.C.R.

the officials wished. The court concluded that the keys and other items were incidents of the public relationship between the school and its students. Once services or facilities are made customarily available to the public (in this case, the educational public), the discretion can no longer be exercised in a way that attracts a finding that it purports to be consequential upon a prohibited discriminatory ground - in this instance: mental disability.

As the discretion had been routinely exercised in favour of all other students, it could not be exercised unfavourably upon a prohibited ground. That which is routinely provided to students in the furtherance of their education ought to be provided to the disabled in a manner that affords them the same opportunity to maximize their educational experience.

It was the decision of the Supreme Court of Canada in *Eldridge* that provided the constructive right to an appropriate education its greatest boost. The court ruled that a *substantive* equal benefit of the law without discrimination applies to disabled populations, in this case, the deaf. Translation services were not provided for the hearing disabled. The operative legislation was not objectionable in that one could argue that it aimed a discriminatory intent at that group. While no violation of the principle was apparent, nevertheless the *implementation* of the statute did create an adverse impact on this disabled group, simply by the policy choices that were made ostensibly pursuant to the act. The rule in *Eldridge* holds that measures will be required to be put in place such that equal benefit of the law obtains for everyone, including those with disabilities. The plea of economic hardship may only be heard in the context of a section 1 argument - the justification or limitation provisions of the Charter. This is a portentous finding by the courts, for it has obvious implications for special education programs, especially those that have not been the subject of careful legislative treatment.

The court re-stated an axiom: the adverse effects borne by the disabled are not the result of a burden that is not imposed upon the rest of the population, but from a failure to ensure that the disabled benefit equally from a governmental service that is offered to everyone. As a well-informed

commentator observed: “this is extraordinarily important in terms of its application to special needs children in the public schools system”.[57]

As earlier observed, rather than proceeding from a substantive, universal-rights statement in the statute, special education in Manitoba risks becoming ‘frozen’ in a state which lags behind current thinking in disabilities research and understanding.

Does the right to receive an appropriate education, as part of the more narrowly drawn right to attend school find legal support elsewhere? It may well be that a substantive ‘right to attend’ could be crafted by the parents of exceptional children in Manitoba. Rights are usually distinguished from ‘privileges’ in that rights can be enforceable at law. Privileges are bestowed by authority, but there is no assurance of continuance or of degree.

The foundation for such an argument is found in the Universal Declaration of Human Rights[58], which proclaims that everyone has the right to an education which is free and compulsory, and in which parents of the child have the right to choose the kind of education that shall be given to their children. The Declaration of the Rights of the Child, in 1959[59] reiterated the right to an education, and that “he (*sic*) shall be given an education which will promote his general culture, and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgment, and his sense of moral and social responsibility, and to become a useful member of society”.

It further provided that the guiding principle for those responsible for the education of children shall be “the best interests of the child”.[60]

Canada is signatory to these documents, and so is bound by international convention. But beyond being useful in a persuasive context, they do not have immediate legal consequence. It could be argued that Manitobans’ right to attend school must be necessarily read in the light of international

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57 Y.M. Henteleff, QC “Discussion of the Eldridge Case” unpublished follow-up to “How Best to Secure the Right to an Appropriate Education for Special Needs Children: The Charter or Human Rights Code?” presentation to Annual Conference of Human Rights Agencies, (1997) Toronto, ON.

58 U.N. Doc. A/811, 1948.

59 Resolution of the U.N. General Assembly, # 1386 (XIV) 14th G.A., 1959.

60 Principle 7.

commitments. These would include the United Nations documents relating to the disabled.[61]

The Human Rights Code, S.M. 1987-88, c.45, s.13, which forbids discrimination in the provision of services, et cetera which are available or accessible to the public or section of the public, may not be helpful because of its inherently limiting terms: "...unless bona fide and reasonable cause exists for the discrimination". This language is potentially exclusive, and special needs children must still make the case that they should not be set apart. This view is reinforced by subsection (2), which suggests that discrimination is possible, if the legislation permits it, and the person is under the age of majority. Read against the requirements of the Public Schools Act to provide "adequate" accommodation and the unadorned right to attend school (sections 25, 41), the Code is small comfort.

These taken together with the obligations imposed by statute upon school boards ("... shall make provision for education in grades I to XII inclusive for all resident persons who have the right to attend school") move one step closer to the assertion that the right to an education is inclusive of exceptional children. But it could be viewed as a somewhat wobbly argument, for it is grounded upon inferential and tangential arguments to maintain what the law itself does not explicitly provide.[62]

It is useful for comparison purposes to consider briefly how other jurisdictions in Canada have addressed special education in their legislation.

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61 *Human Rights: A Compilation of International Instruments* (1978) New York: UN Publications; Dec. of the Rights of the Child (1959), principle 5, at 114; Dec. of the Rights of Mentally Retarded Persons (1971), at 127; Declaration on the Rights of Disabled Persons (1975), at 127-28.

62 It is possible that the *Human Rights Code* S.M. 1987-88, c.H175 could have been invoked to shore up this argument. That statute dealt with the prohibition against discriminatory practices in respect of publication, accommodation, property purchase, advertising, pre-employment inquiries and contracts. It had no apparent application to education (though s. 6 addresses training for employment, it is quite clear from a plain reading of the section that such training is employment-specific). It is arguable that the duty to accommodate means more than merely the provision of wheelchair ramps and nursing attendants.

F. Special Education Legislation In Other Canadian Jurisdictions

1. Newfoundland/labrador

Though minimalist, the primary legislation in Newfoundland does address special education directly. The governing statute[63] provides, under the section[64] headed "Duties of School Boards, that a school board shall:

(b) organize the means of instructing children who for any physical or mental cause require special classes, either by the establishment of special classes in its schools or by making arrangements with another school board or with an educational body or authority within Canada for the education of those children.

While this establishes a statutory right to an education for children with special needs, the principles which guide the process to be followed are not established in the law. Indeed, a further subsection (e) provides that a "pupil suspected to be suffering from a ... physical or mental condition ... or suspected to be so mentally deficient as to be incapable of responding to class instruction ... " may be, subject to medical confirmation of the condition, excluded from school. Without commenting upon the serious section 7 arguments that could be mustered against the effective operation of this provision, exclusion or segregation is a very real possibility for exceptional children, without any assurance that all available options for inclusion have been reasonably tried.

One is reinforced in this conclusion by reviewing section 49 of the Act. There, authority is found to permit the Minister ("if he or she considers it necessary") to establish a school in a hospital.[65]

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63 *An Act Respecting the Operation of Schools and Colleges in the Province*, R.S.N. 1990 (Vol. 9), Chap. S-12

64 s. 11

65 Nfld./Lab. have chosen to augment their legislation by the issuance in 1990 of policy guidelines, similar to the approach in Manitoba. It relies as Manitoba, upon a categorical methodology for identification and referral. "Such a policy does not encourage teachers to request in-class help for pupils before they are sufficiently behind to be identified as a special education category. Instead, it reinforces the well-documented attitudes of teachers that the purpose of special education is to remove difficult problems from the class, thereby contributing to the homogeneity of the group for teaching purposes." A.J. Wilson/ T. Cleal/E. Godsell/W. Sheppard "The Special Education Policy of Newfoundland and Labrador: An Analysis of Its Potential Impact" M/ Csapo/L. Gregory (eds) *Special Education Across Canada: Issues and Concerns for the 90s* (1989). Vancouver: Centre for Human Development and Research 133, at pp. 144-5.

2. Prince Edward Island

On Prince Edward Island, the *School Act* of 1988 was repealed in 1993, and replaced with a similar statute of the same name.[66] There are three provisions which address special education, albeit only two of them directly. The first is section 68, which falls under the heading "Free School Privileges". It provides that all resident persons between the ages of six and twenty who have not graduated from high school, are not excused from attending school, and have the right to free school privileges "as defined by the regulations and as provided in accordance with this Act".

Under section 54, the Lieutenant Governor in Council may make regulations (v) "respecting the provision of special education services". In fact, there is an extensive regulatory regime proclaimed in May 26, 1994, with amendments in 1995 and 1996.

Under the heading, "Minister's Responsibilities"[67], it is prescribed in mandatory language that the Minister shall "prescribe policies for the provision of special education services".[68]

3. Nova Scotia

Nova Scotia comes at this subject directly in its recently-enacted education statute[69]. Section 25, subsections (2) and (3) impose a positive duty upon educators, in the case of children with special needs, to be "afforded the opportunity to participate in the development of an individualized program for their children". Where there is a dispute that arises in the context of developing an individualized program, and that quarrel cannot be resolved by a school board appeal process, the parent may initiate an appeal as prescribed by the regulations.[70]

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66 *School Act*, 1993 c.35, R.S.P.E.I. 1988, S-2.1.

67 s. 7 of the 1993 Act.

68 Policies are coordinated through APSEA (Atlantic Provinces Special Education Authority), which is an agency that was established in 1973 following a study commissioned a year before. This established the principles that the government was to follow. The report recommended distinguishing between two classifications of handicapped persons: Category I, severely disabled. Category II, the educationally handicapped. These form the basis, much as in Manitoba, for funding.

69 *Education Act*, Stats. N.S. (1995-96), Chap.1

70 Under the regulations (June 1997 Consolidation) under the heading, "Board of Appeal - Special Education" ss. 53 *et seq* set out the process which must be followed, and the duty of the Minister upon receipt of a written request, to appoint a Board of Appeal (which has guarantees of freedom from the appearance of bias), which must hear the matter "as soon as practible". The right to be heard, right to counsel and confidentiality and costs are also addressed in the regulations (see Appendix III).

Under section 26(g), it is the duty of a teacher "to participate in individual program planning and implement individual program plans, as required, for students with special needs".

Policy-making (the general principles of which are discussed under that heading below), is specifically authorized by section 145(1)(l), which provides that the Minister may make regulations "establishing a provincial policy respecting special-education programming and services".

Under the heading, "General Responsibilities and Powers of School Boards", section 64(2)(d) requires in mandatory language that "a policy for special needs students be developed and implemented *within regular instructional settings with their peers in age*... (emphasis added)*".* There is also a requirement under subsection (e) to develop "short and long term plans for the provision of barrier-free access to and within educational facilities".

4. New Brunswick

In this jurisdiction, the law governing schools[71] was amended[72] in 1986 to address special education directly. 'Special education program' was given an extensive definition, as follows: one that is ...

> ... based on the results of continuous assessment and evaluation and which includes a plan containing specific objectives and recommendations for education services that meet the needs of the exceptional pupil. [section 1(c)]

'Exceptional pupil' is defined as someone who is found to be so after a procedure to be followed as expressed in section 1.1, one which is conducted by "qualified persons" and with parental consultation. It is significant that such procedures and classes are explicitly mentioned in the Act as free of charge to the parent.

Section 6 of the Amendment grants clear discretion to the Minister to establish courses in special education and their content, pilot projects, services and the provision of specialized materials. As well, section 5 makes mandatory that

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71 *Schools Act*, (1973) R.S.N.B. Chap. S-5

72 *An Act to Amend the Public Schools Act* (1986) S.N.B. Chap. 75.

budgetary considerations for the department take into account special education programs and services.

Probably more important than any other provision, section 45(2.1) speaks to inclusiveness:

> A school board shall place exceptional pupils such that they receive special education programs and *services in circumstances where exceptional pupils can participate with pupils who are not exceptional pupils within regular classroom settings* to the extent that is considered practicable by the Board having due regard for the educational needs of all pupils (emphasis added).

Other provisions relate to the training of special needs instructors, and persons engaged in social services, health, psychology and guidance.[73] Still other provisions set out the subject matter of appropriate regulations, so that officials have the requisite authority to develop a regulatory and policy regime in this area that may be accurately said to be ancillary to the declared purpose of the statute.[74]

Following the passage of the legislation, the Department of Education and Training published a policy statement called, "Philosophy Statement and Staff Model for the Provision of Special Education Services" (1987). Essentially, it provides for elements that can be directly linked back to the legislation. These are: a commitment to serving special needs students by meeting their needs; education of all students with their peers in the most enhancing environment possible; removal of special needs students only when their needs cannot be met even with the provision of supplemental supports in the classroom; removal should be temporary, with the focus remaining on eventual return to class.

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73 See s. 8.

74 See the discussion, *infra*, under the heading 'Regulations'.

5. Quebec

Under Quebec's Education Act,[75] Chapter I, Division I, deals with 'Students' Rights' It provides:

> Every person is entitled to the educational services of pre-school developmental and cognitive learning services and elementary and secondary school instructional services provided for under this Act ... (from the age of admission until 18) *or 21 years in the case of a handicapped person ...* (emphasis added).

Section 47 imposes a positive duty upon the principal of a school to ensure that an individualized learning plan is put in place which is adapted to the needs of the student. The section requires the assistance of parents, staff, and the student (if that is possible), as well as periodic evaluation of the plan and its implementation.

Section 185 requires all school boards to establish an advisory committee on services for handicapped students "and students with social maladjustment's or learning disabilities". It further sets out the composition of the advisory body, including parents, teachers' representatives, service providers and advocacy groups. The committee's functions are to advise the school board on "norms for the organization of educational services to handicapped students, to advise on the allocation of financial resources, and it may advise on the implementation of individualized education plan for a handicapped student or a student with "social maladjustments or learning disabilities". They are provided an annual budget, which they must formally adopt, and account for it to the school board.[76]

School boards are required to adopt, by by-law, "standards for the organization of educational services" for handicapped students, "with a view to facilitating their learning and education".[77] The minimum contents of the by-law are to include: evaluation procedures, mainstreaming methods (including "weighting", which addresses the maximum number of students in each class), terms and conditions for grouping students in specialized classes, and methods for evaluation of individualized education plans. It is proposed to amend this section

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75 R.S.Q., Chap. I-13.3

76 s. 197.

77 s. 235. The amendment referred at note 24 will add that the organization of such services will reflect a policy "which is conducive to their integration into regular classes or groups, and into regular school activities whenever possible ... ".

to ensure that parents and the student are consulted.[78] In addition, each school board is required to appoint a person to be responsible for special education.[79]

Bill 180[80], tabled in the Fall Session, 1997, proposes to restructure powers and responsibilities of, and the relations between educational institutions, school boards, and the government. In particular, it intends to see the creation of a parent's committee[81] which would have on it a representative from the advisory committee on services for handicapped students.

The amendment would also permit the delivery of special educational services by other school boards or persons, after consultation with the advisory committee.[82]

The Province of Quebec leaves no doubt as to the rights of special education students, their parents and advocacy organizations. Current legislative proposals will make this regime and the aspirational objectives of the statute even more certain.

6. Ontario

In Ontario, as the result of Bill 82, passed in December, 1980, there is what is probably the most extensive regime in the country for the provision of special education services to children. The Bill was intended to eliminate the permissive nature of its predecessor in 1974 - the policy option - and make the education of special needs children a legal obligation, both in its procedural and substantive arrangements.

The amendment addresses in extensive terms the due process guarantees that accompany the meaningful provision of a such a right. In this latter regard, section 8 of the *Education Act* was amended, and special education was mandated as a 'right', supported from public funds, for all exceptional children in that province. The amendment imposes a positive duty upon the Minister:

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78 See amendment, *infra*, at n. 24, s. 69 (amending s. 235 of the *Act*).
79 s. 265.
80 *An Act to Amend the Education Act and various legislative provisions*, introduced November 25, 1997, by Hon. Pauline Marois, Minister of Education (formerly Bill 82).
81 s. 34 (amendment); would amend current section 189.
82 s. 49 (amendment); would amend s. 213 of the *Education Act*.

> The Minister shall ensure that all exceptional children[83] in Ontario have available to them, in accordance with this Act, and the regulations, appropriate special education programs and special education services without payment of fees by parents or guardians resident in Ontario and shall provide for the parents or guardians to appeal the appropriateness of the special education placement.[84]

Bill 82 also included the right to early and ongoing identification, continuous assessment, and review of the student's placement. The right to a special education program requires the inclusion of a plan which outlined specific objectives for the pupil, which in turn set out the services which were to be made available to meet the needs of the exceptional child.

In contrast to the situation in Manitoba, the regulation-making powers[85] afforded the Minister of Education under this act are specific to special needs children. The Minister may make regulations governing the provision, establishment, organization and administration of special education programs, services and committees to identify exceptional pupils and their placement, as well as the procedures they must follow.

A "hard-to-serve" pupil is defined under the Ontario statute as someone who is unable to profit by regular instruction.[86] This 'classification' is made where a parent or principal considers this to be the case, and the principal has referred the matter to his or her supervisor, and the matter has been referred to the board - who in turn will refer the matter to a committee.[87] This body will inquire into the inability to profit by instruction, the particular handicap, and make a finding as to whether the pupil can profit by instruction (or whether the pupil is a "hard-to-serve pupil"). The committee is obliged to consult before making its findings in a written report.

Review and appeal procedures[88] are clearly delineated under the same section. If it is determined that the child needs special placement, then a

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83 An 'exceptional pupil' is someone " whose behaviourial, communicational, intellectual, physical or multiple exceptionalities are such that he or she is considered to need placement in a special education program by a committee ... " Under subse. 2(b) of s. 21, required attendance at school is not excused as 'unavoidable', simply because that child is handicapped.

84 This provision as it provides the right to appeal placement was engaged in the *Eaton* case, infra. There is no such statutory right of appeal in Manitoba, though such a procedure is envisioned in the policy guidelines to be considered shortly.

85 s. 11.

86 s. 35.

87 s. 35(2) the committee is composed of a supervisory officer, a principal, and a "legally qualified medical practitioner".

88 Powers of a Special Education Tribunal are created under s. 35(12). They deal with a review of the 'hard-to-serve' designation (apparently *de novo*), the decision for special placement, and the proposed placement itself. Review from there is by the courts (see: *Eaton, supra*), though s. 37 contemplates a possible further review, with leave, by a regional Special Education Tribunal.

separate committee determines, designates or designs an appropriate special education program for the exceptional pupil.

Under section 206, Special Education Advisory Committees are considered. Every school board is required to establish a special education advisory committee which will have the responsibility of making recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional children.

Three criticisms of the legislation have been advanced:

> ... Bill 82 will impose upon all school age children ... to various screening procedures involving standardized testing, teacher observations and judgements and 'informal procedures'. The legislation makes no provisions for parents to opt out ... it threatens seriously to restrict the rights of parents and children ... to exercise discretion in making educational choices ... it allows a school principal and special education committees to make continuous decisions regarding the appropriateness of an educational program and the needs of individual students ... (it) may represent a major invasion of the rights of working class parents and students to obtain equality of educational programming ... (because of the) disproportionate representation of children of lower socio-economic status in special education programs.[89]

These criticisms are based on a plain reading of the statute, and illustrate the way problems can arise even when the intent of lawmakers is to correct the want of legislative prescription that existed beforehand. However, the ills of which this commentator is wary, may have, in the actual experience of the law, been of little consequence.

7. Saskatchewan

The legislation in Saskatchewan[90] speaks directly to the needs of exceptional children. The general objective is to assure that "every pupil shall be provided insofar as is practicable within the policies and programs

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89 W.F. Elkin, "Rethinking *Bill 82*: A Critical Examination of Mandatory Special Education Legislation in Ontario" (1982) 14 Ottawa L.Rev. 314, at p.316.

90 *Education Act*, 1995, c. E-0.2.

authorized by the board of education ... *with a program consistent with the pupil's educational needs and abilities*"[91] (emphasis added). A board of education shall provide educational services to pupils with disabilities, subject to the regulations.[92] Segregation is contemplated, but where that is indicated, there must be consultation with the parents or guardian, consultation with support services shall be made available, and other services appropriate to the needs and circumstances of the child must be addressed. Under the Act, the principal has the responsibility (similar to the Ontario legislation) of referring a student who is "unable to profit from the instruction ordinarily provided"[93] to the supervisory officer responsible for pupils with special needs. Parents and teachers have the same right of referral. There is a mandatory requirement for conference with "principal, teacher, parent or guardian or pupil" upon the occasion of a referral.[94]

Where there is a disagreement with the placement, designation (or failure to designate) or with the program, the appeal process is that which must be established by the board of education.[95] The provisions include due process assurances such as *nemo judex in sua causa* (review ought not to be heard by someone who participated in the original decision), and the procedures for reviews must formally be written down. The procedural requirements are found in ss. 51(1) - (5) of the Regulations.[96]

The regulations make it clear that a board of education shall make available, at no cost to parents or guardians and special education pupils, such services as are appropriate, including special schools, special classrooms, resource rooms and itinerant and tutorial programs.[97] Other text makes it clear that educational services for special needs children are to be provided at no cost, "in order that disabled pupils and children can benefit from the most appropriate and least restrictive program".[98]

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91 s. 178(1)

92 s. 186(1) The section defines pupil with a disability as someone who is 'deemed' unable to participate at an 'optimal' level in an ordinary program, by reason of personal limitations attributable to physical, mental, behavioural or communication disorders.

93 s.178(2)

94 s. 178(6)(a),(b)

95 s. 186.1(1)

96 1986), E-0.1 REG 1

97 s. 52(1)(a) Regulations

98 s. 52(1)(a) reg.

8. Alberta

Though minimal, the legislation in Alberta[99] utilizes the helpful interpretive device of a preamble to set out its legislative objectives. The standard for the exercise of authority under the Act is what is in the best educational interests of the child. And the statute addresses directly the issue of special needs children. Section 1(v) establishes that 'special education program' means an education program referred to in s. 29". That section in turn provides that a board may determine that a student is, "by virtue of the student's behavioural, communicational, intellectual, learning or physical characteristics", or a combination thereof. Once that determination has been made, the student "is entitled to have access to a special education program ... "[100] Before a student is placed, there is a requirement for consultation with the parent, and (where appropriate) with the student.

Like Saskatchewan and Ontario, there is a Special Needs Tribunal, or appeal body which has the jurisdiction to hear issues which arise out of determinations and placement. A quarrel is not necessary, for the board which makes the determination shall refer it to the Tribunal, which may either confirm the finding, or not, and develop a special needs plan consistent with the needs of the student. There is a requirement for regular review (at least every three years).

9. British Columbia

British Columbia has chosen to address education in universal terms without specifically mentioning special education. The *School Act*[101] provides that an educational program is an "organized set of learning activities" that is "designed to enable learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy".[102] Entitlement "to enroll" in such a program is assured by section 2 of the *Act*. The minister is required "to make available an educational program to all persons of school age ...).[103]

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99 *School Act*, S.A. 1988, Chap. S 3.1.
100 s. 29(1)
101 (1996), R.S.B.C. Chap. 412.
102 s. 1(1)
103 s. 75.

The statute makes provision for the authority in the Minister to issue "orders for the purpose of carrying out any of the Minister's powers, duties or functions" under the Act[104]; educational programs are subject to these orders. A ministerial order has been issued in respect of 'Student Progress Reports'.[105] It provides that students enrolled in an educational program specified by the Minister for students with special needs may have progress reports that relate to the expectations contained in the individual education program.[106]

The 'Special Needs Students Order' sets out under the heading "Handicapped Students" that a board shall ensure "that an administrative officer offers to consult with a parent of a handicapped student regarding placement ... in an educational program".[107] The second part of the order requires integration in an educational program "in classrooms where that student is integrated with other students who do not have handicaps". This tries to accomplish in a more formal way what other jurisdictions have centrally addressed in their laws. It is a step above a simple policy formulation, because, unlike Manitoba, it has a statutory basis, even though it is non-specific. Ironically, the need for legislation guidance was urged in 1985, in terms as relevant for that province then, as in Manitoba today. A 'Provincial School Review Committee' noted in its report that:

> Pupils with special needs are entitled to special education within the limits of resources available to school boards for that purpose ... Changing ideas about human rights, natural justice, parental choice, standards of achievement - as well as technological developments and the emergence of alternative delivery systems for school programs - *all suggest the need to revise current statutory guidelines* (emphasis added).[108]

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104 s. 168(2)(a) Ministerial orders are a curious way of carrying out the legislative intent. They do not have the usual assurances of scrutiny that regulations have, in that they are not necessarily collected in one place (unless the department happens to send them to a central repository, as in the case of regulations). Nor are they required to be published. Indeed, unless one happens to know precisely what one is looking for, it is difficult to track down these instruments. Nevertheless, they are binding upon the department and its officials, until withdrawn (which is quite simple to do).

105 Order of the Minister, July 7, 1994, No. M17/94. This 'order' repealed order No. 17/90, of the same name. These orders are contained with the B.C. material under Appendix IX.

106 s. 7 of the Order

107 s. 1 of the Order

108 "Let's Talk About Schools" (August 1985) Minister of Education, Hon. J. Heinrich

10. Northwest Territories

The legal framework for education in this jurisdiction[109] commences under Part I with a statement of universal access: "every person is entitled to have access to the education program ... in a regular instructional setting in a public school ... in the community in which the student resides"[110] There are exceptions to this requirement, where the needs of a student cannot be met (if the parent agrees, and the Division Education Authority agree), the student may be educated outside the community, but that does not absolve the responsibility of an education body to provide an education program.[111]

The determination of whether a student's needs can be met or not, may be done at the written request of a parent, or the principal, and the assessment that results shall recommend an individual plan. The involvement of the child's parent is clearly demanded by the statute,[112] both with respect to the plan itself and any contemplated change. Disagreements are to be resolved by the Divisional Education Authority;[113] the language choice seems to contemplate an informal resolution of the disagreement. This may be a preferable policy choice to a more formal hearing; experience will tell. There is a provision which permits the chair of the District Education Authority to refuse to hear an appeal, on "insufficient grounds", whose decision is final[114].

11. Yukon

Yukon has an extensive legislative regime[115] which addresses special education under that heading, in 'Division 2' of Part 3 "Students and Parents". It provides that those who by virtue of intellectual, communicative, behavioural, physical or multiple exceptionalities are in need of special education programs, are entitled to receive a program outlined in an "Individualized Education Plan" (IEP).[116] The IEP is to be delivered in the least restrictive and most enabling environment, in consultation with parents and professional staff, "having due regard for the educational needs and

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109 *Education Act*, Stats. NWT (1995), Chap. 28.
110 This is the combined effect of ss.5 and 7.
111 s. 7(4).
112 s. 9(2)
113 s. 40
114 s. 41(2) and (3)
115 *Education Act*, Stats. Yukon (1989-90), Chap. 25.
116 s. 15

rights of all students". The Minister is obliged under the same section to issue guidelines for implementation.

Division 2 sets out how special educational needs are to be determined, including such principles as the rights of the parents to information, written consent, and a "multidisciplinary" approach to be utilized where appropriate. The student is to be consulted, and information regarding a right of appeal is to be provided to parents, so that in the event of disagreement, there is recourse to the "Education Appeal Tribunal"[117]. Under section 17(1), the grounds for challenging decisions are prescribed.

Summary

It is clear from this brief review of jurisdictions in Canada that most have chosen to address special education directly in their legislation. Manitoba is one of the few jurisdictions that has not addressed with any clarity the issue of right of access to an education for exceptional children.

But further consideration must be given to the regulations under the statutes.

G. Manitoba

1. The Regulations

If statutes are the solemn expression of the legislature, regulations are said to be subordinate to that expression, and made pursuant to its authority. All such instruments derive their validity from the legislation from which they spring, and not from the executive body by which they are made.[118] The Supreme Court of Canada has determined that a regulation is not an act of

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117 The Education Appeal Tribunal is established under s. 157of the Act, and requires an oath of confidentiality. The right to consider expert advice, quorum, to investigate, and the right to refer to mediation are set out. Under s. 161, the powers of the tribunal are established, and s. 162 provides that the tribunal shall consider the educational interests of the student, the impact of a decision on "the total population of students served", and any other relevant factor.

118 *Chemicals Reference*, [1943] S.C.R. 1. at p. 13, *per* Duff, C.J.

the legislature,[119] and that the courts can challenge the validity of the subordinate legislation if the authority ostensibly conferred was exceeded.[120]

It is true that some enabling provisions relating to the powers of a minister to make regulations have encompassing - even grandiose - language which purports to make the regulation as of the same effect as if contained within the act, or any such matter as the Minister may think appropriate. However, there are limitations. For example, in section 4(1) of the *Education Administration Act*, the text of the regulations-making power reads as follows:

> For the purpose of carrying out the provisions of this act according to their intent, the Minister may make such regulations ... as are ancillary thereto and are not inconsistent therewith, and every regulation ... made under and in accordance with the authority granted by this section, *has the force of law*, and without restricting the generality of the foregoing, the minister may make regulations ...
>
> *(x) generally respecting all matters to do with education* (emphasis added).

Under the *Public Schools Act*, Part XIV (dealing with School Attendance), s. 276, there is a similar provision as the general part of the text of s. 4(1) of the *Education Administration Act.*

A declaration within the provision that asserts that the regulations enacted there under will have the 'force of law' is at best redundant, provided that the regulations flow from an express head of power under the statute, and at worst, self-serving, since the courts from an early time have considered that they can review the validity of regulations which are so grandly introduced.[121]

Regulations may be attacked on a variety of grounds. For the purposes of the present discussion, it is necessary to consider two: the extent of the power as expressed in general terms, and whether the power conferred by the regulation has been delegated further.

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119 *R.* v. *Singer*, [1941] S.C.R.111.
120 *Belanger* v. *The King* (1916), 54 S.C.R. 265.
121 *MacCharles* v. *Jones*, [1939] 1 W.W.R. 133 (Man. C.A.)

Dealing with the last point initially: the general rule is *delegata potestas non potest delegari* (that which has been delegated cannot be delegated again). The principle behind the rule is simply that if the legislature is to be accountable for its actions as expressed in legislation (or as here, subordinate legislation), the power grant cannot be twice removed from the enabling device.[122]

On the other hand, Driedger believes that there is no rule or presumption for or against sub-delegation, "and that in each case, it is a question of interpretation of the language of the particular statute".[123] He relied on the *Chemicals Reference*, in which the Supreme Court of Canada observed that a delegation by the Governor in Council to subordinate agencies to make orders and rules, was not open to challenge. Of the enabling statute, the Court said that, "*ex facie*, such measures are plainly within the comprehensive language employed .... "[124]

Regulations may also be challenged on the basis that the statute itself has not sufficiently conveyed the power to make the regulation(s) under consideration. A regulation that has been made outside the authority of the statute is said to be *ulta vires*, and of no force and effect. Moreover, the same result obtains if the regulation in some way is at variance with the words in the legislation itself.

Courts have also shown some hesitation in permitting the power to make substantive law. The public policy reason is obvious: regulations do not have the high level of scrutiny that legislation must undergo. General grants of authority to make laws relating to procedure or administration are not sufficient to allow the regulating body to enact subordinate laws to create wholly new jurisdictions.[125] It is said that what the statute has not done, the regulations cannot do.[126]

There are many ways to authorize a subordinate authority. The conference of a general power most commonly follows the expression used in the *Public Schools Act*:

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122 *A.G. Can*. v. *Brent*, [1956] S.C.R. 318, at p. 321.
123 E.A. Driedger, Subordinate Legislation (1960), 38 Can. Bar Rev.1, at p. 20.
124 [1943] S.C.R.1, at pp. 11-12.
125 *R*. v. *Henderson* [1898] A.C. 720, at p. 729; also: *R*. v. *Housing Tribunal*,[1920] 3K.B.334.
126 *supra*, n. 22, at p. 25.

> For the purpose of carrying out the provisions of this Part according to their intent, the minister may make such regulations as are ancillary thereto, and are not inconsistent therewith ....[127]

Much of this language is redundant, for it is decided law that regulations must reflect the statute's intent, must be ancillary, and cannot be inconsistent, as set out in the short review of authorities above. The limits of this kind of power grant in the terms of the enabling law, are set by the purposes of the act, which in turn must be considered from the precise language used in the act itself. It is a general conferment of power; there is no statement of express purpose. "Parliament has given at least partial effect to a legislative purpose by the enactment of the main principles of law essential to the implementation of that purpose, and left it to others to fill in the details."[128] In other words, the kinds of general grants of power[129] that are in the *Public Schools Act* and the *Education Administration Act*, require legislative provisions that afford a clear interpretation of purpose, for their companion regulations to be *intra vires*. As we have considered, that is far from a certain proposition in respect of the right of exceptional children to attend school in Manitoba.

Some statutes have such explicit provisions. For example, in the *Education Act*[130] of the Yukon, section 306 grants the right to enact regulation in a wide variety of subjects, eighteen in number, and concludes with the authority to pass regulations " ... generally, to give effect to any provision of this Act". It must be pointed out, however, that this particular statute has its own part devoted to special education, which makes clearer the grant of power to regulate in this area. This constitutes a wider authority than the general form. Where the legislature established the authority of the subordinate power in express language, the regulations are free to establish not only the details but the substantive principles that govern the activity. There are illustrations of this elsewhere in the *Public Schools Act.* For example, "the minister may by regulation provide for the election of a school board".[131] The scheduling, balloting, timing and administration of this right is entirely left to the

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127 s. 276. See also: s. 4 of the *Education Administration Act*, which uses nearly identical language.

128 *op. cit*., n. 22, at p. 25.

129 Contrast these with s. 2(1) of the *Public Schools Act,* which creates the power to designate school districts; s.3(4) where remote school districts may be designated; s.4.1 which permits the board of reference to confirm name and boundaries, etc. of a school district or divisions 8(3) where the Lieutenant Governor in Council may fix the quorum of a board of reference, and so on.

130 (1989-90) Statutes of the Yukon, C. 25.

131 s. 17. Note that there are a series of other legislative provisions that substantively alter the right: term of office (s.25(1); elections in the city of Greater Winnipeg (s.25(2), for example, though by virtue of the original grant of power, these details could have been provided by regulation. In light of other, more substantive regimes (such as special education, it should be said) it is curious why this was not done.

regulating authority. Within this stated authority, the regulations cannot be challenged. There are similar powers for the minister in respect of transportation for pupils, under section 46(1).

Driedger makes the observation that even greater authority is given by authorizing a delegate to make such regulations 'as he deems necessary'.[132] 'As he thinks advisable' is of the same quality, for it leaves it open to the subordinate authority to take such advice as he or she sees fit, in a particular subject matter.[133] Once again, where an authority is granted within a defined subject, there is wide room to embrace any regulation for any purpose that is related to that purpose.

Turning to the regulations which deal with special education in Manitoba: there are three which directly apply. It seems important to underscore that they seem to come at the subject of special education from a tangent, without definitional or conceptual contexts.

By way of illustration, consider the regulation governing qualifications under the *Education Administration Act*[134]: it is a regulation which finds its parent authority under section 4(1) of that law "ancillary to the act, and not inconsistent therewith ... ", and in particular, subsection (1) (c) which provides for " ... prescribing the minimum standard of academic and professional education acceptable for the certification of teachers in the province."

Part VI of the Act permits the issuance of a 'special education certificate' to a person who meets the requirements set out in the text[135] of the regulation. sections 21 and 22 refer to a special education 'coordinator', and subsections of those provisions permit the waiver of requirements for such a person, in prescribed circumstances. Of course, nowhere in the *Education Administration Act* are there any references to 'special education' or any hint, for that matter, as to the nature of what education is all about in Manitoba schools. As earlier observed, this seems to be a matter of assumption or inference.

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132 *supra,* n. 22, at p.25. He relies on the *Chemicals Reference* again, where the Chief Justice thought that it might not be appropriate to canvass the considerations which made the plain language use of the words 'necessary or advisable' appropriate in the view of the legislature.

133 See for example, s. 14(2), where the minister may create or redistribute territory for the purpose of administering northern school divisions.

134 *The Education Administration Act*, C.C.S.M. c.E 10, Regulation 515/88; Registered November 28, 1988 (consolidating amendments: 158/89; 198/90;135/91; 32/93.)

135 Attached as Appendix XII.

The other reference is found in the regulation under the Public Schools Act, which deals with schools finance programs.[136] The parent to this regulation is found under Part IX of the *Public Schools Act*, which is headed "Grants and Levies/Education Support Program". In particular, section 175 sets out that the delegated authority may make regulations that are "ancillary" and not "inconsistent" to carry out the intention of that Part of the Act. Though school buses are significant to have been mentioned in the statute under that part[137], there is no reference to special education.

The *Schools Finance Program Regulation*, Part 3, specifically deals with special education issues. The enabling provisions in the statute are those which deal with the way in which the capital support program is administered and allocated to educational beneficiaries. Other than transportation, there is no mention of the kind of program that is envisioned to be supported under this part. It becomes a considerable reach, then, to consider that the regulation is "ancillary to" or "not inconsistent with" the statute itself. The rationale for this argument is simply expressed: for the legislature to have effective control over the expenditure of public money, to say nothing of the sorts of policy choices involved in selecting one or another program in addition to, or perhaps instead of yet another, there needs to be some terminology that the legislative body is directing the kinds of substantive requirements that the law envisages. Or at least, setting out in specific areas that 'it is necessary that', or the like, so that it is clear that the government of the day is delegating all authority in relation to a matter.

This regulation contemplates a number of programs. In addition to special education, there are:

< transportation;
< technology;
< ESL (English as a second language);
< enrichment for native pupils;
< heritage language;
< French language;
< small school support;
< curricular materials support;
< student at risk;

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136 *The Public Schools Act*, C.C.S.M. c. P250, Regulation 221/96, Registered October 31, 1996 (consolidating amendments: 253/96).

137 There is a reference to transportation as well in the regulation itself [s.175(1)(e)]. Buses are mentioned in s. 174(2).

< ‘early identification’ support;
< decreasing enrolment;
< remoteness allowance;
< new schools support;
< Red River vocational coordinator;
< distance education;
< base support;
< supplementary support;
< school buildings;
< environmental assistance;
< vocational equipment;
< capital support;
< school buses.

This regulation (and that considered above) is one means by which a constructive argument could be made to establish the right to an education for exceptional children. But the regulation, by the nature of all such subordinated laws, is quite easy to amend and repeal, away from the usual checks and balances that attend the regular legislative process. Special education, in this context, is at the same order of priority as power tools for vocational schools, tires for school buses, new roofs for schools, or the costs of satellite transmission.

The regulation itself “defines” exceptional children, by establishing two categories:[138]

Level II pupil means a pupil who is severely multi-handicapped, severely psychotic, severely autistic, deaf or hard of hearing, severely visually impaired or very severely emotionally or behaviourally disordered;

Level III pupil means a pupil who is profoundly multi-handicapped, profoundly deaf or profoundly emotionally or behaviourally disordered.

Once again, the legal arrangements come at the issue of special education entitlements obliquely. Section 12 of the regulation declares that “a school division is entitled to receive support for each pupil enrolled in the school who is designated as a Level II or Level III pupil and to whom it provides

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138 s. 11

special assistance. What 'special assistance' is may be gleaned from the definition of special education services, which provides:

> the provision of curriculum, instruction and related services specifically designed to meet the needs of pupils who are physically or mentally handicapped, have learning disabilities, have behavioural or emotional disorders, or are gifted and talented.

But the thrust of the regulation remains a funding formula, by which a school division is entitled to make a claim on the budget of the Department of Education and Training. The regulation authorizes money for each Level II or III pupil, and in addition, hiring is permitted for special education coordinators and clinicians on the basis of "the number of eligible units determined under this section (specific formula provided). This is a special interest approach to the right to an appropriate education. Cruickshank observes that, in his view, "it makes practical sense, given the history of the Manitoba regulatory regime for operating grants."[139] By this he seems to be suggesting that school boards will naturally try to maximize the levels of revenue for their operational requirements, especially as it concerns programs for exceptional children - which are expensive. But he writes as well that, in the long run, "the approach invites a labeling of particular disabilities, or types of teachers and ... ministerial control"[140]. There would be an understandable pressure to categorize 'marginal' cases as Level III rather than Level II, and borderline cases of disability as Level II.[141]It should be noted that this regulation and the previous one is silent on the issue of 'mainstreaming'[142].

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139 David Cruickshank, "Human Rights and Charter Rights in Special Education" J. Balderson/J.Kolmes (eds) *Legal Issues in Education: Canadian School Executive Conference Proceedings* (1982).

140 *ibid*.

141 In an American case, *Larry P.* v. *Riles*, 343 F. Supp. 1306; 502 F. (2d) 963 (N.D. Calif. 1979) the NSSC considered the statistical picture involving black children who were placed in classes for the 'educable mentally retarded (EMR) in the school district in California: they were so relegated at the rate of three times their overall incidence in the general population. It was argued that they were the victims of systemic discrimination, which included such factors as a biased testing procedure. A temporary injunction in 1972 stopped the use of IQ tests as the principal tool for classification, and ordered annual re-evaluation of children in such cases. The case was not resolved until 1979, and even then the changes that the state of California had implemented were not enough to satisfy the Court.

142 Mainstreaming involves educating handicapped children in ordinary schools. It contemplates the placing of handicapped and non-handicapped children together so far as possible in the same classes, with the handicapped having assistance from specially-trained personnel. Advocates of mainstreaming assert that association with non-handicapped peers is beneficial to handicapped children in the learning process and that early mixing of handicapped and non-handicapped children - even if, as some observers say, there is only limited interaction - confers social benefits on both. Handicapped children are said to benefit by gaining a better understanding of the real community in which they must live, and the non-handicapped by learning to accept the disabled and to understand their needs. See: *Bales et al* v. *School District 23 (Central Okanagan) Board of School Trustees* (1984), 54 B.C.L.R. 203 (S.Ct.) at p. 206. See also: K. Ruff, "The Fight for Integration" (1984), 2 Just Cause, 12. "The evidence is clear and damning. Segregation does not work. Children in segregated settings do not do well in gaining academic skills and do not get the chance to learn social skills. They do not learn to live in the real world. Likewise, the real world does not learn to include and value persons with a mental

(continued...)

Regulation 1/86 (which addresses transportation) includes a reference to "special class". Under section 3, it provides:

> ... a pupil who is enrolled in a school division shall also be considered a transported pupil:
>
> (c) if the pupil attends a special class of children who are mentally retarded, physically handicapped, emotionally disturbed or hard-of-hearing, or if the pupil does not attend a special class of children, but is certified by a duly qualified medical practitioner as being physically handicapped;

It seems clear that this special interest right, crafted in regulations that probably exceed their legislative mandate, was a deliberate choice, as opposed to opening the statute, and putting the right to an appropriate education for exceptional children on the same footing as a fundamental human right. Delegating the peripheral considerations to regulatory authority without considering the larger principles by which the activity ought to be guided, seems, in the context of the enabling language choices in the legislation, to be of questionable legal soundness. It could be argued that special education is of concern in the sense that funding is the central issue.[143]

2. Policy

Where law ends, it is said, discretion begins. How discretion is shaped and confined, made reasonable and uniform, is by the issuance of policy. Discretion exists whenever an official's "effective limits on his power leave him free to make a choice among possible courses of action".[144] Of course this presupposes that the grant of authority is there in the first place. The right to declare policy also rests upon the same grant of authority. This

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(...continued)

handicap." "Mainstreaming in Manitoba", a report by the Department of Education and Training (Planning & Research Branch) in 1988 reached three conclusions, the first of which was that "there is a general belief in Manitoba that mainstreaming has a positive effect on learning outcomes of students, particularly in the affective domain", (at p. 2-3).

143 In *Mills* v. *Board of Education of District of Columbia*, 348 Fed. Supp. 866 (DD.C. 1972), it was ruled that "(i)f sufficient funds are not available to finance all of the services and programs that are needed in the system, then the available funds must be expended equitably in such a manner that no child is entirely excluded from a publicly supported education, consistent with his needs and abilities to benefit therefrom". This case appears to have firmly established the right to an appropriate education for disabled children in the United States. The equity principle it espouses has common currency with the reasoning in *Eldridge, supra.*

144 K.C. Davis, *Discretionary Justice* 1979 (5th Ed.) University of Ilinois Press, Chicago at p. 4.

applies whether one considers broad policy-making, or making decisions in individual cases, and whether the grant of authority is narrow or broad[145].

The Supreme Court of Canada has had something to say on the matter of discretion. In *Swain*,[146] the Court found that a broad discretion in a legislative provision was not by itself sufficient to attract a *Charte*r review. Prior to that, in *Beare*[147], the Court considered the wide grant of authority given to the police to fingerprint suspects. It was held that the "existence of the discretion conferred by the statutory provisions does not ... offend principles of natural justice".[148] In fact, the Supreme Court of Canada has held that the presence of some residual discretion of a judge may itself be a constitutional requirement in some instances, in order that there be a means by which the competing interests of the individual and the state be balanced.

In *Morales*, it was observed that:

> ... the identification of a measure of discretion conferred by means of a legislative provision cannot alone provide the basis for a constitutional evaluation of that provision. Nor can the identification of possible parameters of that discretion, for a discretion which is referred to as being fettered can be one which is limited not only by appropriate constraints but also by those which are inappropriate or unsuitable. The more important issue which remains, therefore, is what kind of discretion is conferred, *and the capacity of the words of the legislative provisions to support the type of reasoning which the matter under adjudication requires* (emphasis added).[149]

Most recently, the Supreme Court has commented that:

> ... discretion cannot be considered in the absence of an examination of the legislative objectives, and *the important question is whether*

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145 It would seem obvious that the fewer the guidelines for the exercise of the discretion, the greater the scope for the person exercising the discretion to set his or her own criteria, and the greater the potential is for invidious discrimination. It is a basic principle of administrative law that a discretion vested in an administrative official or body is only to be exercised on proper grounds." *per* Lamer, CJC in *University of British Columbia* v. *Berg* [1993] 2 S.C.R. 353, at pp. 391-2.

146 *R*. v. *Swain*, [1991] 1 S.C.R. 933.

147 *R*. v. *Beare et al*, [1988] 2 S.C.R. 387.

148 *ibid*., at p. 410.

149 *R*. v. *Morales*, [1992] 3 S.C.R. 711, *per* Gonthier, J. at p. 754.

the presence of such discretion can be rationally tied to those objectives.[150]

A review of the legislative arrangements discloses no obvious legislative intent with respect to exceptional children. Moreover, it is not enough to say that, since the subject matter of the Act is education, and since the education of special needs children falls within the ordinary understanding of that word, that is sufficient. However, without legislative guidance on the purpose or objectives of education, the entire argument in support of the validity of 'policy statements' becomes constructed from inferences and collateral documents, traditions and assumptions, as well as someone's idea of what is 'good' in this area.

The rule of law requires at least as an aspirational objective, that decisions which affect the rights and liabilities of citizens in a democracy, be made on the basis of the "application of known principles or laws".[151] This is, in a democracy, an important assurance against arbitrarily exercised power, and gives rise in different contexts to discussions about vague laws[152] and the uncertainties that are associated with citizens or officials attempting to understand where their duty lies. Concepts such as 'the public interest'[153], and 'the best interests of the child'[154] are tests by which generous grants of discretion may be exercised, but they have been upheld as supportable legislation. It is quite another matter to have no guidance at all in the legislation, and to assume a broad grant of discretion on any matter, as long as it might have something to do with the education of children.

Nothing in the text of the statutes governing education in Manitoba reveals references to special education, and the right to attend school is left in bare

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150 *Young* v *Young,* [1993] 4 S.C.R. 3, *per* L'Heureux-Dubé, J. at p. 73 (her dissenting judgement was concurred in by the majority in this and other points).

151 British Committee on Administrative Tribunals and Enquiries (Franks Committee) *Report* (1957), at p.6. See also n. 143, *supra*.

152" One must be wary of using the doctrine of vagueness to prevent or impede State action in furtherance of valid social objectives, by requiring the law to achieve a level of precision to which the subject-matter does not lend itself." *per* Gonthier, J. in *R*. v. *Nova Scotia Pharmaceutical Society*, [1992] 2 S.C.R. 606, at p. 642. When it comes to special education, however, it may be reasonably contended that this is a subject-matter which may easily be given some legislative attention, as most other jurisdictions have already done.

153 *R*. v. *Morales*, *op. cit*. n. 44, at p. 751; " ... a notion which has traditionally been recognized as affording a means of referring to the special set of considerations which are relevant to those legal determinations concerned with *the relationship of the represented private interest or interests and the broader interest of the public."* The emphasis reflects the essential dynamic at work in the exercise of discretion as a means of resolving debate. But it must always refer back to some clearly identifiable legislative principle.

154 *Young* v. *Young; op. cit*. at n. 45; at p. 74.

terms, as already considered. The regulations, of questionable genesis[155], take their inspiration from legislative provisions which are concerned with money and qualifications. The 'rights' of a special needs student are flimsily hung on such oblique instruments. It is in such arrangements that the legality[156] of a laudable policy goal must be found by judges in the 'spirit' of the laws, rather than the letter.

In 1989, the Minister of Education, the Honourable Len Derkach, issued a policy statement Special Education in Manitoba which governs the special education regime in Manitoba. This information was produced and widely distributed. It refers in its opening statement to "legislation requiring school divisions/districts to provide educational programs for children with special needs. It is the shared responsibility of Manitoba Education and Training, school boards, and personnel providing educational programs and services to ensure that each child with special needs has the opportunity to benefit from education" (the specific authority mentioned is not cited in the text of the policy statement)[157].

The policy statement was the result of an internal advisory committee (this body had representation from Manitoba Teachers' Society, advocacy groups, professionals, as well as senior bureaucrats from Manitoba Education and Training), though not all of the recommendations were observed, including the need to address some of the issues related to special education in legislation.[158]

Opting for implementation through policy directives has a number of unsatisfactory consequences.

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155 By this it is meant that they appear to go far beyond what might fairly be considered to be ancillary, which is the restriction the legislature itself chose to impose.

156 If not the legality, then the preference of policy choices preferring disabled or handicapped children as a group over another group which might forward a demand for an appropriate education.

157 Where the cited general authority lies is not clear at all. Prior to 1966, s. 291 of the *Public Schools Act* pemitted school boards to exclude mentally retarded children from attending school. There was an amendment to the *Act* in 1966 (s. 453 (18A,B) which had the effect of permitting boards to provide services and facilities and to hire teachers for the education of resident children classified as mentally retarded by the Minister of Health. These services were required of the boards effective July, 1967. When the statutes were revised in 1970, these sections became ss. 465(22), (23). This may be what the Minister was referring to, but it is not certain. It seems odd that an important policy document can have such an egregious error in its inceptive paragraph, and remain unchanged for eight years (notwithstanding the assertion on the first page that the policy statement "will require updating").

158 "By choosing to implement the 1988 Advisory Committee's recommendations in the form of 'Guidelines' however, rather than including them in the Public Schools Act and accompanying regulations, the Government of Manitoba has ignored a key recommendation, expressed by the 1988 Advisory Committee, by every Advisory Committee since 1977, and by nearly every other public presentation on this subject for the last two decades: that the position of a provincial government vis-a-vis the rights of children with special needs, and the duties of school systems toward them, should be expressed through legislation." M.J. Quarry, "Special Education Reform: Provision for Special Education Needs of Students in Manitoba in Accord with the Canadian Charter of Rights and Freedoms" (1990) Unpublished Master of Education thesis, Faculty of Education, University of Manitoba.

In the first place, rights which are not enshrined in legislation are considerably more difficult to establish and enforce. In consequence, should a case for the right to attend school for an appropriate education be made out as outlined earlier in this paper, the results become patchwork and uneven, perhaps inspiring other cases, which in turn have the potential for different results. Isolated, demand driven responses (crisis planning) obviate the need to address the issues on a more comprehensive basis.

Secondly, policy is subject to the whim of the incumbent Minister of Education. It can change overnight, be withdrawn or modified. It is not necessarily subject to any particular process. In the end, it may simply be the opinion of the minister of the day.

Thirdly, policy statements, even those which (as here) are framed in mandatory language, are unenforceable in the ordinary sense. A good example is the indication on page one of Special Education in Manitoba insists that the guidelines are developmental, and "will require updating". No revised guidelines have yet been published. In the 1989 document, the requirements for school divisions are clear and insistent (school divisions/districts *shall*...). There are no indications of what should occur if the requirements are not met.

Fourthly, the issuance of a policy statement carries with it the risk that the courts will treat it as dispositive of all special-needs related issues. There are provisions which address dispute resolution (considered below), for example, and it may well be that the courts will defer to these processes (see *Eaton*, *infra*), notwithstanding that they are general in nature, and do not have the criteria which make it absolutely clear that due process[159] will

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159 Due process has a venerable tradition in Anglo-Canadian law. The origins of the expressions reach back to the *Magna Carta*, which provided in its 39th chapter that the king (the state) would not move against a citizen except by the law of the land. In 1354, it was provided in the statute of *Liberty of Subjects*, that no man could be brought to account except by due process of law (28 Edward III, c. 3). The expression was repeated in the *Canadian Bill of Rights*, in 1970 [s.1(a)]. It means that recourse may always be taken to the "legal processes recognized by Parliament and the Courts" [*Curr* v. *R*. (1972), 18 C.R.N.S. 281 (SCC).]. Or in the absence of explicit legislated procedures it could refer to 'natural justice', which are 'rules' of the common law, requiring such things as notice, impartiality, the right to be heard: such things as the common law has subsumed under the more general, but equally compelling rubric of 'fairness', or the 'duty to act fairly'. [See: *McInness* v. *Onslow Fane*, [1978] 3 All E.R. 211 (Ch.) at p. 219.] Most recently, 'due process' has come to mean a substantive component is included as well. In other words, 'due process' is not merely confined to procedural matters, but may be invoked where the law (or policy directive, for that matter) violates some aspect of one's life, liberty, or security of the person in a way that offends either our justice system or our constitutional principles.

be observed. It is true, as well, that courts tend in these highly specialized areas to defer to experts.[160]

This is probably an area where there is considerable risk of bias in favour of experts, even in the shadow of section 7 of the *Charter*.[161] One commentator observes:

> It appears from the American examples and the early Charter cases that s. 7 will grant some new procedural rights but not significantly impede school authorities in deciding what education is appropriate. Parents have a right to input in the decision-process, but the school board's views will ultimately prevail. Even if this is the final result, it is dangerous to assume that school authorities always act reasonably or that parents are by definition unreasonable with respect to the education of their child.[162]

Finally, one might make the quite obvious observation that the policy is dated.

Evolving from a growing body of research, experience with integration, a shift in public policy, and consciousness about disability and civil rights, second generation of integration thinking seeks deeper levels of integration than special education classes, even those that can be provided in regular public schools. Supported by data questioning the effectiveness of 'pull-out' programs and separate classes, the current trend is toward full mainstreaming or 'full inclusion' models ... (this) means full-time membership and participation in the regular classroom for students with disabilities with

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160 *Bales* v. *Board of School Trustees* (1984), 54 B.C.L.R. 203 (S.Ct.) In Bales, parents were objecting to the placement of their child in a segregated setting (94% of all handicapped children in B.C. are 'mainstreamed'). The Court did not rely on legal rules of construction exclusively, but heard experts who testified as to the benefits of 'mainstreaming' generally, and the importance of putting handicapped children in the 'least resrictive environment'. These concepts could not be found in the legislation or the regulations, but were contained in policy statements issued by the Ministry of Education (a document called 'the red book'). This is similar to the approach in Manitoba ('the green book'), and similar kinds of expressions occur here as well.

161 Section 7 guarantees the right to life, liberty and security of the person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

162 A.W. MacKay, "Case Comment: *Bales* v. *Board of School Trustees*: Parents, School Boards and Reasonable Special Education (1985), 8 Admin. L.R. 225, at p. 229. He cites in the text of this essay an American case, *Pierce* v. *Board of Education of the City of Chicago* (1976), 358 NE (2d) 67 (C.A.). This case was nearly the opposite of *Bales*, where parents wanted the child removed from a regular class. The court deferred to the experts, holding as well that there was neither a statutory nor a constitutional duty to place a child in a special class - which was the relief sought in the particular case. A similar result obtained in *Rowett* v. *The Board of Education for the Region of York* (1986) Unreported. This was a decision of the Central Region (English) Special Education Tribunal, which heard a challenge based on s. 15 - the equality provisions of the *Charter*.

appropriate modification of the regular education curriculum and the provision of special education supplemental services.[163]

In the United States at least, the expression "least restrictive environment", where that term is employed in the law, does not mean a right to 'full inclusion'. Nor, it seems clear, will the courts view it so in this country. The Manitoba policy terminology is expressed as the "most enabling learning environment available", which (notwithstanding the proviso "in the majority of cases, integration in the regular classroom, with the provision of special supports"), provides no clear principle or criterion by which a student may be segregated.

3. Special Education in Manitoba: Policy and Procedural Guidelines for Education of Students with Special Needs in the Public School System (The 1989 Policy Document)

What follows is a consideration of some of the specific provisions of the Special Education in Manitoba document,[164] subject to some of the more general observations above. The headings which occur in the document will be utilized here for sake of convenience.

1.0 *Introduction and Overview*

'Special education' and "special learning needs" are not defined to any degree in the 1989 document. The policy statement seems to rely on assumptions that are known and shared among education experts.

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163 D. Lipton, "The Full-Inclusion Court Cases: 1989-1994" D.K. Lipsky/A.Gartner (eds.) *Inclusion and School Reform* (1997) Toronto: Brooks Publishing, at p. 301.

164 The document has been criticized before, as an attempt to capture principles which ought more properly be reflected in legislation: "By choosing to implement the 1988 Advisory Committee's recommendations in the form of 'Guidelines' however, rather than including them in the *Public Schools Act* and accompanying regulations, the Government of Manitoba has ignored a key recommendation, expressed by the 1988 Advisory Committee, by every Advisory Committee since 1977, and by nearly every other public presentation on this subject for the last two decades: that the position of a Provincial Government *vis a vis* the rights of children with special needs, and the duties of school systems toward them, should be expressed through legislation." M.J. Quarry, "Special Education Reform: Provision for Special Education Needs of Students in Manitoba in Accord with the Canadian Charter of Rights and Freedoms" (1989) unpublished Master's thesis, at p.229.

The first paragraph casts school attendance as an entitlement, rather than a right. It suggests that this is a matter of "public policy" rather than that which it is, namely: law. Though it describes the legislation [s. 41(1)(a) Public Schools Act] as mandatory, "requiring divisions/districts to provide education programs for all children, including those with special needs", in truth the legislation requires only "adequate school accommodation for the resident persons who have the right to attend school". There are no criteria or guidelines as to what constitutes "adequate"; no threshold is established. To litigate this issue would be costly, as it would necessarily rely on experts. While it is laudable that some policy direction attempts to give effect to these words, it becomes a question of how far the expenditure of public monies can go beyond the words of the statute.

In other words: which children of special interest groups will be accommodated by 'policy' in terms of an "adequate accommodation"? For example, could particular religious or ethno-cultural groups claim an 'entitlement' the same as those claimed by exceptional children by virtue of the equality provisions of the *Charter*? There is nothing in the legislative arrangements to suggest otherwise: indeed, section 15 categories[165] would seem to support such claims.

Moreover, the principle of non-delegation operates to prevent the usurpation of authority to make decisions and make expenditures of public monies without the supervision of properly constituted legislative direction. Special Education in Manitoba appears based primarily on a constructive interpretation of the rights of "children with special learning needs" to an *appropriate* education.

The second 'bullet' reads: "education programming will be provided in the most enabling learning environment *available or possible under the circumstances"* (emphasis added). What this immediately suggests is a potentially subjective process (albeit a "team approach" is mandated, which will include parents), that will always be in the context of particular situations.

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165 (race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability)

The last paragraph on page 2 simply asserts that "this policy is consistent with the intent of the Canadian Charter of Rights and Freedoms etc." rather than spelling out the way in which the policy is intended to meet the requirements of section 15. Only the courts can declare conformity with constitutional values. It is up to government to ensure that the policy application of the law offers equal benefit and protection, as well as the kinds of due process guarantees that the Charter (section 7) requires.

3.0 *Goals and Principles of Special Education*

3.3 (*Placement Alternatives*) The policy contemplates segregation of special needs children in certain circumstances. At pages 3-4, it suggests that where education in a regular classroom cannot meet the child's needs, "alternatives to programming in the regular classroom shall be considered for a portion or all of the school day". However, there is no test prescribed for that event, nor is there a process referenced.

Moreover, in this context, use of the mandatory "shall", rather than the permissive "may" seems inconsistent, and possibly wrong. The use of the mandatory term does seem appropriate in the last sentence of sub-paragraph 3, where the safety of other students is an issue.

3.4 (*Special Education Programming and Placement Process*) To be consistent, this paragraph ought to commence with an affirmation that the most enabling learning environment is in the regular classroom. It is not clear whether the reference to the "educational team" means involvement of the parents (a subject of separate consideration under heading number 5). Also, "the policy directions set by [the Department]" seems to suggest other policies which may extend, abridge or change in some fundamental way the 1989 statement itself".

In the following paragraph, again, the "goals of special education" could by the language choice, be construed as being different from the goals of education generally, while the law would suggest that they are the same.[166]

4.0 (*Programs and Services*) This part sets out the Minister's responsibilities for education policy development. It should, but it does not, reference the

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166 Section 15 of the *Charter,* as earlier discussed. "Every individual is equal before the law and has the right to the equal protection and equal benefit of the law without discrimination and in particular, without discrimination based on ... mental or physical disability."

source of this power: Section 2 of the *Education Administration Act.* This provision provides that "the minister is responsible for the supervision, control and direction of all public schools and all other schools established pursuant to this Act". Section 3 exemplifies these powers, and section 4 addresses regulations. The governance of special education ought to be the subject of at least a regulation, for section 4(1)(x) provides the Minister with the authority to make regulations "generally respecting all matters having to do with education". Policy, for the reasons set out above, would flow from there. As it does not, access to special education could be presumed as a 'privilege' or gratuity from government, rather than as a 'right'.[167] In the absence of legislative prescription, administrators tend to operate from the perspective that enhancements to the educational program are matters of grace rather than entitlement.[168]

4.1 (*Annual Divisional Special Education Plan*) This paragraph directs school divisions or districts to develop a board-approved Annual Divisional Special Education Plan (ADAP). The plan is to include a statement of the philosophy of the division or district. This laudable objective, however, exists the absence of enumerated standards, and has the potential to create a differential treatment of special needs students who happen to live in the same area, but who attend schools in different school divisions.

While some margin of appreciation[169] is to be afforded local authorities, nevertheless a section 15 - based challenge could be brought on the basis that a school division or district is well outside the norm, such that equal benefit of the law is effectively denied.

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167 Attending public schools in the United States was once considered a privilege, but the courts there have considered the existence of nearly universal statutory access to education, and have concluded thirty years ago that it is a 'right'. See: *Madera* v. *Board of Education*, 267 F. Supp. 356 (S.D.N.Y. 1967). It follows the attractive proposition that "valuable privileges ... are ... entitled to the protection of law." *Albert* v. *Board*, 286 App. Div. 542; 145 N.Y.S. (2d) 534 (1955), at p. 538.

168 See for example: A.W. Mackay, "The Elwood Case" M.Csapo/L. Goguen (eds.) *Special Education Across Canada: Issue and Concerns for the '90s* (1989) Vancouver: Centre for Human Development & Research. "The lawyers for the school board rejected ... claims to a constitutional right to an education. In their views education was still a matter to be defined by statute and regulation and delivered by the educational administrators." at p. 154. The case never went to trial.

169 The expression was used by Scollin, J. in another context, but is valid here. See: *Badger* v. *A.G. Manitoba* (1986), 27 C.C.C. (3d) 158 (Man. Q.B.) at p. 163. See also: R. v. Morgentaler,[1988] 1 S.C.R. 30, at p. 72. Dickson, CJC said of the abortion provisions of the Criminal Code that "Parliament must be given room to design an appropriate administrative and procedural structure", echoing LaForest, J, in *R.* v. *Jones*, [1986] 2 S.C.R. 284, at p. 304: "The provinces must be given room to make choices regarding the type of administrative structure that will suit their needs unless the use of such structure is in itself so manifestly unfair, having regard to the decisions it is called upon to make, as to violate the principles of fundamental justice." In *McKinney* v *University of Guelph*, [1990] 3 S.C.R. 229, and *Egan* v. *Canada*, [1995] 2 S.C.R. 513, the Supreme Court of Canada accepted the general principle that governments must be afforded a wide latitude to determine the proper distribution of resources in society, though deference to the legislature need not necessarily be shown simply because the issue is a social one, or is a case where the government has demonstrated a need to move incrementally. See the review of cases by LaForest, J. in *Eldridge*, infra, at p. 54 (para. 85).

Probably the most significant case which exemplifies this point is the recent decision of the Supreme Court of Canada in *Eldridge*.[170] Its impact on the consideration of special education issues, such as might be caught by various statements of philosophies under the ADAP requirement of the policy directive, is this: while legislation (or policy) does not expressly or by necessary implication violate section 15(1) of the Charter, it may nevertheless be the case that a constitutional wrong arises from the actions of officials who are exercising decision-making authority pursuant to a grant of authority, should that decision result in a discriminatory adverse impact.

In Eldridge, hospital services and medical services are funded according to provisions of two different governing statutes. Neither program pays for sign language interpretation for the deaf. Those who were aggrieved by this contended that the absence of interpreters impaired their ability to communicate with their doctors and other health care providers, thereby increasing the risk of misdiagnosis and ineffective treatment. The Court concluded that the hospitals were left with substantial discretion as to how to provide the services listed in the legislation, and simply leaving out particular kinds of services does not necessarily render the grant of authority vulnerable to Charter attack. Nor need a legal distinction be motivated by a desire to disadvantage an individual or group, in order to attract the attention of section 15.[171]

LaForest, J., speaking for the Court, made this observation:

> It is an unfortunate truth that the history of disabled persons in Canada is largely one of exclusion and marginalization. Persons with disabilities have too often been excluded from the labour force, denied opportunities for social interaction and advancement, subjected to invidious stereotyping and relegated to institutions ... This historical disadvantage has to a great extent been shaped and perpetuated by the notion that disability is an abnormality or flaw. As a result, disabled persons have not generally been afforded the "equal concern, respect and consideration" that section 15(1) of the Charter demands. Instead, they have been subjected to paternalistic attitudes of pity and charity, and their entrance into the social

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170 *Robin Susan Eldridge et al* v. *A.G.B.C. et al* (October 9, 1997) Case No. 24896. As yet unreported.
171 id. at p. 38 (paras. 61 & 62).

mainstream has been conditional upon their emulation of able-bodied norms.[172]

The contention put forward on the part of officials charged with the responsibility of implementing the legislation was that "governments should be entitled to provide benefits to the general population without ensuring that disadvantaged members of society have the resources to take full advantage of those benefits".[173] This was dismissed as a position that "bespeaks a thin and impoverished vision of section 15(1)".[174]

5.0 (*Parent Involvement in Placement Decisions*) While it is true, as noted by commentators referred to earlier, parental involvement is no guarantee that the best interests of the child will be assured. Nevertheless, it is usually the case that the most fervent advocate of the child will be the parents. Policy direction that requires their participation in the decision-making process is essential. This part deals effectively with the rights of parents, but paragraph 5.2 leaves the development of policies and procedures concerning access to information and parent involvement to individual school divisions and districts, thus leaving room for uneven application of the general policy statement.

6.0 (*Appeal Process*) This section established the school board as the first level of appeal, where the dispute has persisted, and is reduced to writing by the parent or guardian. No positive duty is imposed upon officials to ensure that parents are fully aware of their right of appeal.

Paragraph 6.3 speaks to the provision of conciliation services by the Manitoba Education and Training *after* the local appeal process has failed to resolve the dispute. At this point, the parties will likely have become adversarial, and the chances of conciliation techniques having some effect will be greatly diminished.[175] It seems that a better choice would have introduced this sort of support once the disagreement is found to be one that "persists".

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172 *id*. at p. 35 (para. 56).

173 *id*. at p. 45 (para. 72).

174 ibid. However, the Court also concluded that the duty to take positive action is subject to the principle of reasonable accommodation, which does not operate as a limit on the section 15 exercise, but is considered as a part of the analysis under section 1 of the Charter (the justification for limiting rights provision).

175 "A natural antagonism (evolves) toward the school by advocates of affirmative action for exceptional children, including both individual parents and organized groups.A constant tension exists between advocates and deliverers of the service.With advocacy now being the accepted action of the time, parents are demanding more and more for their exceptional children." D.R. Taylor, "Special Education: A Legal Quagmire" W.F. Foster (ed) *Education and Law: A Plea for Partnership* (1992) Welland: Editions, 196, at p. 198.

Moreover, paragraph 6.1 (iii) is vague. Though the main body of the text suggests that the appeal is to the school board, sub-paragraph (iii) provides that the "superintendent's office" will establish a date (within 15 days) upon which the parents will meet with representatives of the particular school and of the school board to review the request. (This section compares unfavourably with paragraph 6.4, which is much more specific about the requirements for the Special Needs Arbitration Panel.[176]) Finally, it does not set any time limit within which the Board must render its decision. While this is less troublesome because the child is entitled to remain where he or she is for the duration of the appeal, it may well be a placement to which objection is taken. In any event, the weight of such decisions are of themselves a burden for parents and children. There should be a requirement to act expeditiously, as section 6.4 imposes upon the Special Needs Arbitration Panel. One wonders, as well, whether there ought not be ethical concerns reflected in the policy.

Forgetting for the moment the legislative vacuum[177] in which these policy guidelines occur, the Special Education in Manitoba directive is a good beginning for the shaping of discretion and decision-making in this area. However, it should have lived up to its promise in the Introduction where it was asserted that the document would "require updating". Much is left to local authority without the imposition of minimum standards, which potentially attracts a section 15 review.

H. The Child as Person

In American constitutional law, inevitably inspired by their constitution from the beginning of that country's legal history, the status of children has slowly

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176 The authority of this tribunal is not clear. Though paragraph 6.4 provides that the matter "may be referred in writing ... for final arbitration", the next sentence states that the Panel "shall have the power to review whether established procedures have been followed ... and the power to review the placement decision". Will the Panel consider only that which has gone before, or will it consider fresh evidence? There is no right at this level or any other for the student himself or herself to be heard. This would be in the case of a student who is capable of asserting a position, a denial of natural justice or a breach of section 7 of the Charter. At the very least, paragraph 6 should be consistent with paragraph 5, which does speak to the right of the student to participate in decisions, "if able".

177 In a case involving classification and decision-making by a school board in respect of a special needs child, pursuant to their extensive legislative provisions reviewed earlier, the Quebec Court of Appeal upheld the process. A summary of the case provides: " ... the decision was not made in a legal vacuum but rather in accordance with the School Board's existing internal policy *which was compatible with the objectives of the legislation*. It recognized the need to adapt programs to the needs of the individual handicapped student and to do so in as normal a setting as possible without ruling out the possibility of special classes for students with serious learning problems (emphasis added) *Picard* v. *Conseil des Commissionaires de la Commission Scholaire Prince-Daveluy*, [1992] R.J.Q. 2369 (C.A.); summarized in *Edulaw* Vol. 4, No. 9 (May 1993), at pp. 1-2.

emerged as person in his or her own right. This is not to say that a child in the United States enjoys the same rights as those of an adult, but rather, something considerably more than has been experienced in Canada.

Here, children continue to bear the legacy of their common law status as property. It was not so long ago that a child - and its mother, for that matter - was considered to be owned by the man who headed the family unit.[178] Part of that legacy is abuse.[179] Yet another part of that legacy is to fail to incorporate the notion of child as person into the laws - including education statutes - that govern those who must deal with them:

> The fact documented extensively in the records of court proceedings on behalf of children against their parents, is that some families may prevent their children from receiving economic aid, welfare services, and health and educational opportunities that children are entitled to by law, and that they may further abuse and neglect them ... suggests that there needs to be continued re-thinking of legislation on the subject of child welfare. Court procedures for intervention 'in the best interests of the child' are far from satisfactory.[180]

What the author intends here is to make the point that even legislation or policy selections that ensure parental involvement will not necessarily result in adequate protections of the child's interests. Better that legislation should provide the standards, criteria, and procedures to put all children on an equal footing. Indeed, section 7 of the Charter may require it.[181]

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178 See generally: E. Boulding, *Children's Rights and the Wheel of Life* (1979) New Jersey: Transaction Books.

179 Boulding, *id*. cites other commentators on this subject. She wrote: " 'The history of childhood is a nightmare from which we have only recently begun to awaken.' Yet current reports of child abuse make one question whether this helping mode, another label for the protection that the Declaration of Rights of the Child offers, is such an evolutionary breakthrough. It leaves children at the mercy of their parents ... " (at p. 71). If any anxiety remains on this point, one needs to consider the recent decision in Robert Latimer and The Queen (Dec. 1, 1997), reducing the sentence for the murder of a disabled child to one year in custody and one year of house arrest, rather than the statutorily prescribed life imprisonment with a ten-year minimum detention before parole eligibility; this because the killing, in the judge's view, "was motivated solely by his love" (*sic*).

180 *ibid*., at p. 84.

181 *Oakes* v. *R*. [1986] 1 S.C.R. 103 (Ont.) at p. 136: "The Court must be guided by the values and principles essential to a free and democratic society which I believe embody, to name but a few, *respect for the inherent dignity of the human person, commitment to social justice and equality* ... and faith in social and political institutions which enhance the participation of individuals and groups in society." In Beare v. R. (1989), 56 Sask. R. 173; rev'd [1989] 1 W.W.R. 97 (S.C.C.), Bayda CJS at p. 181 wrote: " ... the inherent dignity of a person has at least two aspects: first, that threshold level of dignity and worth which defines humaness and which is the birthright of every individual regardless of societal perceptions of human worth and regardless of individual perceptions of self-worth; second, that dignity and self-worth that an individual derives from his own sense of self-respect."

The Supreme Court of the United States had an opportunity to consider the notion of child-as-person in 1969.[182] The issue was, in general terms, the degree to which students enjoyed the right to freedom of expression, and the justices had no difficulty in concluding that children have the right to express themselves in a non-disruptive manner. Expression is part of those "values and activities courts have thought worthy of protection under a wide variety of names, but with a single aim: preservation of those attributes of an individual which are irreducible in his selfhood".[183]

In *Tinker*, it was determined that all children enjoy what the Americans term 'constitutional personhood'; that is, constitutional rights and guarantees continue to exist, even within the schoolyard gate. Mr. Justice Stewart, writing a separate concurring opinion, posed the question whether that meant that children should be given full equality. His answer: "Certainly not. They should not have equal liberty, they should have less. Neither should they have equal protection, they should have more."[184]

In Canada, the Charter proclaims its rights and freedoms as available to 'everyone'. A recent case which extended considerably what American jurisprudence has acknowledged for nearly two decades, is *Racine* v. *Woods*,[185] though progress was, and continues to be cautious.

A child is not a chattel in which its parents have a proprietary interest; it is a human being to whom they have serious obligations.[186]

This case was considered in a later one, *Young* v. *Young*.[187] At issue in that case before the Supreme Court of Canada, was the test, 'best interests of the child', and whether as an operative standard for those who deal with children, it was too vague, too uncertain to be capable of delivering any precision in directing the conduct of officials. All of the members of the court who prepared opinions were satisfied that the test was valid, though they were split on its application in the present facts. Perhaps echoing the reasoning in *Tinker*, three of the justices concluded that a child's vulnerability heightens the need for protection, and any error should be made in favour of the child's best interests, and not in favour of the alleged right of the

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182 *Tinker* v. *Des Moines 2nd Comm. School District* 393 U.S. 503 (1969). The case involved the 'right' of students to wear armbands to protest against continuance of the war in Vietnam.
183 L. Tribe American Constitutional Law (1979) New York: Foundation, at p. 889, citing Freund (1975).
184 *op. cit*.
185 [1983] 2 S.C.R. 173.
186 *id*., at p. 185.
187 1993] 4 S.C.R. 3.

parent. An additional factor which may come into play, they observed is the "parallel right" of older children to hold and maintain beliefs and opinions of their own. It seems clear that legislation which does not acknowledge and respect the emerging right of children as persons will have difficulty finding support from the courts.

For example, in *Egan*,[188] one of the justices contended that one needs to consider the nature of the group adversely affected, so as to comprehend why action against one group will attract constitutional attention, while identical action against another will not. The more vulnerable the group, the more likely they will be to suffer discrimination in the form of adverse treatment.

> ... the more socially vulnerable the affected group and the more fundamental to our popular conception of 'personhood' the characteristic which forms the basis for decision, the more likely that this distinction will be discriminatory.[189]

By situating the person within the broader social context as the judge suggests, it is easier to see that the special needs child is potentially doubly oppressed, both by handicap and by status as 'child'.

It is essential in these matters for the judiciary to have touchstones for assessing the validity of laws aimed at children as citizens (as education statutes will invariably be) *within* the legislation itself.[190]

Deciding what is best for a child poses a question no less ultimate than the purposes and values of life itself. Should the judge be primarily concerned with the child's happiness? Or with the child's spiritual and religious training? Should the judge be concerned with the economic productivity of the child when he grows up? Are the primary values of life in warm, interpersonal relationships, or in discipline and self-sacrifice? Is stability and security for a child more desirable than intellectual stimulation? These questions could

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188 *Egan* v. *Canada*, [1995] 2 S.C.R. 513

189 *id.* at p. 555, *per* L'Heureux-Dube, J.

190 There is ambivalence about the idea of children having much in the way of 'rights' at all, even in the minds of the judiciary. A comment on the failure of the law to deal properly with child abuse provides: "(This) failure and the dilemmas (it) reflects are in part a reflection of society's basic ambiguity concerning the rights of children and the degree to which society should act decisively ... judges could act with magisterial authority ... yet our observations have shown ... they act with pathetic inadequacy, simply rubber-stamping the biases and inefficiencies of social workers." C. Bagley, "Child Abuse and Legislative Systems" S.L. Martin/K.E. Mahoney (eds) *Equality and Judicial Neutrality* (1987) Toronto: Carswell, 328, at p. 335-6.

be elaborated endlessly. And yet, where is the judge to look for the set of values that should inform the choice of what is best for the child?[191]

While the answer lies in part in the Charter of Rights and Freedoms, in the case of children with special needs - as perhaps with all children - it must lie in the legislative regime which governs, and which will ensure that. Even in those jurisdictions where, legislation has kept pace with developments in special education, educational alternatives can be inconsistent at the local level. This is always a danger with laws that delegate responsibility without highly specific statements of principle and standards. To challenge authority in such instances, as at least one commentator has written, it often becomes a case of taking on the 'Goliath' of a school board.[192]

If one accepts that the core objective of education is preparation for healthy, meaningful social participation in a democratic Canadian society, education legislation ought as a starting point address the principle of inclusion, what it means and how it is to be attained. It seems increasingly clear that the courts will insist upon this as a function of Charter mandated review. Sometimes other changes have to take place before the legislature acts. In the United States, critical advances in the rights of the disabled, which took its impetus in part from the thousands of disabled soldiers returning to civilian life from Vietnam in the late sixties and early seventies, culminated in 1990 with the passage of the federal *Americans With Disabilities Act*,[193] and it seemed to stimulate a more rigorous application of the "congressional preference for educating children with disabilities in regular school classes".[194] To ensure that the "devastating effect of negative predictions and placements based on stereotypes and misconceptions"[195] did not occur, the American Congress provided that the Act itself contained "strong safeguards".[196] These included such measures as determining upon whom the burden rests in the matter of placements (the education authority), a requirement for the court to consider what steps the school has taken to

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191 R. Mnookin, "Child Custody Adjudication: Judicial Functions in the Face of Indeterminacy" (1975), 39 L. & Contemp. Probs. 226, at p. 260.

192 J.A. Leroux, Are the Rights of Young Gifted Children Really Protected Under Legislation?" (1990), 6 Can. J. Spec. Ed. 72, at p. 72. "The major problem in cases of appeal for programs and placement is that the process frequently becomes adversarial, with parents often squared off against the school board. This unfortunate result reduces the potential for cooperation so crucial for the education of any child ... In efforts to be legally correct, the child may be deprived of what is educationally sound." (at p. 75)

193 42 U.S.C. 12182-12189 (1997)

194 D.K. Lipsky, "The Full-Inclusion Cases: 1989-1994" D.K. Lipsky/A. Gartner (eds.) *Inclusion and School Reform: Transforming America's Schools* (1997) Toronto: Brooks, at p. 302. The references are to the federal *Individuals With Disabilities Education Act* (IDEA), 20 U.S.C. 1412. "Integration in school was seen as key to the ultimate goal of integration in society." (at p. 303).

195 *ibid*.

196 id., at p. 304.

accommodate the handicapped child, which is a question of sufficiency - for if the "state has made no real effort to take such accommodating steps, our inquiry ends, for the state is in violation of the act's express mandate to supplement and modify regular education".[197]

Another standard to consider has to do with the benefit the child has from education: what does that mean? Is this something that an administrator will measure and decide quite independent of any legislative or policy instruction? The American courts have stressed that too much emphasis cannot be placed upon academic achievement:

> ... academic achievement is not the only purpose of mainstreaming. Integrating a handicapped child into a non-handicapped environment may be beneficial in and of itself. Thus, our inquiry must extend beyond the educational [academic] benefits that the child may receive in regular education.

We must also examine the child's overall educational experience in the mainstreamed environment, balancing the benefits of regular and special education for each individual child. For example, a child may be able to absorb only a minimal amount of the regular education program, but may benefit enormously from the language models that her/his non-handicapped peers provide for her or him. In such a case, the benefit that the child receives from mainstreaming may tip the balance in favour of mainstreaming, even if the child cannot flourish academically. [198]

Without such standards incorporated into law - or at least such general principles that will give rise to a court's construction of 'tests' by which administrative authority is exercised, there is risk that the education of

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197 *Daniel R.R.* v. *State Board of Education* 874 Fed. (2d) 1036 (5th Cir. 1989), at p. 1048. This comports with Canadian human rights jurisprudence, which incorporates the duty to make reasonable accommodation. See the review in *Eldridge, supra*, at n. 147 *et seq*, suggesting that this principle becomes a part of the section 1 of the Charter discussion (the justification or limitation provisions of the Charter).

198 id., at p. 1049. The Court had earlier on in the opinion made the point that the 'benefit' test is not whether the disabled student can perform consistent with group norms in the classroom. They observed that "(w)e recognize that some handicapped children may not be able to master as much of the regular education curriculum as their non-handicapped classmates. This does not mean, however, that those handicapped children are not receiving any benefit from regular education. Nor does it mean that they are not receiving all of the benefit that their handicapping condition will permit. If the child's individual needs make mainstreaming appropriate, we cannot deny the child access to regular education simply because his education achievement lags behind that of his classmates." (at p. 1947) This is not to say there are no contrary views: "Recurrent references in popular contemporary thought to increased friendships, greater belonging, heightened social skill development, increased social interaction, and the modeling of appropriate social behaviour lack research support as compelling reasons for integration. Is it window dressing when we include children with severe handicapping conditions in regular classes? Fondest aspirations can sometimes cloud judgement." W. Nesbitt. "Inclusive Education: Views of a Grammarian, Not a Poet" (1994). 9 Can J. Spec. Ed. 119, at p.121.

special needs children will be uneven and entirely dependent upon the professionalism and good will of educators, administrators, and other education authorities.

Words like 'personhood', 'autonomy', 'identity' and 'dignity' are thrust into a social and legal vacuum in the case of special needs children in Manitoba, because there are no clearly enforceable guiding principles which will ensure their right to an appropriate education. By that, it is meant an education that will prepare them, as with their peers, for integration into the larger society, of which the classroom is a microcosm. It is difficult to think of a compelling reason why this should not be so. As Tribe put it:

> Ultimately, the affirmative duties of government cannot be severed from its obligation to refrain from certain forms of control; both must respond to a substantive vision of the needs of the human personality.[199]

Legislators not only exercise control by means of statutory enactments, they provide direction which helps set the tone for the way in which a community will think about a subject. Essential to the growth of a healthy education environment are laws which foster it.[200]

I. Conclusion

That the legal environment in Manitoba for special needs children is characterized by a lack of formal statutory arrangements beyond the patchwork provisions reviewed above, is not open to much debate beyond the constructive kinds of arguments that could be made (also reviewed earlier). The right to an appropriate education for special needs children in Manitoba relies on little more than an expression of faith. The Province of Manitoba is one of the few that has not addressed these issues of an appropriate education for exceptional children in their legislatures. "Neither the artistry nor the archeology of constitutional documents can determine finally the extent to which such a right of personhood ... to develop and function as an individual and to share intimacies with others can be asserted against governmental control *or deliberate indifference"* (emphasis

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199 Tribe; *op. cit.*, at p. 890.

200 See: D. Cooper/G. Upton "Putting Pupils' Needs First" (1991) 18 Ont. J. of Spec. Ed. 11, at. p. 113.

added).[201] Complacency of assumptions in legislation practically insists that the courts will exercise their jurisdiction when gaps in the law become the subject of debate. The best place for the right to liberty and security of the person, as well as the right to equality as it is understood in Canada, to be realized, is in the solemn exercise of the will of the legislature.[202]

We are approaching the day when for each child, with exceptionalities or not, the law will require that the schooling fit the child, the child's needs,capacities, and wishes, not that the child fit the school.[203] In Manitoba, for the moment, that legislative requirement is not there.[204]

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201 *id*.

202 "School Boards must now face the reality of the courts reviewing their placement and/or program decisions on the basis of whether they are in line with the guarantees of an appropriate education under section 7, or with the equal benefit of the law protections under section 15. This new era of substantive review will cause boards to take more care in the implementation and assessment of placements and programs for children with special needs ... more cases across Canada will probably lead to a legislative response ... " A. W. Mackay "The *Elwood* Case: Vindicating the Rights of the Disabled" M. Csapo/L. Gougen (eds) *Special Education Across Canada: Issues and Concerns for the 90s* (1989) Vancouver: Centre for Human Development and Research. 149, at p. 157.

203 T.K. Gilhool "Changing Public Policies: Roots and Forces" (1976) 2 Minn. Ed. 8, at p. 13.

204 This analysis has proceeded upon the basis of a legal perspective. It brings no insight to bear on the subject from an educator's viewpoint, which one would expect to be child-centered and discipline-specific. One might very well ask: so who would sue, if children are accomplishing by way of policy what legislation might otherwise provide? This is, to a large extent, beside the point. It may well be true that a judge might conclude that a minister may make all sorts of decisions about spending public money on education, as long as the activity may be generally said to fall under that rubric. And given the historic deference to experts in child support services, the decisions of officials will in all likelihood be approved. But a system may well be ripe for the dismal fruits of mistake, when the legislation offers few if any signposts to decision-makers, including judicial ones, to assist in selecting the right choices for special needs children.

CHAPTER VII

REVIEW of FUNDING MODELS and FINANCIAL ARRANGEMENTS for SPECIAL EDUCATION

The following discussion commences with a review of models being utilized across Canada in the funding of programming and services for students having exceptional needs. Not all jurisdictions are discussed in equal depth, either because of the level of information available and/or their comparability to the Manitoba context. The cross-jurisdictional review is followed by a discussion of Manitoba's funding model and funding trends in Manitoba related to the delivery of programs and services for children having exceptionalities. The financial discussion focuses on revenues, expenditures and funding support, as well as related issues of enrolment and staffing.

A. CROSS-JURISDICTIONAL FUNDING REVIEW

A number of Canadian jurisdictions have recently changed or are currently in the process of changing the way funds are allocated to special needs education. When looking at the larger system of educational financing, as noted by Lawton (1996) there is a trend towards greater centralization of educational finance at the elementary and secondary levels in Canada. An increasing number of jurisdictions fully fund education, with five now having provincialized property tax for education.

The provinces and territories use a variety of models to fund special needs education which include straight block funding as well as a combination of block funding and categorical funding. In some jurisdictions the categorical nature of the exceptionality becomes the criteria for funding, while in others the category is used as a guide for funding with individual student need as the specific funding criterion.

Manitoba uses a combination of block and categorical funding to address special education funding. As in many other jurisdictions, the Manitoba model also incorporates a number of supplemental grants.

1 British Columbia

British Columbia supplements a per pupil Core grant with categorical funding. School districts are provided funding from a variety of sources in order to fund educational programs and services. These sources include: operating grants to school districts; special purpose grants; targeted funds for specialized equipment; provincial services provided by the Ministry of Education with no direct cost to districts; and services provided by other ministries with no direct cost to districts.

There are a number of categorical and non-categorical funded support services available in British Columbia. For example, Learning Assistance Services is a non-categorical resource providing supports to classroom teachers and their students having mild to moderate difficulties in learning and adjustment. Learning Assistance Teachers help to maintain, organize and integrate services within the school and, as part of the school-based team, provide the link to supports available at the district level.

Within the General Operating Grants envelope there are a number of components. For example, the Core grants allocate a standard amount of money per student, per school, per district. Targeted grants are the grants through which funds for specific special education programs are allocated. In addition, some services (such as learning assistance) are block funded based on a formula which is driven by total student enrolment in the school district. Dollar amounts provided for special education programs and services are targeted within a “global envelope”. Districts are not permitted to spend less on students having special needs than the amount they receive; however, they are free to spend more. In order to provide flexibility to the districts to meet their priorities, individual categories of programs are not targeted for funding.

In addition to Core grants, funding for special education in British Columbia is available for:

< students with severe behavioural difficulties;
< specialists such as speech-language pathologists, school psychologists and itinerant specialists;
< school-based learning assistance that supports regular classroom instruction;
< resource rooms;
< special outside-of-school options including hospital and home-based services;

< teacher assistant support; and
< a range of other provincial programs and services.

Funding categories were established in order “to assist school districts in providing appropriate education programs to students with special needs”. The Ministry states that the categorical system “is not intended to specifically identify all medically diagnosed conditions and syndromes which may have an impact on the student’s educational needs. These conditions and syndromes include, but are not limited to, Attention Deficit/Hyperactivity Disorder (AD/HD), Fetal Alcohol Syndrome/Fetal Alcohol Effect (FAS/FAE), Rett’s Syndrome, Asperger’s Syndrome, Tourette’s Syndrome, and others. Medical diagnosis by itself does not determine the special education services required”.

The following general guidelines are provided for the identification of students.

< Students having identifiable exceptionalities or medical diagnoses, whose needs are being met through support provided by the regular classroom teacher and/or learning assistance, counselling, speech-language pathology or other separately funded services are not to be included in a designated funding category.

< Students having conditions which may or may not have a specific categorical designation should be identified for funding purposes in the special education category best reflecting the type and intensity of interventions documented in the IEP.

The preliminary Grant Amounts for 1998-1999 are provided in Table VII-1.

Table VII-1 British Columbia* Special Education Programs 1998-99 Funding Allocation System (Preliminary)			
Special Education Programs	Number of Students	Funding Per Student	Funding
Learning Assistance	520,695.8989	132.00	68,731,859
Special Health Services	607,296.8989	39.45	23,957,863
Hospital/Homebound	607,296.8989	11.14	6,764,989
Identification/Planning	607,296.8989	20.72	12,583,191
Severe Behaviour	6,266.5000	6,014.00	37,686,731
Moderate Handicapped (HILC)	27,739.0335	3,132.00	86,878,651
Severe Handicapped (LIHC)	7,586.5000	12,592.00	95,529,208
Dependent Handicapped	758.5000	32,042.00	24,303,857
Gifted	11,677.3253	341.00	3,981,967
Job Training			
Mild Intellectual Disabilities	905.0000	744.00	673,320
Mod.-Serv. Profound Intel. Dis	574.0000	744.00	427,056
Sub Total From Students			*361,518,692*
Core Special Education Services	**Number of Schools**	**Funding Per School**	
District			16,800,000
Schools	1,604.0900	3,943.00	6,324,926
Learning Assistance	1,604.0900	6,916.00	11,093,886
Sub Total From Schools			*34,218,812*
Educator Salary Adjustment			8,790,284
Geographic Adjustments			524,690
Amalgamation Support			2,333,335
Totals:			407,385,813

* Source: British Columbia Ministry of Education

2. Alberta

The Alberta Education funding framework uses three blocks through which funds are provided to school boards; the Capital Block, Instruction Block and Support Block.

The Support Block provides funds related to the operation and maintenance of schools, school board governance, central office administration, student transportation, and the equipment and facilities related to these programs. The Capital Block provides for the cost of school building projects supported

by Alberta Education including upgrades and modernization. Through the Instruction Block, every school board receives a per pupil allocation. The Instruction Block is seen to provide the reasonable costs of instructional programs and services.

Funds provided through the Instruction Block include the costs of principals, teachers, instructional staff, learning resources and supplies, equipment, and furnishings used in the instructional program. Basic Instruction Funding includes special education funding for students with mild and moderate disabilities as well as for gifted and talented students. School boards are expected to use a portion of the basic instructional funding, plus any additional funding received for students with special needs, to provide appropriate programs and services for all students with special needs.

In addition to the basic instructional funding provided through the Instruction Block, there are additional funds available for a number of programs including: Students with Severe Disabilities, Teacher Assistants and Early Childhood Service Programs. Students qualifying for additional funding under the Severe Disabilities category include those having severe mental disabilities; emotional/behavioural disabilities; multiple disabilities; and physical or medical disability - including autism, deafness, and blindness.

Students receiving funding for severe disabilities must receive three or more of the following levels of support. They must receive frequent specialized one-on-one instruction; specialized or adaptive equipment; assistance for basic care; frequent documented monitoring of medical and/or behaviour status; and direct therapeutic service at cost to the system. Schools are required to develop and implement an Individualized Program Plan (IPP) for each student receiving this funding. The IPP is to be supported by the appropriate medical, psychiatric, psychological or other professional documentation.

Through the Teacher Assistants Program, schools can also receive funding. This program, which is a three year program, was implemented in order to provide teachers with more resources so that they can better plan and deliver instruction to individual students and groups of students. The funding is made available to school boards on a per pupil basis based on the previous years' September 30 enrolment in grades 1 to 6 inclusive. The level of funding will remain the same for the remaining two years of the project. School boards receiving funds are expected to provide teacher's assistants in some or all of its grades 1 to 6 programs. However, teacher's

assistants hired with special needs funding and working with special needs students are identified as a separate group for purposes of funding.

Early Childhood Support (ECS) Program Unit Funding is available for children with severe disabilities who are at least two and a half years of age but younger than six. ECS funding is developed to provide support up to Grade 1.

School boards allocate funds to the schools and are accountable for their appropriate use. It was noted that school-based decision-making results in the final decisions for allocating funds being made by the school principal and staff. The Instruction Block funding allocations for the 1998-99 school year are provided in Table VII-2

Table VII-2
Alberta Instruction Block Funding Allocation: 1998-99 School Year*

Basic Instruction	$3860 per funded student This amount includes $325 per student to support programs for students with mild and moderate special needs including students who are gifted and talented. $110.25 per CEU.
Students with Severe Disabilities a) Severe Physical/Mental Disabled, including Severe Autism b) Severe Behaviour Disabled	 a) $11600 per eligible funded student b) $8910 per eligible funded student

* Source - Alberta Education

3. Saskatchewan

Funding for special education is provided through base funding and a combination of additional block plus categorical funding. However, base funding is determined somewhat differently in Saskatchewan than in Manitoba. The foundation formula is dependent on need (the cost for a division to provide an acceptable education program) and ability to pay (the board of education's ability to raise money locally). The greater the disparity between need and the ability to pay, the greater the grant. Saskatchewan believes that distribution through the Foundations Grant formula makes it possible to: deliver a desirable and realistic range of programs and services while keeping local tax rates from being "unduly high"; retain local autonomy

at the local board level; and avoid undue hardships for systems affected by circumstances beyond their control.

A number of additional funding protocols are available to meet the additional expenses involved in educating exceptional students. These include Designated Pupil Funding, Special Needs Program, Shared Services, Technical Aids Cost Recognition, Special Education Transportation, and Room and Board.

Within the Designated Disabled Program (DDP) which supports students with visual disabilities, mental disabilities, orthopedic disabilities, chronic illness, multiple handicaps, and those who are deaf and hard of hearing, two levels of funding exist, those being Level I or Level II depending on the "intensity of the program and the staff involved". Personnel must have specific qualifications and the costs of the program and services must at a minimum approximate the level of grant received. For the 1998-99 school year, grants received a 5% increase over 1997 so that Level I rates are $4,752 and Level II rates are $7,088.

The Supplemental Designated Disabled Program (SDDP) assists school divisions with students having severe, low incidence disabilities who require extraordinary staff intensive programming. "The total incremental recognition for Levels I and II are calculated and that amount is divided by $41,200 to generate an approved staff equivalent. The approved staff equivalent is then compared to a full time equivalent (FTE) of actual staff identified by the school division in the fall 1997 Special Education Data Summary. The SDDP recognizes the staff in excess of the approved staff equivalent times $5,000".

The Special Needs Program (SNP) supports programs and services for students with exceptional learning or behavioural needs. Needs in this category of funding include students with learning disabilities, speech and language disabilities, mild and moderate intellectual disabilities and gifted learners. Unlike the DDP, which provides funding based on individual student need, Special Needs Program funding is provided as a grant, based on the per capita enrolment in the school division. The SNP unit value was increased to $27,500 for 1998-99. For every 200 students enrolled in the school division, one FTE staff position in SNP is allocated. The maximum SNP FTE is calculated by dividing the enrolment in the school division by 200 and multiplied by 90%. Comparisons are then made to the actual SNP

FTE reported in the Special Education Data Summary and the lesser amount is multiplied by $27,500.

SNPF students must be served in programs operated by SNPF staff. Personnel who qualify under this designation include resource/learning assistance teachers, educational consultants, educational psychologists, counsellors, work experience teachers, social workers, speech/language pathologists, and community liaison workers.

Special funding for targeted behaviour programs is also available. This funding is provided to allow for the programming and provision of services for students having severe social, emotional and behavioural disorders or for early intervention programs to prevent such problems. The division is provided $10 for every student enrolled. It is estimated by Saskatchewan Education that 10% of the staff identified are dedicated for prevention programming while 90% are involved with specialized programming. Therefore 90% of the actual staff indicated in the fall data submission is multiplied by the unit amount. In 1997 each FTE was recognized at $25,000.

There are a number of additional funding allocations which deal with transportation, room and board, technical costs, accessability, home-based education and fractional funding.

4. Ontario

A new "Student Focused Funding Model" came into effect in Ontario for the 1998-99 school year. The new model is seen as providing special education students and their parents access to protected funding which can be used to support programs and services that meet the student's identified needs. The Ministry of Education and Training stipulates that the new funding model "is focused on funding students according to their ***needs***". The Ministry wants to ensure that students needs are not confused "with a program or service that is offered in order to meet that need".

As noted in the Ministry's March 1998 Fact Sheet, the Ontario Government wants all students with special needs to have the support they require to reach their full educational potential. Ontario utilizes a combination of block

and categorical grants to provide special needs programming and services to students.

Ontario has a funding framework which consists of ten grants, the Foundation Grant, plus nine “special purpose” grants. Through the Foundation Grant, school boards receive funding for every enrolled pupil, this is intended to cover the costs of providing core education for every student in the province. The Special Education Grant, one of the nine “special purpose grants” is divided into two separate funding support structures, the Special Education Per Pupil Amount (SEPPA) and the Intensive Support Amount (ISA). These grants are “intended to support the additional programs services and equipment required to meet the needs of exceptional children” (New Funding Model - revised technical paper - June 1998).

SEPPA is a block grant based on total board enrolments. It is anticipated that the majority of special education funding in Ontario will be generated through the SEPPA. As noted by the Ministry, this funding will be for high incidence students having exceptionalities that do not require a high level of financial support for the individual student. For 1998-99, the allocations will be $347 per elementary student and $214 per secondary student.

The Intensive Support Amount (ISA) funding is categorical in that it is student specific based on the enrolment of individual students who meet specific funding criteria. Each ISA claim must be linked to a specific student using Ontario education numbers. The ISA is structured in four levels. ISA-1 provides funding for individual student’s equipment costs in excess of $800 in the year of purchase. ISA Level II and Level III are to provide funding for the costs of providing specialized programming for low incidence students. For 1998-99, ISA Level II funds have been set at $12,000 while ISA Level III claims will be $27,000. ISA Level IV is for students in government approved care and/or treatment facilities.

The ISA Level I is seen as functioning as an extra layer of funding for equipment and can be used in combination with the Foundation Grant + SEPPA, ISA Level II or ISA Level III. There is a provision for in-year funding for students entering the school during the school year and students can take the equipment with them if they move to another school board.

The ISA can be claimed for students whether they are integrated into the regular classroom or are part of a self-contained special education class. ISA Level II funding may be claimed for students needing a Specialist Teacher of the Deaf, Blind or Deafblind for 25% to 50% of the instructional day. Funds for other exceptional students can also be claimed, including those requiring an individualized curriculum for which 50% to 80% is modified, "in conjunction with individualized, one-to-one educational, behavioural or other support for 50% to 80% of the school day to meet their needs". The guideline states that **"NB It must be demonstrated that this level of support would be needed by the pupil whether integrated in the regular class or whether in a self-contained special education class"**. (Emphasis in guidelines).

Guidelines for receiving ISA Level III funding indicate that funding can be received for Deaf, Blind or Deafblind students needing a Specialist Teacher of the Deaf, Blind or Deafblind for 51% or more of the instructional day. This level of ISA funding can also be claimed for students requiring an individualized curriculum modified 81% to 100% "in conjunction with individualized, one-to-one educational, behavioural or other support for 81% to 100% of the school day to meet their needs". The guideline stated that **"NB It must be demonstrated that this level of support would be needed by the pupil whether integrated in the regular class or whether in a self-contained special education class"**. (Emphasis in guidelines).

The special education funding allocations are seen as establishing the minimal amounts each school board is to spend on special education. Funding received through the ISA grants are to stay with the individual student if s/he moves to another school board.

5. Quebec

Exceptional students are required to have an Individualized Education Plan (IEP). Funding is allocated through block funding and additional special needs funding, categorized by the kind and severity of the disabilities. In 1996-97 a new method of calculating the number of required teaching positions was introduced. It was based on regrouping students with exceptionalities into five categories: at risk; language deficiency; psycho-social; intellectual; and autism, physical and sensory.

6. New Brunswick

All education funding in New Brunswick comes from the provincial government — there is no local taxation for education purposes. The New Brunswick Department of Education funds special education programs and services through block funding, on a per pupil basis. In 1997-98, each school district was allocated $315 per enroled student. This funding framework is seen as minimizing classifications, and avoiding the use of traditional categorical labels while providing the districts the opportunity to plan and implement programs and services which best meet the needs of their students.

7. Nova Scotia

A new funding formula is currently being considered in Nova Scotia. However, the rates used for 1997-98 are the same in 1998-99. Funding growth between these two years is not earmarked. The following information is contained within the Funding Review Work Group Reports (1997-98, 1998-99).

The General Formula Grant is based on the school board's actual eligible student enrolment at all levels as of September 30, 1996. The per student allocation is $3447.06.

The Special Education Grant is a non-global grant designed to assist school boards with the costs of providing programs and services to students with special needs. In 1996-97, school boards budgeted expenditures of $53.8 million for special education programs and services. In the same year, the special education grant amounted to $38 million. The Special Education Grant for 1997-98 was based on the school board's actual eligible enrolment at all levels as of September 30, 1996. The per student allocation was $265.50 which will not change in 1998-99.

Funds are used for students who are assessed as having particular exceptionalities. The following exceptionalities are eligible for the receipt of additional special education funding where the needs of the students are such that they require supports in addition to those provided by the classroom teacher:

< cognitive impairments;
< emotional impairments;
< learning disabilities;
< physical disabilities and/or other health impairments;
< speech impairments and/or communication disorders;
< sensory impairments — vision, hearing;
< multiple disabilities; and
< giftedness.

In 1996-97, the Education Funding Review Work Group recommended that the Special Education Grant be combined with the global General Formula Grant in 1997-98, provided that special education service standards and accountability measures were implemented in the 1997-98 school year. The government did not approve the recommendation to globalize the special education grant. As a result, the Education Funding Review Work Group will not pursue a global approach to funding special education. However, efforts will continue to develop education service standards and accountability measures for special education programs and services.

A new Department of Education and Culture grant discussed by the Work Group is the Learning Disabilities Grant. In May 1995, the Department of Education and Culture established a steering committee to develop guidelines for the management and allocation of funds for programs and services for students with severe learning disabilities. These funds had previously been administered by the Atlantic Provinces Special Education Authority (APSEA). In 1996-97, these funds were allocated to boards through a budgetary process and it is understood that this methodology continued in 1997-98. The Work Group was advised that a Learning Disabilities Grant in the total amount of $1,310,077 was provided through the Department of Education and Culture's 1997-98 grants to school boards to be allocated on the basis of guidelines developed for this program.

8. Newfoundland and Labrador

In Newfoundland and Labrador staffing allocations are based on the outcomes of the profiles of the needs of children and youth. For example, school divisions are provided with funding for 6.2 to-7.5 special education teachers for every 1,000 students. As well, funds are allocated at the school level to provide programming and services to students having the following

exceptionalities: severe cognitive delays, severe psychological disorders; severe learning disabilities; severe emotional behaviour disorders; and severe health and neurological impairments.

Funds are allocated on a per school basis for special needs students using the following formula: .5 FTE for 1 to 2 students; .75 FTE for 3 students; 1 FTE for 4 to 6 students; 2 FTE for 7 to 12 students and 3 FTE for 13 to 18 students. There is also funding for itinerants to work with students having visual or hearing impairments. Furthermore, allocations are made for speech and language consultants (1 FTE for every 2,500 to 3,500 children) and guidance counsellors (1 FTE for every 1,000 children). In addition, the Department of Education operates the provincial school for the deaf.

9. Prince Edward Island

The School Board Staffing and Funding Program is the framework for providing financial grants to school boards. In an attempt to ensure equal access to basic educational services, the school boards are required to allocate staff and resources equitably among schools. Currently, the Ministry provides out-of-ratio special education teachers to support students requiring additional assistance within the school system. Students requiring additional assistance include special needs students, as well as those needing additional academic or resource support. In 1996-97, there were 114.0 out-of-ratio positions, of which five were consultants. The provincial ratio for special education teachers is approximately one for every 215 students. School Boards are responsible for determining the priorities for the allocation of special education teachers to schools.

Teacher Assistant (TA) positions are an additional resource which supports special needs students having mental or physical needs, or who exhibit behavioural problems. TA's are provided on the basis of need by the Ministry to school boards providing the required documentation. For the 1998-99 school year, the Ministry allocated funding for an additional 13 full time TA's, which represents a 10% increase over the previous year.

The Ministry also provides itinerant teacher support to pre-school and school age children having a hearing impairment.

10. Northwest Territories

In order to implement the inclusive schooling policy, the Ministry provides each education body with funding. The funding is to be provided according to a school-based funding formula. This formula was seen as ensuring effective and consistent use of the funds, while providing an accountability mechanism.

A revised funding formula is currently in the process of being phased-in. In 1995-96, the first year of implementation, the Ministry provided salary dollars, according to the formula, for the following positions; consultant support, support teachers and educational assistants (calculated at the average cost of staffing such a position). The Ministry has stated that funding support to inclusive schooling will be an integral part of the new formula.

11. Yukon

As a matter of philosophy and policy, the needs of students having exceptionalities are considered from a non-categorical approach, to avoid the stigmatization that is viewed as frequently accompanying traditional categorical labels. As noted in the Handbook of Procedures and Guidelines, "as a matter of philosophy and policy, the needs of students with exceptionalities are considered from a non-categorical approach. Accordingly, students are identified by their special needs and not by a traditional categorical label".

Education is fully funded by the territorial government which levies a uniform tax across the territory. There is no taxation directly applied to property, or via city levee. Schools are operated by the territorial government and administered by the Department of Education. For 1998-99, special programs has a budget of $1,117,000, of which $947,000 is allocated to salary and $170,000 is "other". The salary component is for 12.3 full-time equivalents (FTE).

12. United States

As in Canada, a variety of school finance formulas have been developed including: flat grants; minimum foundation programs; guaranteed-tax base and percentage-equalizing formulas, two-tier structures that are combinations of these two basic formulas types and full state funding. As noted by Odden and Clune (1998) in their review of school finance systems, the majority of States, approximately 30, use foundation formulas, "with the remainder about evenly divided between guaranteed-tax base and two-tier combination programs".

The Center for Special Education Finance (CSEF) provides policy makers and administrators at all levels (Federal, State, local) with information about special education finance issues. CSEF found that for various reasons (flexibility in provision of special education, elimination of incentives leading to restrictive placement, fiscal accountability, rising costs and enrolments, and support for more inclusive practices) a number of States were considering or undertaking, some type of fiscal reform. In response, CSEF developed the following fiscal policy guidelines which promote inclusion. These guidelines include:

< removing incentives that favour restrictive and separate placements;
< determining the extent to which the State will encourage private special education placements;
< development of funding systems which follow students as they move to less restrictive placements;
< enhancing fiscal support for training; and
< funding and encouraging the use of appropriate interventions of all students.

Parrish (1993) Co-Director of CSEF has summarized the arguments for and against funding formula changes as follows:

Funding Formula Change Arguments	
For Change	**Against Change**
< More cost effective	< Will not be fair for areas having higher incidence rates
< Some students will be better served	< Current process of identification builds in safeguards
< Will reduce over-identification	< Accountability will be jeopardized
	< Change may be motivated by "cost" rather than professional considerations

Echoing the concerns outlined above, Morsink et al (1987) noted the possibility that the development of multi-categorical (or non-categorical) programs may reflect shrinking fiscal and personnel resources "rather than professional considerations" resulting in these approaches being a "cost-savings device". It was also suggested that there is a danger that multi-categorical programs designed for students with less severe learning needs, might enrol students with more severe needs making the teaching situation difficult. In contrast, other researchers point to the need for greater flexibility in funding special educational needs. Lipsky and Gartner (1997) say:

> that unless special education financial reforms become part of the financing of educational reform in general, school districts will not have the required flexibility to develop quality programs for all children. In addition, unless financial reform is carried out, increased special education needs will eventually "break the banks". It is fiscally impossible - and programmatically undesirable - to continue to place children out of the general education program in inclusive education one at a time.

Alternative approaches to funding educational programming for students having exceptionalities are recent developments. However, directions which allow divisions/districts greater flexibility at the same time as they provide adequate support to deliver education to ***all*** students show promise. Providing appropriate financial resources within an environment that produces desired student outcomes continues to be the fundamental challenge to education.

B. Manitoba: Funding Model & Reporting Structure

The overall funding model known as the Schools' Finance Program (SFP) was introduced by the current government in 1992-93. It is a complex model combining base grants calculated on overall enrolments, with factors which recognize local property assessment and the ability of divisions to raise local taxes. There are three major principles upon which the School Finance Program was founded.

< "The first is student equity. The principle of student equity requires that provincial funding, together with the revenues of the school division (primarily the special levy), must be sufficient to fund a learning environment that facilitates the learning opportunities of all students regardless of location or socio-economic circumstances.

< The second principle is taxpayer equity. This principle requires that the calculation of provincial funding take into account the amount of taxable property (assessment) in each division on which the special levy is raised. This means that some amount of provincial funding must be provided to assessment-poor school divisions specifically to "equalize" the taxation effort required to those school divisions. It is for this reason that the Province provides more funding proportionately for fundable programs and services to school divisions that are assessment-poor.

< Third is the principle of partnership which recognizes the shared responsibility of the school divisions and the Province in providing funding for elementary and secondary education. In fiscal terms, local autonomy means that the school divisions have the discretion to levy a property tax (special levy) to pay for programs and services beyond those the Province supports through the provision of funding." (Source: Manitoba Education and Training.)

In addition to base funding, other components are categorical and supplementary funding. There are numerous categorical grants (e.g., special needs, students at risk), some of which are based on overall student enrolments, and some which are based on selective student populations.

Supplementary funding is provided to assessment-poor divisions in support of expenditures not funded through base or categorical funding, or other revenue sources. While there are a variety of perceptions regarding the current formula, in general, most comments received throughout the Review process related to the adequacy of the overall funding amount in meeting the needs of students.

1. Funding Model

Manitoba Education and Training's programs and services are budgeted under seven main appropriations: Administration and Finance; School Programs; Bureau de l'education française; Training and Advanced Education; Support to Schools; Support to Post-Secondary Institutions; and Expenditures Related to Capital. The foundation for the current funding model, the Schools' Finance Program, which is part of the Support to Schools budget, can be found in the funding model that proceeded it, the Government Support to Education program (G.S.E.).

a. Historical - Government Support to Education (G.S.E.) Program (1989-90 to 91-92)

From 1989-90 to 1991-92, funding for all education expenditures was provided under the Government Support to Education (G.S.E.) Program. The G.S.E. Program consisted of four components: categorical support; block support; equalization support; and, capital support. This program was financed from consolidated revenues of the province and the Education Support Levy on farm, residential and other property across Manitoba. Similarly to the current funding model, the G.S.E. Program used a combination of block and categorical grants as a means to fund special needs programming.

Level I

Grants were provided for Level I special needs pupils on a ratio of one grant unit ($23,000) for each 160 pupils in a division's/district's enrolment, plus 10% for administration. A unity grant of $23,000 was the equivalent of one teacher grant, on the assumption that 160 pupils required the resources of one additional teacher or 2+ teacher aides to provide Level I services to each 160 pupils in the general enrolment. This grant also assumed that

every school division/district had the same proportion of Level I special needs pupils. In reality, some divisions/districts, because of the programs they offered, attracted pupils who required additional resources, while other school divisions simply did not provide these types of services.

Coordinator

A coordinator grant in the amount of $34,100 was provided for each school division to fund a Special Education Coordinator position regardless of the size of the division/district.

Clinicians

Clinician grants were provided on the basis of one grant for each 900 pupils in a division. With this level of resources and the wide range of services required, smaller divisions/districts had some difficulty providing needed clinical services directly to special education pupils.

Level II and Level III

Under the G.S.E. Program, Level II grants were provided on the basis of identified pupils. In 1989-90 these grants were $6,600 per pupil for Level II and $13,200 per pupil for Level III pupils. In 1990-91 and 1991-92, these grants were increased to $7,100 and $15,800 respectively. These grants were designed to provide support for pupils identified as Level II or Level III.

b. Current - Schools' Finance Program (1992-93 to present)

Introduced in 1992-93, the Schools' Finance Program (S.F.P.), currently provides a combination of block and categorical funding on a per pupil basis for every child in public schools in Manitoba. According to Lawton (1996), the introduction of this model represented the introduction of a resource cost model for funding, in that it allocates funds in line with specific educational programs and services.

The Schools' Finance Program is similar to the G.S.E. in that it provides grants for categorical support according to three levels. While Level I support is provided through a block grant, Levels II and III are based on

documented need. In addition, grants are also provided for clinicians and coordinators, on a block basis, based on overall enrolments.

A portion of block funding (Level I) is intended to provide support to students who require small group instruction for a major portion of the school day, or individualized instruction for a significant part of the school day (including gifted students). Categorical grants are provided to schools/divisions for students who require and receive extensive modifications in educational programming based on a comprehensive educational needs assessment. Level II support is based on the need for individualized instruction for a major portion of the school day. Level III support is based on the need for individualized instruction for the entire school day, as well as additional specialist support which is provided by the division/district and is significantly beyond the level of program intensity considered for Level II support. In addition, individuals who are medically stable due to technology may also receive additional funding.

When introduced the Schools' Finance Program increased overall operating grants by $10 million. The funds provided for Special Education/Special Needs increased by almost $31 million. At the same time, grants in other operating areas were reduced. In order to qualify for the additional special education grants, divisions/districts had to incur the related expenditures. This resulted in a significant increase in special needs staff resources.

The following discussion outlines the grant levels and examples of exceptionalities addressed at each level.

Level I

Level I grants (Part Two of base funding) increased from $23,000 (including 10% administration) (G.S.E.) to $45,000 (S.F.P.) The funding ratio increased from 1 unit per 160 pupils to 1 unit per 180 pupils. The funding and ratios have remained the same since their introduction in 1992-93.

As outlined by Manitoba Education and Training, the following conditions are examples of students who may fit in the Level I category:

< Trainable Mentally Handicapped;
< Severely Physically Handicapped;
< Moderate Multi-Handicapped;

- Very Severely Learning Disabled;
- Severely Emotionally Disturbed;
- Severe Hearing Loss;
- Severely Visually Impaired; and,
- other special conditions. (Gifted and talented students, and students who require English as a Second Language programming may be considered in this category).

The above exceptionalities are defined as follows by Manitoba Education and Training:

Trainable Mentally Handicapped - are students having an intelligence quotient which is less than 50 (± 5) and having a significant deficit in adaptive behaviour.

Severely Physically Handicapped - are students, suffering from a severe physical disability requiring significant specialized educational support and/or physical rehabilitation. This condition may have resulted from an accident, illness, injury to the nervous system, congenital deficiency or malformation.

Moderate Multi-Handicapped - are students having more than one challenge to her/his educational program at a time. Taken separately, each syndrome is a disability to the adjustment of the students to the school.

Very Severely Learning Disabled - are students performing grossly below expectations on the basis of intelligence or learning potential, in reading, language and/or mathematics. The academic difficulties must be pervasive enough to prohibit functioning in a regular classroom without highly intensive specialized input.

Severely Emotionally Disturbed - are students having severe emotional, social and behavioural problems which necessitate the provision of individualized special programming modifications in the school environment. Confirmation of these problems are based on a comprehensive psychological assessment administered by a certified specialist.

Severe Hearing Loss - are students having a severe hearing loss which affects speech and language development to the extent that the student requires intensive remediation. Again, confirmation is based on a comprehensive assessment conducted by qualified personnel (i.e.,

audiologist, deaf education specialist, psychologist, speech and language pathologist).

Severely Visually Impaired - are students that after all possible visual correction, require special materials and services, but uses visual media (including print) as their primary method of learning.

In addition to the Level I block grant, the Schools' Finance Program also provides grants for the funding of coordinators and clinicians.

Coordinator

Coordinator grants are currently $45,000, increased from $34,100 which was provided under the G.S.E. program. These grants have not increased since the introduction of the new funding model in 1992-93 and are allocated on the basis of one grant per school division/district regardless of enrolment.

Clinician

The grants provided for clinicians increased from $31,000 per unit based on a ratio of 1 unit per 900 students under the G.S.E. to become $45,000 per unit based on a lower ratio of 1 unit per 700 pupils. The ratio was again decreased for the 1997-98 school year to become 1 unit for every 675 students.

Level II and Level III Support

As noted earlier in the discussion, funding for Level II and III is available for students requiring and receiving extensive modifications in educational programming based on a comprehensive educational needs assessment. This special needs funding is beyond the usual clinician and Level I support.

Level II Support: Grants for the Level II category was increased from $7,100 per pupil under the G.S.E. Program to become $8,250 per pupil under the Schools' Finance Program. The amount allocated for Level II per pupil grants has not increased since 1992-93. As outlined by Manitoba Education and Training, students having the following exceptionalities will be considered for Level II Support:

< Severely Multi-Handicapped;

< Severely Psychotic;
< Severely Autistic;
< Deaf/Hard of Hearing;
< Severely Visually Impaired;
< Very Severely Emotionally/Behaviourally Disordered;
< other special conditions can be considered.

The above exceptionalities are defined by Manitoba Education and Training as follows:

Severely Multi-Handicapped - students have a combination of two or more severe handicaps which result in severe multiple learning, developmental and/or behavioural problems.

Severely Psychotic - students are diagnosed with having severe thought disorders and associated inappropriate behaviours which are beyond control, and which do not appear to be caused by inappropriate school expectations.

Severely Autistic - students exhibit autistic characteristics which are very severe inhibiting factors in his/her learning and overall functioning.

Deaf/Hard of Hearing - students have a hearing loss which has significantly affected the development of speech and/or language and requires major program modifications to effectively participate and benefit from instruction.

Severely Visually Impaired - students have vision which is so severely impaired that the primary learning mode is not visual.

Very Severely Emotionally/Behaviourally Disordered - students exhibit very severe emotional/behavioural disorders characterized by inappropriate or disproportionate emotional and behavioural responses to various life situations.

Level III Support: Currently Level III categorical grants provide $18,960 per pupil compared to $15,800 under the G.S.E. The amount of the grant has remained the same since the implementation of the Schools' Finance Program in 1992-93. Manitoba Education and Training provides this funding for students who are "profoundly multi-handicapped, deaf or with the most profound emotional/behavioural disorders" which are defined as follows:

Profoundly Multi-Handicapped - students have a combination of very severe handicaps resulting in extreme multiple learning, developmental and/or behavioural problems. As a consequence, the student requires continuous individualized attention and instruction, as well as other extensive additional supports.

Deaf - students have a hearing loss which affects communications so profoundly that appropriate full time individual program support is required to effectively participate and benefit from instruction in the educational setting.

Profoundly Emotionally/Behaviourally Disordered - students exhibit profound emotional/behavioural disorders and associated learning problems requiring highly individualized special education programming and intensive support services at school and in the community.

Furthermore, students who are *medically stable due to technology* may also receive additional funding. These procedures may include the following, those of which require the skills and judgement of a registered nurse:

< ventilator care;
< tracheotomy care;
< suctioning (tracheal/pharyngeal);
< nasogastric tube care and/or feeding;
< complex administration of administration, i.e., via infusion pump, nasogastric tube, injection (other than Epipen or equivalent);
< other clinical interventions requiring judgements and decision-making by a medical or nursing professional.

Table VII-3 provides an overview of the funding formulas used since 1989-90.

Table VII-3 Manitoba Provincial Funding Formulas For the Determination of Staff and Resources by Year*					
	1989-90*	**1990-91***	**1991-92***	**1992-93 to 1996-97**	**1997-98**
Administration	10%	10%	10%	n/a	n/a
Level I Unit	$23,000 1/160	$23,000 1/160	$23,000 1/160	$45,000 1/180	$45,000 1/180
Coordinator	$34,100	$34,100	$34,100	$45,000	$45,000
Clinician Unit	$31,000 1/900	$31,000 1/900	$31,000 1/900	$45,000 1/700	$45,000 1/675
Level II/Pupil	$6,600	$7,100	$7,100	$8,250	$8,250
Level III/Pupil	$13,200	$15,800	$15,800	$18,960	$18,960

NOTE: Level II - Severely multi-handicapped, severely psychotic or autistic or profoundly deaf.
Level III - Profoundly Multi-handicapped. The criteria changed in 1992-93. The Level II & Level III Special Needs categories became broadened to include the funding of pupils having severe or profound hearing impairment and with severe or profound emotional and behaviourial disorders.

In addition to the block and categorical grants outlined above, Manitoba Education and Training provides funding for a number of initiatives dealing with children having exceptional needs. For example, the Students At-Risk Formula program supports school-based intervention and prevention practices which focus upon “at risk” students. This program allocates grants in three areas: minimum guarantee grants; Special Project Grants; and, Innovation Grants. The grants are used to provide programming, training and opportunities to collaborate on how to best meet the needs of “at risk” learners.

The English Language Enrichment for Native Students (ELENS) grant supports additional English language program initiatives for Native students attending public schools. The Small Schools Support program provides compensatory supports for small schools to enhance equal education opportunities. The Early Identification and Educational Programming Grant is intended to support divisions/districts improvement of the observational, diagnostic and teaching skills of personnel involved in programming for students having exceptionalities.

While Level I funding is viewed by Manitoba Education and Training as recognizing learning difficulties presented by some students, the Student Support Grants are seen to supplement this block funding for students in situations that put them ”at risk” educationally. Therefore, it is argued that

while the provincial funding formula is standardized, the Students Support Grants are available to recognize individual community realities.

1998 Administrative Changes

In April of 1998, Manitoba Education and Training announced administrative changes to funding. These changes were viewed as being necessary in order to streamline the administration process involved with the administration of the special needs categorical funding Levels II and III. The changes were as follows:

< clarifying the interpretation of handicapping conditions;
< increasing the efficiency of processing submissions and the effectiveness of the negotiation process;
< developing a process that provides multi-year funding for students requiring long-term support;
< clarifying the responsibilities of department staff and Student Services Administrators within school divisions as they relate to the processing of submissions;
< requiring IEPs to be the basis of the Level II and III submissions, beginning January 1999; and
< introducing an audit process to support schools in focusing programming on improved learning and achievement for special needs students.

2. Financial Reporting in Manitoba

In order to standardize accounting terminology and reporting procedures for use by school divisions/districts and Manitoba Education and Training, the Financial Reporting and Accounting in Manitoba Education (FRAME) structure was introduced in 1982. The financial information analyzed in this report utilized FRAME as a main information source. Therefore, the following provides a brief overview of FRAME.

As outlined in the FRAME manual, this reporting structure uses a multi-dimensional coding structure resulting in expenditures being reported in two main funds, Capital and Operating. Since 1984, all school divisions/districts in Manitoba have been required to use this reporting structure and are to follow the standards set out in the FRAME manual “including the accounting principles, fund accounting, and object and function/program definitions”.

For the purposes of FRAME, “object” refers to what was purchased - the service or commodity obtained. A “function” refers to why the object was purchased - describing very broadly the services provided.

FRAME separates educational finances in Manitoba into the nine following functions:

Function 100	Regular Instruction
Function 200	Exceptional
Function 300	Technology (Vocational) Education
Function 400	Community Education and Services
Function 500	Administration
Function 600	Instructional and Pupil Support Services
Function 700	Transportation of Pupils
Function 800	Operations and Maintenance
Function 900	Fiscal, Payroll Tax and Interfund Transfers (Fiscal refers to short-term loan interest and bank charges)

As indicated above, as part of the FRAME Operating fund reporting process, each school division/district reports all operating expenditures for special education programming under one section entitled “Exceptional Programming (Program 200)”. The program categories grouped under Function 200 Exceptional include the program categories for special education expenditures in Manitoba. The program categories are as follows:

Function 200 Exceptional

Program 210	Administration/Coordination
Program 220	Gifted Education
Program 230	Clinical and Related Services
Program 240	Special Needs Classes
Program 250	Special Needs Students in Regular Classes
Program 260	Other Resource Services

Given that these programs are discussed in the analysis which follows, the FRAME definition of each 200 program will now be presented.

Administration/Coordination - 210 - Consists of activities related to the administration and coordination of special instruction, support and services

provided to exceptional students. Both school and division based positions related to the programs identified below are included.

Gifted Education - 220 - Consists of activities related to the offering of individualized programming that addresses the needs of exceptionally able learners. Programs established for groups of identified gifted learners are also included. Such activities provide for specialized instruction and learning experiences which go beyond what is available in the regular classroom. Gifted Education is not to include enrichment activities which are generalized in nature.

Clinical and Related Services - 230 - Consists of activities related to the diagnosis and provision of physical, mental and emotional health services not considered to be direct instruction required to implement a program of studies. The costs related to the activities of clinicians are included in this program. As well, the costs of nurses and therapists for special needs students and related support staff expenses could be included in this program.

Special Needs Classes - 240 - Consists of activities directly related to teaching and instructional support provided in a special class placement outside the regular instructional classroom for students who have multiple disabilities, a severe behavioural disorder, and/or an identifiable/demonstrable learning disorder. These students require extensive modifications/adaptations in educational programming based on a comprehensive educational needs assessment. Normally, this does not include students whose primary educational placement is in a regular classroom. However, costs associated with special classrooms established for the specific purpose of meeting both long-term and short-term special needs on a regular “pull out” basis should be included here.

Counselling provided to students who are very severely or profoundly emotionally/behaviourally disordered and who are in special needs classes is to be allocated here.

Students with Special Needs in Regular Classes - 250 - Consists of personnel (excluding classroom teacher) and material costs related to providing support, above and beyond regular classroom requirements, to specific students in regular classes who have multiple disabilities, severe behavioural disorders, and/or identifiable/demonstrable learning disabilities.

These students require extensive modifications/adaptations in educational programming based on a comprehensive educational needs assessment. These expenditures are necessary to maintain these students in the regular classroom setting on an ongoing basis.

Counselling provided to specific students who are very severely or profoundly emotionally/behaviourally disordered and who are in regular classes is to be allocated here.

Other Resources Services (Support Services)- 260 - Consists of costs for all resource programming except that which is related to Special Needs Classes defined in program 240, or the maintenance of a student with special needs in the regular classroom as defined under program 250. If the assignment of a resource teacher is exclusively (or nearly exclusively) with students as defined in Program 240 or Program 250, the salary of the resource teacher is to be allocated to the appropriate program. Otherwise, all resource teachers costs are to be charged here. Teacher assistants involved in the provision of resource programming are to be charged to this program.

This programming is provided in addition to regular instructional courses, programs and services. Such activities could be initiated and/or delivered at the classroom, school or divisional level. It should be noted that Counselling and Guidance costs are not included in Other Resource Services (Support Services).

C. Manitoba: Financial Analysis

While provincial contributions to revenue declined between 1992-93 (the introduction of the Schools' Finance Program) and 1996-97, there was an increase of approximately 10 million dollars to support Function 200 Exceptional. In 1996-97, provincial grants supported 59.96% of total expenditures.

The province has continued to support approximately 66% of exceptional programming since the introduction of the Schools' Finance Program, an increase from the 44% support provided the last year of the Government Support to Education funding program. However, gifted education has experienced a major decrease in reported expenditures since 1993-94.

Increases in expenditures reported by rural and northern divisions/districts have been larger than their urban counterparts. This may be a reflection of services and programming being in existence earlier in urban divisions. Support to rural division/districts has exceeded that provided to northern and urban divisions/districts. Per pupil expenditures were found to be higher in urban and northern divisions/districts than in rural divisions/districts.

Table VII-4
Selected Financial Information (1996-97)
by Division/District Region

	Urban	Rural	North	Province
Percent of Support for Function 200 Exceptional	59.93%	81.77%	56.68%	66.12%
Per Pupil Expenditures*	$909.00	$572.00	$909.00	$772.00
Median	$787.00 / $812.00	$580.00/ $602.00	$710.00/ $749.00	$644.00/ $648.00

** Note - Per Pupil expenditures are based on total enrolment*

The introduction of the Schools' Finance Program had an immediate impact on the amount of support provided divisions/districts in Manitoba. However, the block grants - Level I - decreased each year since 1992-93 reflecting the overall decline in Kindergarten to Senior 4 full-time equivalent enrolments on which Level I funding is based.

1. Information Sources

The following discussion utilizes information from a variety of sources to present a financial analysis relating to special needs education in Manitoba. As previously noted, much of the information has been provided by Manitoba Education and Training through the FRAME reporting structure. In order to address some of the issues that have surfaced in other parts of the Manitoba Special Education Review, the following analysis will focus on the following areas: student enrolment; staffing; revenue; expenditures; and funding support. The discussion will also include a regional (urban, rural, and north) analysis in order to provide an indication of differences and similarities in experiences according to the region of the province. While little analysis is undertaken at the division/district level, primarily due to the lack of

information at this level, some is presented to illustrate noticeable differences that exist.

For the purpose of undertaking a regional analysis, school divisions/districts were grouped into three regions, urban, rural and northern as follows:

< urban divisions include: 1-6, 8-10, 12;
< rural divisions/districts include: 11, 13-44, 47, 49, 2155, 2408, 2439; and
< northern divisions/districts include: 45, 46, 48, 2309, 2372, 2355, 2460, 2264.

The following discussion, utilizes information from the sources:

< the FRAME Annual Reports published by Manitoba Education and Training;
< Special Needs Grant Support by school division for the years 1988 to 1995-96 provided by Manitoba Education and Training;
< Function 200 Exceptional costs by program, by school division, for the years 1991-92 to 1996-97 as provided by Manitoba Education and Training;
< Statistics Canada for Consumer Price Index; and
< Manitoba Education and Training Annual Reports 1988-89 to 1996-97.

The reader should be aware that there is a lack of detail in the FRAME reporting structure as there is no information at the “program” level, such as “Physically Challenged”. Furthermore, changes made in 1992-93 to the format of financial reporting negates comparisons at the FRAME program (sub-function) level prior to that date. In addition, FRAME was never designed with the intent to be a reporting process for use in undertaking a cost analysis. However, the financial information reported relating to expenditures and support is useful when analyzing special education program funding.

As previously noted, the Government Support To Education (G.S.E.) Program, through which all education expenditures were provided between 1989-90 to 1991-92, was replaced in 1992-93 with the Schools’ Finance Program. While some of the analysis includes comparisons to the last year of the G.S.E., much of it analyzes changes between 1992-93, the first year of the Schools’ Finance Program and 1996-97. However, in order to provide the reader with the opportunity to look at more historical information, detailed tables have been included in Appendix G which in most instances present information from 1989-90.

The per pupil costs which are used for comparison of exceptional costs are calculated using the total exceptional expenditures divided by the overall enrolment. The overall enrolment has been used because the Exceptional expenditures are a mixture of costs related to pupils in special classes, supports for pupils integrated into regular classes (including expenditures for Level I pupils who are not specifically identified as to numbers), gifted students, as well as Clinical services which can relate to the overall enrolment. The specific number of students related to these expenditures is not identifiable.

In the absence of a specific number of pupils related to exceptional expenditures, overall enrolment has been used as the denominator. While this calculation does not produce a precise numerical "per pupil cost", it does produce a relative cost expressed in terms of the total number of pupils in the system. This relative cost can be used for comparison among divisions or areas such as Urban, Rural and North. This type of comparison is consistent with calculations made in the Frame reports.

The following analysis is structured along three main themes: revenue; expenditures; and, provincial grant support for Function 200 Exceptional.

2. Revenue

As noted previously, 1991-92 represented the end of the Government Support to Education (G.S.E.) funding program with 1992-93 being the first year of the current Schools' Finance Program. Between 1991-92 and 1996-97, provincial grants decreased 2.53% or approximately 17 million dollars. In contrast, municipal contributions to revenue increased 25.45% or approximately 2 million dollars.

The first year of the Schools' Finance Program witnessed a 1.59% increase in provincial grants and a 5.6% increase in municipal grants (Appendix Table G VII-1). Between the implementation of the new funding program (1992-93) and 1996-97, provincial grants decreased by 4%. While provincial grants provided revenue through the Schools' Finance Program which supported approximately 65% of expenditures in 1992-93, this had declined to approximately 60% in 1996-97. Between 1992-93 and 1996-97 total expenditures rose by approximately 3% while the provincial grants through

the Schools' Finance Program decreased by 4%. During the same time period municipal grants increased by approximately 19%.

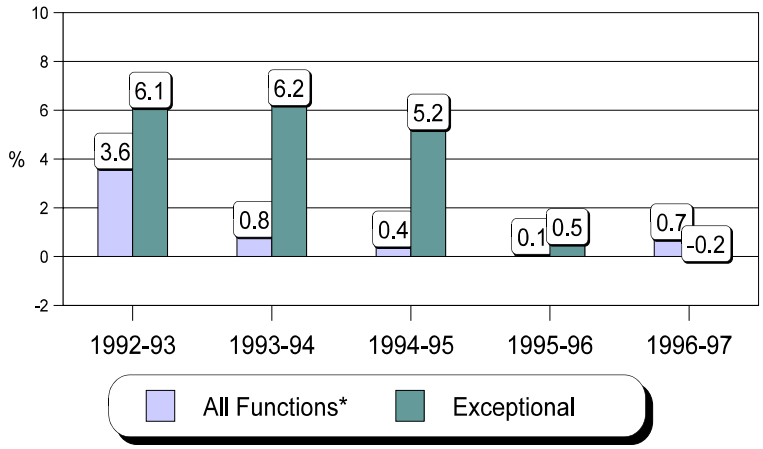
Between 1992-93 and 1996-97, the province contributed approximately 28 million dollars fewer to revenue, while at the same time increasing Function 200 Exceptional support by approximately 10 million dollars. This suggests that funding support for Function 200 Exceptional is being re-allocated from already declining provincial revenue contributions through the Schools' Finance Program. This reality may explain some of the attitudes encountered during other components of the Review wherein participants perceived provincial funding to be declining.

3. Expenditures

a. Provincial Expenditures

Between 1991-92 and 1996-97, there was an approximate 19% increase in Function 200 Exceptional expenditures (Appendix Table G VII-2). The immediate impact of the Schools' Finance Program on reported expenditures was seen in each of the two years immediately following its implementation with a reported six percent increase in expenditures (Graph VII-I).

Graph VII-I
Percent Change in Expenditures
When Compared to Previous Year



** All Functions Excluding Exceptional*

Between 1992-93 and 1996-97 the overall provincial Exceptional expenditures increased by 12%. In comparison, during the same time period, provincial education expenditures, excluding Exceptional, increased by less than two percent (Table VII-5).

Table VII-5
Provincial Expenditures by Function 1992-93 to 1996-97*

	1992-93 $	1996-97 $	Change between 1992-93 & 1996-97 %
Instruction - Regular	608,184,419	630,273,832	3.63
Technology - Vocational	21,435,609	25,511,486	19.01
Community Education	9,599,315	8,185,763	(14.73)
Administration	43,197,070	38,762,724	(10.27)
Instructional/Pupil Support Service	64,037,291	60,641,585	(5.30)
Transportation	46,208,174	45,924,165	(0.61)
Operations & Maintenance	126,395,100	132,612,376	4.92
Fiscal	26,957,915	22,720,504	(15.72)
Total (excluding exceptional)	*946,014,893*	*964,632,435*	*1.97*
Exceptional	**127,547,114**	**142,899,296**	**12.04**
Total	*1,073,562,007*	*1,107,531,731*	*3.16*

* Detailed Table can be found in Appendix Table G VII-2.

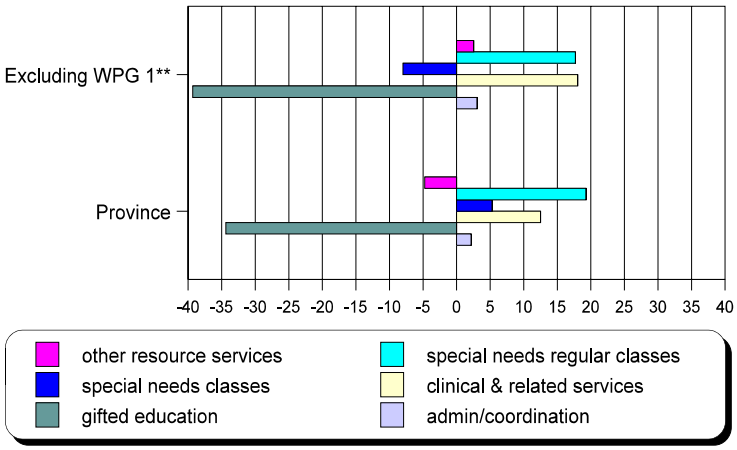
The source of a major increase in expenditures during the 1991-92 to 1996-97 period was in the purchase of services (including clinician services where services are shared between divisions or purchased). Expenditures in this

category increased by approximately 180% during this time period (Appendix Table G VII-3).

Between 1992-93 and 1996-97, Function 200 Exceptional expenditures related to services increased by 145.48% or approximately 4.4 million dollars. Most of this increase took place in 1993-94 which experienced an increase of 156.05%. The large increase in 1993-94 expenditures is viewed by some as reflecting the time required by divisions/districts to put clinician and administrative support in place after being decentralized from Manitoba Education and Training.

Due to changes to the FRAME reporting format, analysis at the program level is only valid from 1993-94 to 1996-97. However, an interesting aspect of the Function 200 Exceptional expenditure analysis surfaced when looking at expenditure shifts according to program. At the provincial level there has been a significant decrease in expenditures related to gifted education (Graph VII-2). Expenditures for gifted education decreased by 34.38% between 1993-94 and 1996-97. In contrast, expenditures reported for Special Needs Students - Regular Classes experienced an 19.29% increase during the same time period.

Graph VII-2
Provincial Function 200 Exceptional Program
Expenditures Change Between 1993-94 and 1996-97*



* *Detailed Tables can be found in Appendix Tables G VII-4 & 5*
** *The Winnipeg School Division No. 1 represents approximately one-fifth of the province's student enrolment.*

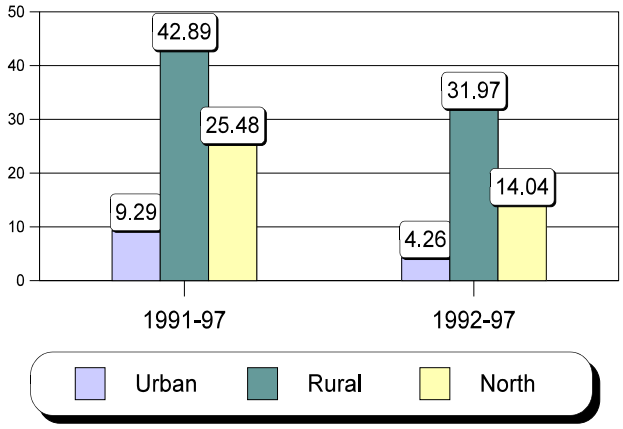
Graph VII-2 also highlights the impact The Winnipeg School Division No. 1 has on moderating the reported overall program expenditures. When provincial expenditures were examined, excluding The Winnipeg School

Division No. 1, a greater decrease in gifted education expenditures was seen at the provincial level attesting to the expenditures being accorded to gifted education in The Winnipeg School Division No. 1. Furthermore, the expenditures accorded to Special Needs Students - Regular Classes exhibited less of an increase when The Winnipeg School Division No. 1 was excluded. However, the major difference was seen to be the reported expenditures allocated to Special Needs Classes. When The Winnipeg School Division No. 1 was included in the analysis, there was a reported 5% increase in reported expenditures. However, when they were excluded from the analysis there was an approximate 13% shift in expenditures, representing a reported 8% decline in expenditures for Special Needs Classes. Again, the variation reflects the programming in operation in The Winnipeg School Division No. 1.

b. Regional Expenditures

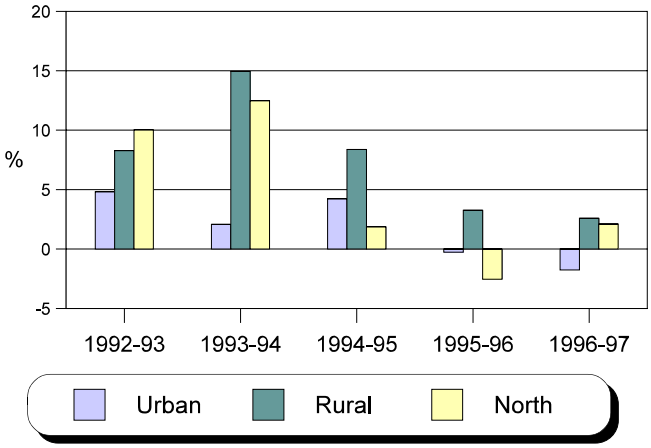
Regional variations occurred in reported expenditures. Rural divisions/ districts reported an approximate 43% increase in expenditures between 1991-92 and 1996-97 (Graph VII-3). In comparison, expenditures reported by northern divisions/districts increased by approximately 25% over the same period, while urban divisions reported an approximate 9% increase. The large variation in the increased expenditures may be a reflection of the extent to which services and programming existed in urban divisions prior to those in rural and northern Manitoba. (Appendix Table G VII-6).

Graph VII-3
Total Function 200 Exceptional Expenditures
by Region Percentage Change



Since 1992-93, expenditures varied according to region (Graph VII-4). As mentioned previously, the largest increase in expenditures was in 1992-93 for urban divisions, with both rural and northern divisions/districts reporting their largest increase the following year. (Appendix Tables G VII-7, 8, 9, 10).

Graph VII-4
Percentage Change to Previous Year in
Total Expenditures Function 200 Exceptional
by Region



c. Per Pupil Expenditures

Wide variations in per pupil Function 200 Exceptional program expenditures were exhibited, reflecting the diverse nature of programming and supports provided to students having exceptional needs. While the average per pupil expenditures in 1996-97 were found to be the same in urban and northern divisions/districts ($909.00), it was lower in rural school divisions/districts ($572.00) (Appendix Table G VII-2). Furthermore, wide variations in per pupil expenditures existed within regions (Table VII-6). In 1996-97, per pupil expenditures in urban divisions/districts ranged from a high of $1,196.00 to a low of $595.00 with the median per pupil expenditures being $812.00 and $787.00. In comparison, rural per pupil expenditures varied from a high of $1,165 to a low of $378.00 with a median per pupil expenditure being $580.00 and $602.00. Northern per pupil expenditures varied from a high of $1,114.00 to $573.00 with the median per pupil expenditure being $749.00 and $710.00.

Table VII-6 Range of Per Pupil Function 200 Expenditures within Region			
	Urban	**Rural**	**North**
High	$1,196.00	$1,165.00	$1,114.00
Low	$595.00	$378.00	$573.00
Average	$909.00	$572.00	$909.00
Median	$812 & $787	$580 & $602	$749 & $710

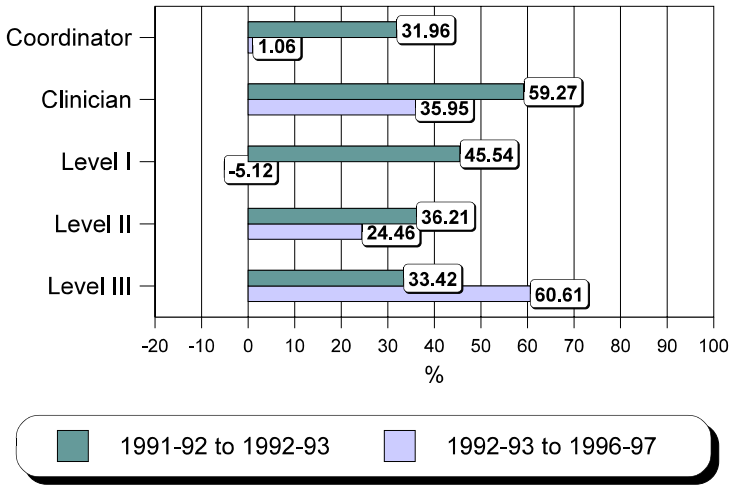
4. Support to Function 200 Exceptional

a. Provincial

Between the years 1991-92 and 1996-97, special needs funding levels increased by 77.14%[1] (Appendix Table G VII-7). The immediate impact of the Schools' Finance Program can be seen in the 58.05% increase in total special needs support between 1991-92 and 1992-93. All of the support grants increased in the first year of the Schools' Finance Program when compared to the last year of the G.S.E. (Graph VII-5). Support grants continued to increase between 1992-93 and 1996-97 with the largest being in Level III support. The exception was Level I support which decreased by 5%.

[1] Between 1991-92 and 1996-97, Manitoba experienced a 13.44% increase in the Consumer Price Index.

Graph VII-5
Percent Change in Support
Grants Between 1991-92 / 1992-93 and 1992-93 / 1996-97



Between 1991-92 and 1996-97, there were significant shifts in student enrolment patterns. For example, overall Kindergarten to Senior 4 student enrolment gradually declined by approximately 1% (Appendix Table G VII-12). Overall, during the same time period, the number of Level II students increased by 41.28% while there was a 78.58% increase in the number of Level III students. The percentage of Function 200 Exceptional expenditures supported by student support grants increased from 44.36% (1991-92) to 66.12% (1996-97). (Appendix Table G VII-7.)

Declining enrolments hold implications for Level I grants and clinician grants given that they are determined as a block based on total enrolments. Between 1992-93 and 1996-97, the overall Kindergarten to Senior 4 (FTE) enrolment decreased by 3,542.2 pupils or -1.88%, while Level I support grants decreased by approximately $2.3 million.

While students enroled in Special Classes declined during the early part of this decade, the 1996-97 school year witnessed an approximate 16% increase over the previous year in the number of students enroled in these classes. (This may be a reflection of the increase in the students exhibiting behaviour problems and being placed in special classes.) Between 1992-93 and 1996-97, there was an overall increase of 30.94% in the number of pupils enroled in Special Education Classes (Table VII-7). It should be noted that 1996-97 witnessed the largest number of pupils enroled in special classes in this decade. Furthermore, between 1992-93 and 1996-97, the

number of Level II supported pupils increased 24.46% while the number of Level III supported pupils increased by 60.62%.

Table VII-7 Special Needs/Special Class Enrolment - Function 200 1992-93 to 1996-97*			
Enrolment	**1992-93 Number**	**1996-97 Number**	**Increase/ (Decrease)**
Special Classes	2,754.10	3,606.30	30.94
Level II	1,763.8	2,195.30	24.46
Level III	349.90	562.00	60.62
K to Senior 4 Enrolment (FTE)	186,233.20	184,691.00	(-0.83)

* Detailed Table can be found in Appendix Table G VII-12.

Since the first year of the new funding program, increases to support grants continued except for the decrease in support for Level I grants. Given that Level I grants are block, based on student enrolment rather than on identified need, declining student enrolments will continue to have a negative impact on the calculation of this grant leading to questions regarding the rationale of an enrolment based block grant. Given the ongoing increase in the numbers of Level II and Level III students, it has been argued that the incidence of students requiring Level I support is also on the increase, requiring the ratio for determining this grant to be lowered.

b. Regional

Between 1991-92 and 1996-97, urban divisions experienced a decrease (-3.36%) in the number of enrolled students which translated into 3,388 fewer students (Table VII-8). In contrast, rural divisions realized a 2,171.5 increase in enrolment while northern divisions/districts had an increase of 42.5 full time equivalents.

Table VII-8 Special Needs/Special Class Enrolment - Function 200 by Region Percent increase/(decrease) between 1991-92 and 1996-97*			
Enrolment	**Urban**	**Rural**	**North**
Special Classes	13.01%	(-7.76%)	1308.50%
Level II	28.45%	61.67%	62.48%
Level III	66.29%	106.65%	134.04%
K to Senior 4 Enrolment (FTE)	(-3.36%)	3.03%	0.32%

* Detailed Tables can be found in Appendix Tables G VII-12, 13, 14, 15.

Since the implementation of the Schools' Finance Program, divisions/districts in both rural and northern regions experienced an increase in enrolments (Table VII-9). In comparison, urban divisions experienced an approximate 4% decrease during the same time period resulting in 3988.8 fewer students. At the same time, large shifts occurred in the percentage of exceptional students in special classes. While urban divisions reported an approximate 33% increase in these students, divisions/districts in the north reported a 802% increase which translated into 232.7 (FTE) pupils. Furthermore, while there was variation in the size of the increase according to region, the number of Level II and Level III students have continued to increase in all regions of the province.

Table VII-9 Special Needs/Special Class Enrolment - Function 200 by Region Percent increase/(decrease) between 1992-93 and 1996-97*			
Enrolment	**Urban**	**Rural**	**North**
Special Classes	32.33%	(-7.14%)	802.41%
Level II	13.5%	44.81%	23.61%
Level III	49.5%	86.97%	103.70%
K to Senior 4 Enrolment (FTE)	(-3.93%)	3.05%	1.96%

* Detailed Tables can be found in Appendix Tables G VII-12, 13, 14, 15.

These increases in identified students having special needs might be a reflection of a number of factors including:

< greater numbers of children surviving birth and early childhood due to advancements in health care and related technologies;

< the entry of pupils into the public school system from social agencies and institutions; and
< the ongoing identification and recognition of additional challenged students through a broadening of the criteria in 1992-93.

As noted earlier, declining enrolments hold implications for the funding of Level I students as well as clinicians. Many of the participants in this Review cited the increased incidence of students entering the school system needing Level I funding. The decline in enrolments has resulted in smaller block grants at the same time schools are reporting increased need. As the analysis indicates, approximately 60% of support for Function 200 Exceptional (Coordinator, Clinician, Level I), is based on overall enrolment rather than defined needs and levels of expenditure. This has led to many review participants arguing for the need for a lower ratio to determine funding units.

Regardless of region, the clinician and Level III categories experienced the largest increases in support. With the elimination of the Child Care and Development Branch (CCDB), clinician positions that were supplied by Manitoba Education and Training were no longer available to rural and northern school divisions. Divisions were instead provided with grants to hire (or share in hiring) of clinical services. It is this change in operation and funding allocation that is reflected in the clinician increase seen in Table VII-10.

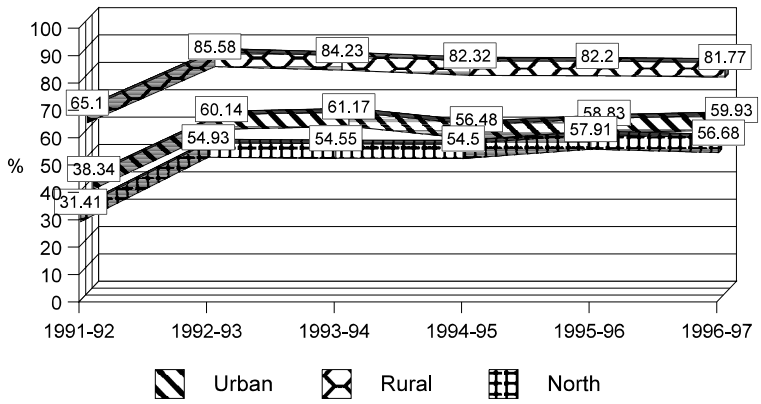
Table VII-10
Provincial Special Needs Support - Function 200 Percent Increase*
Between 1991-92 to 1996-97 by Region**

Support Grants	Urban %	Rural %	Northern %	All Divisions/ Districts %
Coordinator	31.96	30.02	75.95	33.37
Clinician	55.32	392.89	158.10	116.53
Level I	40.24	36.50	29.92	38.08
Level II	54.15	94.01	94.98	69.53
Level III	99.54	147.98	180.85	114.30
Supplementary Support	9.65	142.76	13.88	24.73
Total Special Needs Support	70.86	79.49	126.42	77.14

* NOTE: Supplementary support percentage increase is calculated from 1992-93
** Detailed Tables can be found in Appendix Tables G VII- 7, 8, 9, 10.

As noted previously, regardless of region, the support provided for Function 200 Exceptional expenditures have shown significant increases since 1991-92 to 1996-97 (Graph VII-6). However, the percentage of support varies according to region, with urban and northern divisions/districts having a smaller percentage of their Function 200 expenditures supported than their rural counterparts.

Graph VII-6
Percent of Expenditures Supported by Region



Within regions, large variations were seen to occur relating to the percent of Function 200 Exceptional expenditures supported in 1996-97 (Table VII-11). For example, in urban divisions the percent of expenditures supported ranged from a high of 81.52% to a low of 47.11%. The percent of support provided the rural divisions/districts ranged from a high of 100.24% to a low of 64.2%. Variations in support for exceptional expenditures in northern divisions/districts ranged from a high of 117.73% to a low of 33.15%.

Table VII-11
Range of Expenditures Supported within Region - Percent

	Urban %	Rural %	North %
High	81.52	100.24	117.73
Low	47.11	64.2	33.15

These regional variations have continued since the implementation of the Schools' Finance Program. It appears that a number of divisions/districts provide services at, or near, the level of the provincial grants. It also appears that a wide variation in the level of resources exist, given the variations in expenditure levels and grant support.

As previously mentioned, the immediate impact of the Schools' Finance Program became apparent upon implementation. The first year of the program witnessed a 58% increase in supported expenditures. So one might argue that the perceptions of educators and parents relating to the diminishing resources allocated to special education are not warranted. For example, Level I funding increased by approximately $14 million between 1991-92 and 1992-93. Level II grants increased by almost $4 million during the same time period and exhibited an additional $3.7 million increase between 1992-93 and 1996-97. Similarly, Level III grants increased by $1.7 million between 1991-92 and 1992-93 and increased by an additional $4 million between 1992-93 and 1996-97. Clinician grants increased by $2.9 million in 1992-93, and a further $2.5 million in 1993-94.

In addition, Supplementary Support which can be viewed as indirect support for Special Needs, has increased by approximately 2 million dollars (to become 9.78 million in 1996-97) since its introduction in 1992-93.

However, the decrease in Level I funding by approximately $2.3 million between 1992-93 and 1996-97, might explain the perceptions held by some, that funding to special education has declined in the recent past (Table VII-12).

Table VII-12
Percentage Change in Support provided For Function 200 Exceptional Expenditures Between 1992-93 and 1996-97 by Region**

Support Grants	Urban %	Rural %	Northern %
Level I	(-7.96)	(-0.98)	(-5.08)
Level II	13.51	44.81	23.61
Level III	49.59	86.97	103.70
Clinician	(-2.56)	190.88	107.52
Supplementary Support	9.65	142.76	13.88

** Detailed Tables can be found in Appendix Tables G VII-8, 9, 10.

Summary

A number of factors related to funding in recent years may explain perceptions which surfaced throughout the Review. Generally, the province has reduced their contributions to overall revenue, while at the same time increasing allocations to Function 200 Exceptional. While the province has

been seen by some as “cutting back” support to education, specifically, this has not been the case for exceptional programming. Between 1992-93 and 1996-97 there was an approximate 10 million dollar increase in support to exceptional programming. However, cut-backs elsewhere may have negatively impacted on divisions’/districts’ overall ability to provide programming and support to students.

One factor which may contribute to the perception of reduced funding in the area of special needs is the reduction in expenditures devoted to gifted education. In many cases, the perception that special needs support is being provided at the expense of gifted education appears to be warranted. Another factor, may be the negative impact that declining enrolments has had on the allocation of block based support such as funding for Level I support at the provincial level. However, regional variations in enrolment support provided may explain differences in the perceptions encountered in the case studies. Given that the number of Level II and III students have continued to increase, one can infer that the same trend applies to the Level I students. However, the decline in enrolment and the related decline in Level I support has resulted in the perception that Level I funding is not keeping up with increased demand.

The wide variations in the percent of programming supported by the Province would lead one to infer that while some divisions/districts program only at or near the level of support, others are programming well beyond the provincial support they receive. This results in wide variations across the province in the levels of special needs supports available to parents and students and leads one to question the equitable access to supports and services available in the public school system.

CHAPTER VIII
THE CONSULTATION PROCESS

A. INTRODUCTION TO THE CONSULTATION PROCESS

The Consultation Process for the Manitoba Special Education Review had two thrusts: the public consultation process and the consultation with key people in selected government and related organizations. Chapter II provides a detailed description of the methods used and the magnitude of participant response to the consultation process.

As previously discussed, the public consultation process was intended to be as open and comprehensive as possible. Therefore, options for public participation included community forums and submissions. Together they constituted a significant portion of the Review activities. (The Guide to the Consultation Process is found in Appendix E.) More than 700 people attended and participated in the six community forums. In total, 192 submissions, representing organizations and individuals from across the province, were received.

The second thrust of the consultation process was to obtain the intersectoral perspective through interviews with representatives from government departments and related organizations including: Manitoba Education and Training; Manitoba Children and Youth Secretariat; Manitoba Family Services; Manitoba Health; the Manitoba Youth Centre and Agassiz Centre for Youth; as well as the Rehabilitation Centre for Children.

B. DISCUSSION OF FINDINGS FROM THE PUBLIC CONSULTATION PROCESS

The discussion of the public consultation process is presented in two sections: community forums and submissions. This ordering corresponds to the chronological order in which the two public consultation aspects were completed.

1. Community Forums

To provide opportunities for participation from various geographic locations throughout Manitoba, community forums were held at six locations: Carman, Brandon, Winnipeg, Thompson, The Pas, and Selkirk. The following discussion of the community forums presents an overall profile of forum participants and major issues discussed at the forums, as well as distinguishing characteristics or issues from specific regions.

It should be recognized that this discussion constitutes a record of the Forum issues from the perspective of the participants. Our intention in this section is to reflect participant issues and concerns in a manner that is true to the Forum dialogue, not to make judgements regarding accuracy, validity and generalizability of all the issues.

a. Forum Issues

Forums provided an opportunity for small group discussions where individuals could feel free to raise issues and tell their stories. It was an opportunity to promote community dialogue. While some key issues identified at the forums were consistent across sites, others were specific to the region. The overall and region-specific findings follow.

i. Overall

A number of strong themes emerged across all forum sites. The two issues most frequently raised at the community forums, regardless of the site, were:

< the need for **more funding** and, relatedly, increased staffing;

< the need for **clearer and more appropriate criteria for funding** levels (e.g., children do not always fit the criteria necessary for funding, but do require additional supports and services).

Participants were passionate regarding the importance of these issues. They perceived that funding was shrinking and/or they feared that the Review was a vehicle to reduce funding. The second issue was related in that many participants thought that funding criteria limited student access

services and supports. The discussion of funding levels also led to participants raising issues such as “invisible funding caps”, too little money for too many students classified as Level I, and inequity of criteria application from one division/district to another.

Funding inequities: The concern was that inconsistently applied and inappropriate criteria, coupled with “caps” on funding result in inequitable application of funding — students may be funded in one division but would not be funded in another, or may receive funding one year but have it taken away the next. In Carman, participants perceived an inequality in the amount of funding divisions receive — smaller divisions were perceived as receiving disproportionately less than what they need to support programming.

The funding process: In all regions, concern was expressed over the funding process. Many found the amount of paperwork required to be too time-consuming and questioned the necessity of re-applying every year. In addition, participants were concerned with the effect of the process on the students. They felt that the use of labels, and focusing on the negative aspects of the student were detrimental to the student’s future development.

The following issues were also identified at most forum sites.

Intersectoral coordination: he need for more (and better) communication and coordination across sectors was identified at most sites. Participants suggested that the sectors should “*stop fighting over who pays for what*” and address the needs of the children.

Early identification, prevention and intervention: The need for early identification and prevention, was an issue identified at most sites (rural, urban, northern). This included both pre-school services and intensive services in the early years. Regarding early intervention, specifically there was a fear expressed by some parents with pre-school children that the services they were currently receiving for their children would be lost at age six with the transition into the education system. Generally, there was a strong belief on the part of Forum participants that money spent in pre-school or the early school years on prevention and intervention would “pay off” later.

Lack of assessment and therapy services: The lack of assessment and therapy services were issues at many sites. In Winnipeg, the specific concerns focused on: the long waiting lists, replication of diagnoses, and insufficient number of qualified assessors. In the other sites, the lack of time spent in service delivery as opposed to the amount of time spent traveling between the schools was the major issue. In the North, the issue was the simple lack of assessment services (e.g., there were no school psychologists so parents had to drive to Winnipeg for assessments).

At risk students: The issue of addressing the needs of "at risk" students or those who are "falling through the cracks" was consistently raised and thoroughly discussed at both of the large centres (Winnipeg and Brandon). A major concern was that students who do not qualify for the Modified course ("M") designation, but are not able to succeed academically, will become frustrated and eventually drop out because their needs are not being met.

Staff training: Participants expressed the view that clinicians, teachers, resource teachers, and support staff need increased training and professional development. This issue was less often discussed in the large centres.

Lack of programs/services: Concern over the lack of availability of special needs programs and support services was expressed by participants at all sites, but most particularly in rural and northern regions.

ii. Site Specific Concerns

In addition to the issues that were raised consistently across all forum sites, each site had some particular contextual concerns and/or issues that were highlighted by the discussions. This is not to say that the issues were absent from the discussion at other sites; rather these issues received stronger emphasis at these particular Forum sites.

Carman Community Forum

A main issue of particular concern at the Carman Forum was:

< **Services**: Participants perceived that there was a lack of services in rural communities to support programming for special needs students.

Brandon Community Forum

Two areas that received particular emphasis at the Brandon Forum related to:

< **"The Big Picture"**: Participants in Brandon stressed that education is an important investment and that the needs of students should come before policy or budget mandates.

< **Policy**: Participants in Brandon also expressed concerns regarding provincial policies and the implementation of recent provincial initiatives (e.g., curricular demands and standards tests). This discussion was related, in part, to concerns regarding the "M" designation.

Winnipeg Community Forums

Participants in Winnipeg, while addressing common concerns, also raised and focused on the following issues:

< **Policy**: Participants in Winnipeg expressed concerns with current provincial policies (curriculum, standards tests) and the need for clearer policy direction on special education, as well as updated procedural guidelines for special education.

< **Programs**: Participants at the Winnipeg sites discussed the need for parental choice in programming — segregated, integrated, or clustered. Generally, participants expressed the view that the philosophy of inclusion should be supported. Within this philosophy, however, some parents felt the placement option that best met their child's needs was in a cluster program, while others felt it was in a regular neighbourhood class with their child's same age peers.

< **Classroom environment and related supports**: Participants at the Winnipeg sites discussed the need for additional teacher assistants as well as the need to provide more child-centered instruction in the regular classroom.

< **Parental contribution**: Participants expressed a need for more communication and consultation with parents. In addition, there was discussion around the need for parents to have access to more information and resources in order to be effective advocates for their children. They were frustrated when they felt that their knowledge of their own child and what they believed was in their child's best interests was being ignored by the "professionals". Relatedly, participants mentioned that advocating for their children is an exhausting, demanding and sometimes full-time role.

Specific issues related to the provision of French first language services were raised at one Winnipeg Forum site.

< **Services**: The need for government and agencies to provide faster translation services and to offer services in French was raised. Increased availability of French materials was also desired.

< **Division size**: It was mentioned that the large area covered by the Division scolaire franco-manitobaine creates difficulties for clinicians and others traveling between schools.

< **Financial support for professional development**: The lack of local expertise requires experts to travel from Quebec. No allowances are made for this additional cost of providing professional development.

Northern - Thompson and The Pas Community Forums

Problems in the North appear to be exacerbated due to the specific conditions and isolation of the North. There was an over-riding theme that additional services for students with special learning needs are required in northern Manitoba. Of particular concern were the following issues.

< **Language and cultural issues**: There is a need for students from some First Nations communities to receive ESL instruction, when they move from their communities to regional centres. Participants also raised the need for cultural sensitivity when providing support to special needs students, from First Nations communities.

< **Transition between systems**: A problem exists when funding does not follow the student, particularly in northern Manitoba where students may

move back and forth between their home communities and regional centres. Also, students should be tracked to ensure their needs are being met in the transition process between band-operated and provincially-operated schools.

< **Transition between provinces**: Inequality exists between provinces. Students who transfer in from Saskatchewan border communities may not receive the same services they had been receiving previously.

< **FAS/FAE**: Participants felt that is it important to provide services to meet the needs of students with FAS/FAE (Fetal Alcohol Syndrom/Fetal Alcohol Effects). At present, even if students are identified, there is a perceived lack of program options and support services available to these children.

< **Block funding**: As a regional centre offering services to the students from outlying areas, the block funding (Level I) is perceived to be inadequate for the number of special needs students in Thompson.

< **Staff turnover**: It was argued that large class size and the large number of special needs students has led to a high staff/professional turnover rate and hence, decreased continuity and service effectiveness in the North.

< **Lack of parental involvement**: Forum participants felt that parents need to play a more active role in their child's education.

Selkirk Community Forum

Specific issues discussed at the Selkirk Forum included the following.

< **Gifted Students**: A concern was raised regarding the lack of programming specifically for gifted students.

< **FAS/FAE**: There was a concern expressed regarding identification of FAS/FAE. There was also an area highlighted for teacher and para-professional training, prior to employment or as part of professional development.

< **Training for staff**: Participants mentioned the need for pre-service training and professional development in special education for both classroom teachers and para-professionals.

b. Community Forum Questionnaires

At the close of each discussion session, forum participants were provided an opportunity for individual input into the public consultation process through completion of a one page questionnaire. A total of 500 people responded to the questionnaire. (See Appendix H for a copy of the instrument and results.) The following discussion highlights the findings from the questionnaire.

i. Profile of Community Forum Participants

Given that the Winnipeg and Carman sites had the largest number of participants, the largest percentage of questionnaire respondents were from these regions (Winnipeg 39%; Carman 25%). Only 7% of respondents were from the northern region (Thompson/The Pas).

Questionnaire respondents tended to be from forum community and surrounding area. Overall, most respondents (88%) lived within a one hour drive of the community in which the forum was held, although forums did attract participants from farther afield. This was particularly true at the Selkirk forum where 38% of respondents lived more than a one hour drive from the site.

Approximately half of the questionnaire respondents (47%) had a child with special learning needs. While more remote and rural areas had the smallest percentages of respondents with a special needs child (Carman 30%; northern regions 40%), the two largest centres, Brandon and Winnipeg, had the largest percentage (47% and 56% respectively). Of the respondents with special needs children, the majority of those children were in the public K-S4 school system (89%). The most frequently identified special learning needs were:

< Learning Disability (13%);
< Autism/Asberger's Syndrome (12%);

< Attention Deficit/Hyperactivity Disorder (12%);
< Down Syndrome (10%); and
< Pervasive Developmental Disorder (9%).

Approximately three out of four respondents (71%) were members of an organization concerned with the provision of programs and services to children with special learning needs — of those, respondents most frequently represented a school division (respondents=125). Other groups frequently represented were the Manitoba Teachers' Society, parent council groups, community and advocacy groups including: the Manitoba Down Syndrome Association; Autism Society of Manitoba; Association for Community Living; and the Learning Disabilities Association of Manitoba, to name a few. Forty-three percent of respondents intended to send in a submission from their organization.

ii. Issues From the Forum Questionnaire

Overall, the top two issues of concern identified on the community forum questionnaire were consistent with those most prevalent in the small group discussions.

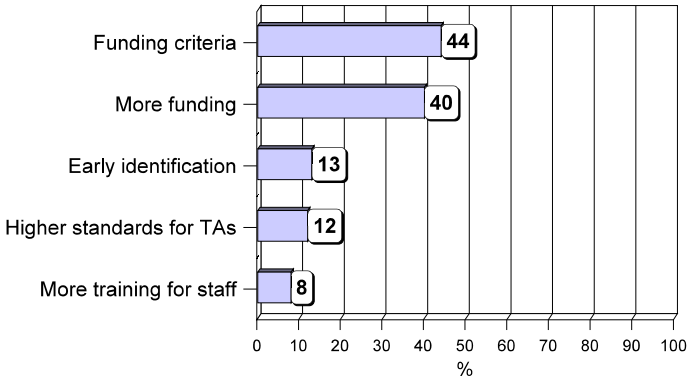
< the need for clearer and more appropriate criteria for funding levels (e.g., children do not always fit the criteria necessary for funding, but require additional supports) (44%), and
< the need for more funding and, relatedly, increased staffing (40%).

Participants were concerned that students do not always meet the criteria for funding but still require services in order to be successful in school. In addition, there was a perception that there should be increased funding to provide appropriate programs and services required to support students with special learning needs.

Other issues that were frequently identified on the Community Forum questionnaire included:

< the need for early identification and/or intervention (13%);
< higher standards for para-professionals (i.e., trained TA's, L.A.'s) (12%); and
< more training for special needs staff (8%).

Graph VIII-1
Issues from the Questionnaire*



** percentage based on number of survey respondents*

Table VIII-1
Top Issues Related to the Delivery of Special Education in Manitoba by Region

	Ranking					
	Overall	***Carman***	***Brandon***	***Winnipeg***	***Northern***	***Selkirk***
Criteria for funding levels	1	1	1	2	1	1
Need for more funding	2	2	3	1	2	2
Early identification and/or intervention	3	4	2	4	7	7
Higher standards for para-professionals	4	3	7	3	8	8
More training for special needs staff	5	12	5	6	8	3

The top issues of concern were generally similar across forum sites. However, the issue of resources/funding for FAS/FAE ranked number three in the northern region, but was not one of the top five overall issues.

Summary

Funding and funding criteria were the two related issues that engendered much attention at all forum sites. Concerns with financial inequity across school divisions/districts and concerns with the funding process were also part of the discussion. Other frequently raised issues included: the need for better intersectoral service coordination; the importance of early identification, prevention and intervention; lack of assessment and therapy services; concerns regarding students at risk; the need for staff (teacher and para-professional) training; as well as, a general concern that sufficient

programs and services were not available to support the needs of exceptional children.

2. Submissions

The major themes arising from the submissions are presented by Area of Inquiry in this section of the Consultation Process document. This is not to suggest that there is total agreement on all the themes presented; they do, however, represent the most prevalent trends in the submissions.

All submissions (192) were read (or viewed in the case of video tapes) by one of the co-directors of the Review. All recommendations (either directly titled as "recommendations" or statements that implied a recommended direction or action) were highlighted, coded, and entered in text files under the five Areas of Inquiry. They have been further sorted by the characteristic of the individual or organization who made the submission (e.g., parents of students with special learning needs, school divisions). Although they have not been "counted" or strictly quantified, strong themes emerged across the submissions, forming the basis for this discussion.

The reader should be conscious of the fact that this section presents the themes and recommendations from the submissions themselves. These do not equate to the final review recommendations, which take into account the other Review components.

a. Special Education Programs and Services

Under this Area of Inquiry, submissions addressed issues such as:

< philosophies and preferred delivery models;
< provincial service delivery expectations (primarily in relation to the Annual Division Action Plans, or ADAP's); and
< flexibility for schools and divisions.

ii. Philosophies and Preferred Delivery Models

Inclusion is valued (although there is some confusion regarding its precise definition). Recommendations are clear that this philosophy should continue to be at the heart of special education in Manitoba. Related to this were comments about the importance of Manitoba's 1989 guidelines in launching inclusion in a significant and appropriate way across the province.

There were two other themes related to the importance of retaining and sustaining an inclusive philosophy. The first was that a continuum of supports be maintained, with integration into a child's home school as the preferred or first choice option. (The continuum was variously described — with slightly different connotations — as a continuum of supports, services and/or placements.) The needs of the student should dictate service delivery. Regarding the actual placement of students, there was a strong theme of valuing and supporting parental choice.

The second theme was that if inclusion is to be supported and successful, adequate dollars must be available. The following quote from one of the submissions represents a summation of these key themes.

> *We are supportive of inclusive principles in the present delivery model. We believe that inclusion of children in their most enabling environment represents best practices in special education. We believe that inclusive principles are best practices within a model that is systematically and philosophically based on the goals of placing children into their most enabling environment and recognizes that the particular needs of the individual child may require an alternative setting to their child's home school. We are very concerned that when special needs children are integrated into regular programs without adequate support, the consequences for all students and their teachers are substantial [educational organization].*

It should also be recognized that, in the main, the submissions from parents of "regular" education students also supported integration of students with special learning needs into regular classrooms.

> *One of the students in my son's class at school has Down Syndrome. My son had not had experience with individuals with a mental or physical disability and initially he was unsure of how to relate to her. After interaction with her he is more aware of persons*

with similar problems, more empathetic and better equipped to relate with disabled individuals in the future. I have not heard nor can I think of one negative aspect of her attending a mainstream school and I believe all those around her are more understanding of disabilities in general [parent of regular education student].

ii. Service Delivery Expectations

While the April 1998 announcements suggest the phasing out of the Annual Division Action Plans (ADAP's), there was general support for this type of mechanism, albeit in a revised format[1]. Submissions called for a standardized framework to support planning and accountability, which would require consistent data from divisions/districts. They also suggested that this vehicle should be (and in many cases is) part of and not separate from division policy, so it could continue to serve an accountability function at both the local and provincial levels. There was also a desire that the ADAP be tied to school plans and present more of an action focus.

The ADAP has become an extensive resource manual that is used in each school, but needs an action focus.

The ADAP, which has served us well for almost nine years, now needs to be more focused and integrated with both divisional and school planning processes.

The ADAP truly needs to be useful for data collection, program planning and the setting of goals.

iii Flexibility

Flexibility was valued and submissions suggested that flexibility needs to be retained within the system. However, there was a strong theme that minimum levels of service had to be defined, which should, in turn, be based on "best practices". This speaks to the need to balance standards and flexibility.

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1 Note: In April 1998, Manitoba Education and Training announced certain changes to the administration of special education in the province in order to streamline processes and respond to some long-standing concerns

As part of the discussion of flexibility and service delivery expectations, there was a call for common definitions for special education.

b. Examination of Special Education Policies, Practices and Procedures

Under this Area of Inquiry, submissions addressed issues such as:

< the impact of provincial policies, procedures and practices; and
< legislation and legal issues.

i. Policies, Procedures and Practices

> *We would like to acknowledge that the supports that Manitoba Education currently provides in the area of Special Education are necessary, appropriate in nature, appreciated, and useful. We believe that we have a set of procedures and policies that have enabled us to continue improving our services to children with special needs. We are also aware, however, that changes in society and changes in knowledge about teaching are going to compel us to constantly re-evaluate those policies and procedures. In that light, the supports that Manitoba Education provides must also be evaluated regularly [school division].*

While not all submissions adopt such a positive tone, the above quote sets the stage for the changes that were frequently recommended in the submissions. Current "policy" (guidelines) was seen to "*lack clarity, consistency and continuity*". A new policy and procedural document was consistently requested. Suggestions for its content included (but were not limited to): common definitions (including "special education"), a provincial "vision," clear policies, minimum service standards, identification and assessment procedures, Individual Education Plan (IEP's), expectations for outcomes, expectations for parental involvement, and program evaluation strategies. There were also recommendations for the creation of a "parent's guide" to accompany a new policy and procedures document.

Also in relation to policy, was the need to ensure "grassroots" involvement in any policy development and the need to change the focus for policy (and practices) "*from deficit to ability*".

The Success for All Learners document received accolades. More "best practice" documents and supporting documentation on exemplary programs were requested from Manitoba Education and Training. Submissions also indicated that provincial policies and practices should support the directions set out in the Success for All Learners document.

Provincial directions that the submissions suggested needed changing were:

< revision and/or clarification of the "M" designation (raised often in the submissions);
< an increase in the number of School Initiated Courses (SIC's) and Student Initiated Programs (SIP's) possible in a student's high school program, re-examination of the senior 1 Math curriculum; and,
< more flexibility in the regulations regarding student participation in provincial testing.

These are inter-related issues as they all circle back to how to improve the system so that "struggling learners" can be more successful.

Other strong themes in the submissions related to fair and equitable funding across divisions were: the need for clarity on funding criteria, the consistent application of funding criteria and the abolition of perceived "quotas" or "invisible caps". Many submissions made prior to the April announcements also called for multi-year funding for students with special needs or exceptionalities that would require continued and constant support. (This was another change introduced in April 1998.)

The Level I criteria were viewed as problematic in that there is not sufficient recognition of the diversity of needs, coupled with the fact that programming for gifted and talented children is often neglected. The Level II criteria were also deemed problematic as students with FAS/FAE or Down Syndrome (for example) did not qualify, but often require additional supports to be successful.

Also in relation to the April 1998 announcements, a number of the later submissions expressed concern about central review of funding applications where there would be *"no direct contact with the child, family or school*

personnel". Because of the timing of the announcement in relation to the submission deadline, it is difficult to determine how strong this concern might be, or whether this process will indeed address concerns about inconsistent application of funding criteria.

Regarding provincial services or practices, there was also a call for provincial "specialists" or specialized consultant services that would be available province-wide (particularly to bring expertise on specific exceptionalities to rural and northern areas). There were calls for the reinstatement of a special education branch within Manitoba Education and Training, as well as some desire for a research and planning section with greater responsibility for research on program development and outcomes evaluation.

Guidelines for caseloads (e.g., Speech and Language Pathologists) were also raised in relation to service delivery across the province.

ii. Legislation and Legal Issues

Recommendations from a number of school divisions/districts called for a summary of relevant legal judgements which school divisions and schools could use as a reference.

The lack of clarity in the current legislation was also raised, as was the need for review and revision of the Public Schools Act. A number of submissions mentioned that Manitoba had not revised its education statute to be consistent with the Charter of Rights and Freedoms. Parents were concerned that rights to the most enabling environment (or to inclusive education) were not enshrined in legislation. Recommendations for creating a legislated appeal process were also made.

However, it should be noted that some submissions also recommended retaining a more flexible system, and expressed concern that legislation might be limiting.

c. Assessment of the Quality and Cost Effectiveness of Special Education Programs

Under this Area of Inquiry, submissions addressed issues such as:

< identification and assessment practices;
< factors necessary for a supportive learning environment;
< training and qualifications;
< culturally appropriate programs and services;
< assessment of current programs and services; and
< use of human and financial resources.

i. Identification and Assessment

The strongest and most consistent theme of this issue, was the continuing need to ensure early identification, preferably pre-school years. Follow-up recommendations concerned the need for early literacy, language development and a range of pre-school services. (These were also related to what helps create a supportive learning environment for young children.) Reduction of waiting time for assessments was also recommended (i.e., addressing the long waiting lists), not only in pre-school and early years, but at all points in a child's development.

Recommendations were made regarding standards for appropriate and consistent assessment practices. Issues regarding appropriate assessment included assessments for ESL students in their first language, as well as fair assessments for students having specific assessment challenges (e.g., children with Cerebral Palsy). As one submission stated the *"old [assessment] tools were designed to exclude not include".*

ii. Factors in a Supportive Learning Environment

Many factors were identified as being needed to create a supportive learning environment. (Many of the recommendations regarding a supportive learning environment overlap into other Areas of Inquiry.) Discussion also centred around ever increasing student needs — in a range of domains — that must be addressed within the learning environment. The conditions or needs most commonly perceived as becoming more prevalent were (in no

particular order): FAS/FAE, language disorders, autism/PDD, learning disabilities, and health/medical needs. Increased severity of behavioural issues was of common concern, as was the difficulty in recognizing "invisible" disabilities.

Continuing an inclusive approach was cited (directly or indirectly) by many submissions as the foundation for a supportive learning environment. An increase in certain kinds of physical supports were recommended to support the inclusion of particular students, such as qualified ASL interpreters and specific technologies (e.g., augmentative communication devices). Lower class size (especially at grade one, for classes with significant numbers of students with special needs, and for students with learning disabilities) were also proposed.

Recommendations were made for increasing school counsellor support by including all grades in the counsellor ratio rather than grade 5 to senior 4 only. Elementary counsellors were seen as being important in supporting the social, emotional and behavioural needs of children. (Resource teacher qualifications are addressed in the next section, "Training and Qualifications".)

Recommendations were also frequent regarding the need for sufficient para-professional support in classrooms. (Qualifications and training are also addressed in a later section.)

Other recommendations addressed the lack of service in the area of mental health particularly for young children (i.e., access to psychiatry services), limited access to speech and language assistance, as well as lack of occupational and physiotherapy services. (Issues related to these recommendations concerned waiting lists, heavy caseloads and, in rural areas, the impact of travel time on clinical services.)

Issues of importance to the learning environment also raised in the submissions included the need for good instructional practice ("best practices"), the support and acceptance of peers, a collaborative or team approach to service delivery, as well as the importance of the role of parents in working with the school to foster student success. There were strong recommendations for strengthening home-school connections.

Many submissions supported the use of IEP's and corresponding recommendations dealt with the need to ensure that parents have a significant and valued role in the process. (Survey data cited in one submission suggests that approximately two-thirds of parents of children with autism felt included in the process.) Some recommendations regarding IEP's also indicated that these should represent plans of longer duration than one year.

As one submission summed it up:

> *Factors for a supportive learning environment that accommodates the needs of all students and leads to successful student outcomes — qualified, caring teachers who are educated in the areas of special education, qualified teaching assistants, adequate supports for the teacher in the classroom to enable the teacher to provide a rich and stimulating learning environment for all students and to manage and balance the education needs of the students in the classroom ... sufficient funding to provide adequate supports and services as needed [Parent Advisory Group/Association].*

iii. Training and Qualifications

A strong trend in the submissions was the need for training and ongoing professional development. More specifically:

< mandatory preservice courses for teachers on topics such as: a basic introduction to special education, differentiated instruction, developing IEP's, brain research, behaviour management, as well as awareness / understanding of different kinds of disabilities;

< inservicing or ongoing professional development for teachers including: awareness/understanding of specific disabilities, how to program for students with certain types of exceptionalities, strategies for dealing with behaviour or EBD students, and/or (more generally) information about currently recognized "best practices";

< inservicing or professional development specifically for school administrators on some of the topics mentioned above;

< training and/or certification for para-professionals coupled with ongoing opportunities for professional development; and

< reinstatement of qualifications and/or better trained resource teachers in order to support coordinated and appropriate programming and service delivery at the school and classroom level.

iv. Culturally Appropriate Programs and Services

Most of the recommendations that were made on this issue concerned Aboriginal students, either the need for more Aboriginal staff and/or the need for programming to be *"more sensitive, fair and educationally relevant to the needs of First Nations students, their families and communities".*

v. Assessment of Current Programs and Services

This topic engendered recommendations not only regarding the need for standards of service delivery (already mentioned in a previous section), but also standards coupled with monitoring and reporting systems. The need for schools to have procedures to monitor and evaluate the effectiveness of programs was raised.

vi. Use of Human and Financial Resources

Many of the issues that relate to this topic were addressed in recommendations more directly related to funding and/or to the need for increased staffing or for specific services for children. One recommendation, unique to this section, was the need to find ways to increase (and publicize) cross-divisional cooperation and sharing of services in order to promote more efficient use of resources.

d. Examination of the Strengths and Limitations of Costs and Funding Models

Under this Area of Inquiry, submissions addressed issues such as:

< costs and fiscal resources necessary to support programs and services;

- accountability processes to ensure the appropriate and effective use of funds; and
- balancing educational resources between special education and other students.

i. Costs and Fiscal Resources

One major trend in the recommendations was the need to put more money in the system in order to provide programs and services based on the realities of student needs and the real costs of addressing these needs. In relation to this larger issue were recommendations concerning funding a greater portion of Level II and Level III costs, and providing sufficient money to address the needs of the large Level I population, including funding directed to programming for gifted and talented students. Alternately, there were suggestions for creating another funding category to deal with FAS, behaviour disorders, Down Syndrome, and learning disabilities, or an "at risk" funding level/category.

Recommendations were also made regarding money to cover the costs of making specific services and/or equipment more widely available. The list included: psychologists, other clinicians (particularly in rural and northern areas); mental health treatment services; technologies/specialized equipment (e.g., sound field systems, note takers, augmentative communication devices); qualified ASL interpreters; as well as, transportation costs (including bus aides). The issue of funding to support early literacy was also raised, including the need to fund nursery programs and particularly the exceptional students who attend them.

The "mixed" funding model (one that combines block and categorical grants) was generally supported, although recommendations for "fine tuning" were made (including changes to certain ratios such as those for clinicians and counsellors). Recognition of local conditions or contexts was frequently recommended in the light of factors such as high numbers of foster placements, poverty (and its attendant effects), geography, and higher service expectations placed on regional centres.

Generally, recommendations supported the continuation of ESL, ELENS and EIEP grants in their current form, although there was a suggestion for grouping these as special support grants.

ii. Accountability Processes

Recommendations were made regarding the need for criteria, processes and data systems to be established. There were concerns around the lack of accountability mechanisms. Suggestions included: more focus on outcome measurement; an expansion of FRAME reporting categories; random monitoring of schools; use of IEP's as a basis for accountability; and requiring every school to submit an "inclusive education plan".

iii. Balancing Resources

Balancing the needs of students receiving special education programs and services with those of other students in terms of human and financial resources, elicited recommendations that were most likely to focus on the conviction to *"unite and not divide"* students. Recommendations for smaller classes and increased Level I funding (including gifted) were also proposed. Some parents stressed the need to support their children who, although they have special needs, could learn to function well in society if the necessary educational supports were in place.

e. Examination of Intersectoral Planning in Relation to Special Education

Under this Area of Inquiry, submissions addressed issues such as:

< intersectoral planning and the role of the Manitoba Children and Youth Secretariat;
< intersectoral delivery of service;
< avenues for better coordinated service delivery among Manitoba Education and Training, other government departments, intersectoral and community agencies, and divisions; and
< changes that will lead to enhanced student outcomes, including transition to post-school opportunities.

i. Intersectoral Planning and the Role of the Manitoba Children and Youth Secretariat

Credit was given to the Manitoba Children and Youth Secretariat for addressing key issues, such as truancy, FAS and EBD. However, there were consistent themes that leadership was needed around intersectoral planning, coupled with a clearer definition for the Secretariat's role and more dollars to facilitate greater empowerment of the Secretariat. Alternatively, some submissions advocated for the creation of a "Department of the Child".

Another theme centered on the need to ensure "grassroots" participation in the development of protocols, not only in the education community, but also with other line level service providers. For example, it was noted that other service providers and agencies did not necessarily have the awareness/knowledge of the protocols nor the resources to support their own participation in intersectoral planning processes.

ii. Intersectoral Delivery of Service

A number of strong themes emerged regarding recommendations for intersectoral delivery of services. Better information to parents of pre-school children was an area cited for improvement (to help avoid the fear and conflict parents may feel when their child is approaching school age). Another theme reinforced earlier recommendations regarding the importance of early identification, assessment and intervention, including precise data on infants, developmental assessments and pre-school services, such as speech/language, occupational therapy, and physiotherapy. The Promise Years Project was cited numerous times as a model of an effective intersectoral initiative involving Manitoba Health and five school divisions, focusing on pre-school speech and language services.

Another theme was the need for *"health dollars to pay for health services,"* although there was some divergence of opinion regarding which services were "health" as opposed to "education". (The underlying issue may be that some services simply require funding.) Health support for medically fragile students, however, was deemed a health service which should be supported by public health nurses.

Unified Referral Information System (URIS) was generally applauded as an important and welcome initiative, although recommendations called for completion of the manual and implementation with adequate supports

across the province, including the provision of Health dollars, not only to support Group A procedures, but some Group B/C procedures as well (e.g., catheterization).

More general recommendations called for clarification of *"who is responsible for what,"* better support for parents who are dealing with many agencies, and better coordination among the "big" players - Health, Education, Family Services, and Justice.

iii. Avenues for Better Coordination of Service Delivery

What avenues for more effective and better coordination of service delivery were proposed?

"Full Service" or "Service-Linked" schools were recommended as one potential vehicle to bring together services for children. Examples were cited of successful programs that integrated social workers or Addictions Foundation of Manitoba youth counsellors in schools.

Multi-agency community initiatives, such as the Multi-Agency Prevention Program (MAPP) in Brandon which focuses on high risk youth, were cited as positive models.

Multi-agency plans were also proposed, along the line of a "single window" to access services for children. Suggestions were made that this occur through regionalizing boundaries (education, Regional Health Authorities, Family Services) or through divisionally based resource coordinators.

iv. Changes to Enhance Student Outcomes with a Focus on Improving Transition

Recommendations centered on the need to address post-school transition planning and intersectoral cooperation both to reduce the "gap" between age 18 and 21 and to provide better employment opportunities for young adults with exceptionalities. Implementation of the Transition from School to Community document was encouraged at the local level, along with allocation of time and resources to develop plans such as PATH. Coupled with this were recommendations to streamline the services of Family Services, Health and Education in order to create "real" employment-related training opportunities.

C. Discussion of Findings From the Intersectoral Interviews

The following discussion presents the results of the in-person intersectoral interviews. During the course of the interviews, a number of issues were identified as being central to the delivery of special education in the province of Manitoba. The following discussion presents the results of the interviews in two sectors: individuals working for Manitoba Education and Training and those working for other government departments, agencies and/or organizations. The views expressed are those of the interviewees.

1. Manitoba Education and Training

a. Key Issues

A number of issues were identified throughout the interviews as being central to the delivery of special education in the province of Manitoba. Firstly, there was a perceived need for increased professional development for individuals planning and delivering special education programming. Resource teachers were viewed as being the "key" to the provision of appropriate programming and supports to exceptional children. The role they must play in planning appropriate programming and teaching strategies necessitates the reinstatement of qualifications for resource teachers. Furthermore, it was argued that teaching assistants, as well as classroom teachers working with exceptional children, should be required to have training in special education.

Currently, expenses incurred by school divisions related to special education are viewed as outstripping funds provided from the province. As noted by one representative, *"how do you make sure the money is going to where it is needed"*? However, the combination of block and categorical funding was seen as being appropriate. It was mentioned that the divisions are *"respectful and understanding"* and that the mixed funding model allows for local decision-making.

There was agreement that the Level I funding formula was problematic. Funding mechanisms must ensure that the basis for funding allocations is "need". It was agreed that Level I funding is based on an assumption that *"does not take into account the reality of needs"*. A funding formula which takes into account the demographic characteristics of school catchment areas was seen as one approach that could be utilized in implementing a model that more fairly responds to actual community needs. The formula for allocation of Level I funding was also seen as having been developed prior to the inclusionary approach being used by schools. It was perceived by interviewees that previous approaches to the provision of special education programming and supports were less costly than the inclusion approach being utilized today. The funding formula used to determine Level I allocation needs to be reviewed to take into consideration changes in delivery approach. As noted by one individual *"the province has a responsibility to find a way to recognize different circumstances the divisions have to deal with"*.

Specific categorical funding was viewed positively because of its tie to specific students. However, there was a perception that the criteria for Level II and III funding should and will be revised upon completion of the Review. It was also suggested that, while neither the block nor categorical funding should become *"overly prescriptive"*, program effectiveness should be monitored as part of the funding process. Concern was also expressed regarding the inconsistent application of funding criteria.

There was a belief that the categorical funding provided by the department should be close to the actual costs incurred by the divisions. Level I block funding is provided on the basis of a partnership with the divisions and, as such, calls for a greater commitment to shared responsibility. Level I criteria are not as clear as the categorical criteria and, therefore, block funding allows the divisions to provide programming and supports based on their local priorities.

Several people mentioned that the increased sharing of *"things that work"*, would help to increase the effective use of funding. The seeking out of information regarding successes and incorporating it into professional development would provide many benefits. It was agreed that *"there seems to be a lack of faith in what other people are doing. This is unfortunate*." There is a recognition that many *"fine"* things are happening in special education throughout Manitoba.

Professional development was also seen as being critical to the more effective use of funds. Teachers must be trained in how to use the funds most effectively in their work with the students. In addition, there is a need for teachers to be trained to program for "at risk" students.

"Zero tolerance" was perceived as being a negative policy. There was a fear that if students are expelled, they are no longer the responsibility of the school board, to the ultimate detriment of the student. Boards must have an ongoing responsibility to find alternatives for these students. Otherwise, it becomes acceptable for the boards to *"wash their hands of the student".*

It was perceived that streamlining the financing of special education had already begun. Over the past few years, less detailed information is being required by Manitoba Education and Training as the focus is now becoming program outputs and outcomes.

The number of specialists has not kept pace with the number of exceptional children coming into the system. As a result, the system is being put under ever increasing strain. It was also mentioned that many parents are troubled by the "guidelines" for funding. Many parents were seen as linking funding to the provision of staffing (i.e., para-professionals) and not programming. There was a belief that this perception necessitates a funding mechanism that more closely links funding to programming. It was also noted that the funding model currently lends itself to having a "diagnosis" to receive funding. There was a feeling that this should change to become based on the amount of support required.

There is a need to come to terms with the increased emphasis being placed upon the meeting of *"standards"*. It was perceived as essential that supports be in place for students with exceptionalities in order to ensure that they can meet these *"standards"*. There was also a concern that some schools are confusing inclusion with integration and placement. One example dealt with senior years students with low cognitive abilities who should be placed in programs which provide them "*with a set of skills to be the best person s/he can be*".

There was also a perception that an increasing number of children coming into the school system have exceptionalities. It was assumed that as these children move through the education system there will be a demand for increased space allocations to accommodate their physical requirements in

the classroom. There was also a belief that, in the coming years, there will be more requests for funds to provide special needs instructional areas in schools. From a monetary perspective it was noted that having *"certain buildings that could be designated to meet needs"* would be cost effective, there was a recognition that the neighbourhood school is the first choice of many parents and must be respected.

Jurisdictional disputes and the lack of access to services in First Nations communities were also viewed as being a major consideration when discussing the delivery of special education programming in Manitoba. It was mentioned that many First Nations communities have limited resources and limited access to resources. While identification and assessment are often appropriate, there is inconsistent follow-up. Furthermore, migrancy is a reality which mitigates against the provision of programming and supports. Children move from a school division back to their home community and lose their supports. Funding should follow the child. One possible solution was greater coordination between the provincial and federal governments and the First Nations communities in the allocation of funding. There was also a concern that First Nations children are mislabeled. Negative attitudes towards Aboriginal children were seen as sometimes leading to faulty assumptions regarding behaviour. Behavioural differences being exhibited might result from cultural differences and not exceptionality. Fear was also expressed regarding lower expectations for Aboriginal children that result in an increased likelihood that these children becoming labeled as "special needs".

There was a need to recognize that the Deaf community should not be equated with needing "special education". Their exceptionality is neither physical nor psycho-social and, as such, should be viewed as a different culture having a different language and traditions. A need for increased community education and awareness about deafness, early identification, and programming appropriateness for children were cited as being necessary. Another issue which surfaced dealt with deaf students in the public school system and the corresponding lack of resources. If a student is the only deaf student in the school, there are large problems in getting A.S.L. interpretation for the student. It was also mentioned that there has been an effort to change the funding for blind students from Level II to Level III.

A belief was expressed by some of those interviewed that Manitoba has one of the highest levels of service in Canada. This high level of service has been accomplished through influence rather than the use of legislation.

b. April 1998 Announcement

Manitoba Education and Training staff felt that the revisions to the process for funding special education announced on April 22, 1998, would have a positive impact. The multi-year funding was viewed positively, with the anticipated result being a "streamlined process". The revisions were also seen as reducing negotiations regarding funding, and were, therefore, perceived to be a positive outcome of the changes. It was suggested that face-to-face negotiations also mitigated against portability, as there was an inconsistent application of the criteria and guidelines. There are now expectations for a greater degree of consistency in the application of criteria and guidelines and, as a result, increased portability of funding. It was anticipated that the announcement might bring clarity to the types of programming being offered as the proposals for funding become clearer and more precise. Another positive outcome associated with the revised process was the anticipation that it will be easier to work with divisions/districts as discussions will focus on programming rather than funding, and how special education is part of a larger education system.

The lack of contact between Manitoba Education and Training and the applicants was seen as being a negative aspect of the revisions. Furthermore, the audit process was seen as potentially burdensome. While there was excitement that the audit process will focus upon student outcomes and achievement as well as financial information, others expressed concerns regarding how to make a direct link between program and outcomes. In the initial stages of implementation it is anticipated that there will be problems trying to collect hard data where none currently exists. It was suggested that both qualitative and quantitative information must be part of the audit/review process. It was mentioned that the term "audit" was an unfortunate choice as this process will be more of a "program review". Critical to the success of the review/audit will be collaboration and a "buying in" at the school level. A problem will arise when parents are happy with programming and supports being provided to their child, yet the audit/review finds that the allocated funding is not being used effectively. There was also a perception that rural residents may come to resent a Winnipeg-based process.

c. Provision of Information to Parent

The September 1998 release of the new Individual Education Planning (IEP) document by Manitoba Education and Training was anticipated as having the potential to impact positively on the information provided to parents. The new document will outline the roles and responsibilities of parents in the IEP process. This document results from a desire to provide information to parents in a more consistent manner. The intent of having parents sign the IEP is to ensure they are informed and are truly part of the planning process for their child. However, it was pointed out that, while the Department recommends having a parent's signature on the IEP, it is not mandated.

There was also a belief that there is a more effective method to support the family. Services should be available and easily accessible locally - *"open door, walk in, walk out"*. This was reinforced by another individual who suggested the need for a *"single window"* approach. The current system was viewed as being too bureaucratic and *"too geared to the system needs",* not to those of the child and family. More transparency among programs is required. Furthermore, it was mentioned that there is too much *"ownership"* of programs and a lack of willingness to share information. It was agreed that concerns regarding funding requirements mitigate against the sharing of information resulting in parents *"not getting a full picture of what is out there"*. Many parents *"feel they have been lied to and misinformed"*.

It was suggested that the time to provide information to parents is at school entry, building on the need for improved information exchange regarding pre-school services. There was a concern that a lack of communication results in misinformation and a breakdown in trust.

d. Intersectoral Cooperation

There was recognition that, while intersectoral cooperation occurs more frequently than in the past, much more has to be done to facilitate effective cooperation. Cooperation has always existed, to some extent, at the field level. Nevertheless, the likelihood that all staff in the field, regardless of their department, work as a team to meet the needs of the individual child must be increased. It was suggested that the next step in the process of cooperation will be the coordination of all children's services.

It was suggested that the role of the Manitoba Children and Youth Secretariat should be to facilitate at the department level, to *"bring us together around issues"*. This process would help to identify what people and departments can do differently. The Manitoba Children and Youth Secretariat should play the role of bringing people together in the name of systemic change. However, the Manitoba Children and Youth Secretariat was credited with having built some connections and, in fact, some divisions/districts were seen as viewing the Manitoba Children and Youth Secretariat as "saviours". The Children In Care Protocol was cited as a example of positive work undertaken by the Manitoba Children and Youth Secretariat.

It was mentioned that an interdepartmental initiative is currently being developed which focuses on *"school linked services"*. While there is an openness that did not exist five years ago, there was still a belief that full cooperation may take many years.

It was mentioned that, currently, there is good cooperation between Manitoba Education and Training and Family Services, Children Special Services. A number of other government departments with which Manitoba Education and Training cooperates includes Health, Family Services and Justice. Joint initiatives, such as the "Urban Sports Camps" and "Partners for Careers", were provided as examples of successful multi-departmental cooperation. Another example of cooperation was the group funding review process that currently takes place for Level III Emotionally Behaviour Disturbed (EBD) students. A multi-departmental committee reviews and makes funding decisions which affect each department's budget.

Cooperation should also take the form of increased sharing of resources between schools. There was a perceived lack of cooperation between the province, the school system and Aboriginal communities, stemming from a lack of trust. It was suggested that the infrastructure needed to facilitate the intersectoral cooperation is not in place. There was a perceived need for some central point to take responsibility for the coordination of all services: *"someone has to take responsibility for the brokering role to make sure that all services are available to the family in shorter time"*.

There was a need to *"align how we do our work, our systems"*. Work should start at the policy level. It was suggested that Education and Health develop joint policies that will *"allow for interaction without red tape"*. It was also believed that intersectoral cooperation is sometimes more successful in rural areas because of the smaller size of the communities. There was a perceived need for agreement to be reached by the "leaders" as to how cooperation will actually work.

There was also a specific concern expressed regarding the inconsistent approach to the provision of clinical services from birth to kindergarten and from kindergarten to senior 4. While occupational and physical therapy are seen as being available for pre-school children, others are lacking.

Departments must cooperate to ensure there is a *"system of support"* available to support children. The focus needs to change from the system to the child. There is a need for increased cooperation in order to address prevention and early intervention. Intersectoral cooperation has to occur in order to make decisions about appropriate strategies and supports prior to school entry.

2. Other Departments/organizations

a. Key Issues

Many of those interviewed believed that a number of positive developments had occurred in education in Manitoba. However, there remained a set of specific issues that were perceived as being central to the improvement of special education in Manitoba.

A need for a funding mechanism which allows for the coordination of funding from various government departments was desired. It was suggested that funding should follow/move with students as they access supports and services from different government departments. The lack of a coordinated funding approach results in instances where, *"we do not have the resources to assist many of our most difficult cases"*. Many of the students not in school are in the justice system and are not receiving education funding and, therefore, they do not have access to needed supports.

Related to the need for a coordinated funding mechanism was the need for a coordinated approach to assessment. This will require a willingness on the part of the school system to accept outside assessments, such as those provided through Manitoba Health. All departments must accept the need for realignment to more effectively disburse existing resources. This type of approach was seen as facilitating the delivery of supports and services across jurisdictions. The exception to this might be what were termed *"short term resources,"* such as early speech and language support.

There was a belief that Level I funding should be based on community needs rather than on a province-wide formula. It was suggested that a number of departmental branches are currently using socio-economic information to determine funding allocations, an approach that could be adopted by Education. Therefore, if ratios are to be used, they should be based on *"actual needs and demographics"*. This type of funding approach would (as stated by one individual) be a more *"human approach"*.

There was a perceived need for increased flexibility when using the Level II and Level III funding. While there was an understanding as to why the funding is "child specific", there was a perceived *"need for some flexibility at the school to tie Level II and Level III together as a block in order to provide programming for the group".* There was also a desire to expand funding so that supports are provided to exceptional students while outside the school in situations *"where the child is not educationally ready. This might take the form of funding teacher assistants to go into the home to work with the child"*. Local supports should be utilized when possible and might include the use of extended family members rather than professionals to help implement the 24 hour plan. Local supports might also consist of combining Level III IEP's, the 24 hour plan and restorative justice. Others supported the 24 hour plan saying that *"best practice means you look at kids 24 hours a day",* but this approach requires a *"multi-system"* commitment.

There was a perception that Manitoba Education and Training spends inordinate amounts of time worrying about funding abuse rather than implementing a series of checks and balances. It was argued that the funding mechanism should continue to support the school from which a student has moved, rather than moving all the funding with the student — a recognition of program specific funding rather than student specific funding. Another concern was the perceived lack of flexibility to deal with students who are identified after funding and programming decisions have been made.

Education was seen as traditionally looking at behaviour in the classroom and not at the motivations for the behaviour. This has resulted in education treating the symptoms and not the problem. In order to increase the likelihood of being successful, a better understanding of the problem is necessary.

It was suggested that students lack advocates, thus reducing the likelihood of early intervention occurring. Early intervention was seen as being central to later success with the child. The school was seen as being *"the main thing we can do to keep them out of jail and it also saves a lot of money"*. This was reinforced by another individual who argued that there is a need for *"pre-planned, pre-school transition across systems and sectors"*. This school-based plan would be in place for the child upon starting school and would specify needed supports.

"Zero tolerance" was seen as a significant problem due to the frequent suspension of students. There was a belief that the school should be obliged to find an alternative for the child rather than simply suspending her/him. The structure needs to become more flexible in order to better meet the needs of children. A zero tolerance policy was seen as resulting in what might be termed "disenfranchisement" in that organizations are no longer accountable for the student. The school must accept responsibility. Many agencies provide day programs that are available to students while suspended, which means there is still a cost associated with the provision of service to suspended students. However, these students are no longer receiving the benefits of educational programming and supports. Gordon Bell, John M. King and Elwick schools were mentioned as examples of positive attempts to deal with this type of student.

The lack of service options in rural Manitoba was seen as being an issue central to the delivery of special education programming. Similarly, there was a need for "programming standards" in order to increase the likelihood of all students attending schools with appropriate programming: *"it should not be luck whether you go to a school that has best practice programming".* Interviewees believed that more consistent transitional plans need to be developed for students moving into the community. The lack of a consistent approach to the development of a transition plan at the divisional/district, school and regional levels has the potential to result in many students "falling through the cracks". An example cited was that of students with learning disabilities for whom transition plans are not developed. There was

a suggestion that a more comprehensive student tracking process be introduced which would increase awareness of those students for whom a transition plan should be developed. Surprise was expressed that there was not *"better tracking of Level I special education resources"*.

Furthermore, it was argued that, lack of teacher awareness regarding the specific needs of the students, coupled with a lack of awareness of employment opportunities, results in some students becoming "streamed" into programs that are not appropriate to their needs. These students were seen as requiring skills and preparation to obtain paid employment; however, due to inappropriate programming, leave school *"not prepared to access a paid job. The schools are not doing everything needed to help them."*

There was also concern that inaccurate assessments have resulted in students and parents having unrealistic expectations regarding post-secondary success. Due to the lack of supports at the post-secondary level, these students were seen as having a low likelihood of success.

The "M" designation was a concern in that it is perceived as *"raising the bar"* when the needed supports were not in place to help students meet these increased standards. This designation was also viewed as having a negative impact on those students *"who are not severely handicapped but will be unable to get their high school certificate"*. One example cited was the new Mathematics curriculum which was seen as being *"very difficult and way above the level of our kids who will not be able to graduate"*.

b. Information to Parents

There was a belief that parents do not have a good understanding of the system and their options. The assessment process and funding process were seen as being unnecessarily intricate. Furthermore, there was a perception of an unwillingness to share information. There is a need for departments to have a more *"seamless and transparent system that deals with the provision of services for children".* Possibly assigning a case manager to parents who moves with them through the system would help to provide consistent and useful information. Another suggestion was to look at parents and their children as *"service points"*. The use of common assessment tools and common data elements was seen as increasing the likelihood of parents having improved access to information. It was agreed

that the "*chimney*" concept, epitomized by disconnected departments, does not lend itself to the sharing of information. Others suggested that there is a need to define more clearly the services provided -- how and where they overlap.

Currently, the lack of information (and the existence of misinformation) results in increasing fear, apprehension and frustration on the part of parents. Regular home visits were presented as an option that might provide parents with needed information. However, the people making the home visits should not be aligned with a provincial government department. It was suggested that these people might be based in the local community, perhaps attached to a local organization. Public Health nurses were cited as an example of successful application of this model, because of the non-aligned status with which they are viewed.
Another suggestion dealt with the use of the Manitoba Children and Youth Secretariat to disseminate all information which deals with children. They would serve as the central clearinghouse for information relating to childrens' services.

c. Intersectoral Cooperation

There was a recognition that increased cooperation is occurring among departments but *"not as much as it should be"*. Interestingly, cooperation occurs more often in rural Manitoba due to the sharing of office space. The Level III multi-departmental committee funding model was cited as a specific example of cooperation.

Manitoba Education and Training was seen as being *"very brave"* by letting other departments make decisions about their funding. It was also mentioned that while this is a positive process, it is very time consuming and worries were expressed about the efficacy of the process if it were expanded. It was suggested that a similar process, but at the community level, might be more effective if large numbers were involved. Regions (Parklands) and school divisions (The Winnipeg School Division No. 1) were offered as other examples where cooperation and coordination of services are occurring.

While cooperation was seen to be *"infinitely better than it was five years ago",* a need remains *"to enforce and force cooperation"*. If children are looked at in isolation they will not be dealt with effectively. However, it is necessary to develop an understanding of the different approaches used in various departments, not only to facilitate coordination of services but also to preserve the strengths of each. There was a belief that the systems are unable to adapt to a new demography and the problem escalates once the child enters the system. Education is seen as *"wanting people to come to them".* The territoriality of departments was seen as mitigating against cooperation which, in turn, results in the inefficient use of existing resources. Cooperation works through personal initiative rather than through systemic behaviour.

There was general agreement on the need for funding that follows the child through the different stages of her/his life. This was viewed as a critical component for the effective use of existing resources in order to meet the needs of the child. One suggestion as to how this might be done consisted of attaching a dollar value to the needed supports and services which would then be made available to government departments and agencies providing the services. This model was seen as increasing the likelihood of encouraging cooperation among the service providers.

The success of Manitoba Children and Youth Secretariat was its ability to influence the system. However, it was intimated that the provision of services to children is still marked by a *"piecemeal approach"* due to the departments still operating like *"five chimneys"*. It was recognized that much broader interdepartmental coordination of services is needed. It will be necessary to have improved coordination with *"foster care and the juvenile system"*. A number of initiatives currently mentioned as being under development were seen as fostering improved cooperation including *"schools as community-based centres"*.

It was also suggested that *"departments have to do a better job of educating their own staff"*. Given the regionalization of services, there was a perceived need to increase awareness of staff within departments to the processes and responsibilities within the regions. Furthermore, it was argued that *"each system does not understand each others systems and resources"*. The sharing of the Annual Divisional Action Plan (ADAP) within regions was seen as facilitating an increased likelihood of cooperation within regions in that multiple departments could plan together and develop programming to meet the needs of the community.

In order to have greater cooperation among departments, it will be necessary to have *"behaviour changes to fit the funding model and the way funding flows"*. Regionalization allows for regional planning. The implementation of Regional Health Authorities was cited as an example of attempting to change the way funding is spent within regions.

School divisions/districts were also seen as needing to clarify who is responsible for the identification and referral of students to adult services. While Manitoba Education and Training assumes that Student Services administrators are responsible for the transition of students into adult services, it was argued that neither the divisions nor the students services administrators perceive this as their role. Therefore, role clarification is seen as a vehicle for enhancing cooperation.

It was argued that a requirement for increased cooperation and coordination among departments will be the implementation of an integrated case management model. This model will allow the case manager to be responsible across jurisdictions. It will have flexibility and portability as key components. The perceived lack of coordination between Health, Education, and Family Services was argued to be, fundamentally, a case management problem: *"Each department has funding responsibilities but no one has the responsibility to move across all three departments and trouble-shoot for families"*. Families have to deal with the separate departments which increases the burden on them. Compounding the problems are the budgeting differences within each department. This reinforces the need for *"a care plan across departments and home and school settings"*.

CHAPTER IX
CASE STUDIES

A. INTRODUCTION TO THE CASE STUDIES

A case study approach was used in order to ground the Review in the real experiences of children, their families, educators, community, as well as related service providers (i.e. agencies and government departments). Therefore, as noted in an earlier chapter, the Review had to find a way to collect systematic information on the realities of special education in diverse settings. These had to include reality from the student's point of view. At the same time we wanted to ensure sensitivity to the personal situations of exceptional children, their families and caregivers.

Case studies were designed to encompass feeder school systems and their communities; that is, a senior years/high school, its feeder early/elementary and middle schools, as well as the agencies in the community that provide service to students with special learning needs. This approach provided a community rather than strictly a school focus for the case studies. (See Chapter III for a description of case study selection and methodology.)

Twelve case studies were conducted involving five urban, five rural and five northern divisions[1]. (Pages 87-88 in Chapter III.) It must be remembered that the case studies were **not** intended to be an evaluation of the particular schools, divisions/districts[2] or communities which were included. The case studies provided the basis on which to conduct cross case analysis that would identify common themes and concerns, pinpoint factors that impact on the delivery of special education programs and services, highlight particular examples of good practice, and illuminate unique and diverse

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1 For purposes of case study selection and analysis, Brandon School Division No. 40 was classed with the "rural" divisions as it does not have access to the complete range of services more easily available to divisions within the perimeter. However, the case study analysis attempts also to categorize Brandon as a "large centre" thus recognizing it is not "rural" in the same way as smaller communities.

2 For readability and to ensure anonymity, the term "division" is used throughout the remainder of this document to refer to both school divisions and districts.

situations that would require consideration when Review recommendations were being made.

The cross case analysis does compare cases by geographic area, as well as by size. In addition, cases were grouped by population of division and the community. (See Chapter III.)

The reporting of the cross case analysis includes the liberal use of quotations in order to bring the "voices" of case study participants directly to the reader.

B. Discussion of Case Study Analysis

1. Background to the Cross Case Analysis

The discussion of the cross case analysis will be presented following the major Areas of Inquiry. While specific divisions, schools and communities will not be named, the discussion will draw conclusions, as appropriate, on the basis of characteristics such as geographic location (urban, rural, northern), size of community, philosophy and model of delivery, and level of school (early years, middle years, senior years). In some cases, programs will be identified and profiled where they represent examples of good practices.

At the beginning of a number of the sections discussing the cross case analysis, data from the school staff survey will be presented (respondent group = 640). Although the survey was not used in all schools, it does reinforce some of the cross case trends, particularly according to region and level taught. (See Appendix J6 for an analysis by geographic location, position of respondent, number of years working in schools, and level taught).

The major topics that are discussed in the cross case analysis are:

< contextual background on the case study school divisions, including philosophy/approach, student needs and program options, and staffing;
< service delivery in practice, including models of service delivery and the perceived need for flexibility;

- provincial policies, practices and procedures;
- the quality and cost effectiveness of special education programs, including practices of identification, assessment and developing Individual Education Plans, factors in a supportive learning environment, culturally appropriate programming, perceptions as to whether current programs and services are meeting student needs, evaluation of programs/services, and use of human resources;
- costs and funding models, including fiscal resources, accountability and balancing use of resources; and
- intersectoral planning, including coordination of services, the role of the Manitoba Children and Youth Secretariat, as well as pre and post-school transitions.

The reader should recognize that the participants in the case studies expressed their opinions and perceptions based on their own experiences. In some instances their comments may not be informed by comprehensive and accurate information. Nonetheless, their perceptions in some ways become their realities and certainly influence behaviour and attitudes. The case studies provided an opportunity to document the variety of opinion and experience that exists both among and within case study divisions and their communities.

2. Background on Special Education in the Case Study Divisions

a. Philosophy and Approach

The divisions were initially chosen, at least partly, on the basis that they had somewhat different philosophies and approaches to the delivery of special education programs and services. However, it must be stated that, overall, the school divisions state that they adhere to Manitoba Education and Training's guideline of providing:

> *access to learning opportunities which are commensurate to their [students'] needs and abilities . . . in the most enabling learning environment available or possible under the circumstances. In the majority of cases, integration in the regular classroom, with the provision of special supports, affords such a setting, (*Special

Education in Manitoba: Policy and Procedural Guidelines for the Education of Students with Special Needs in the Public School System, p.2).

The guidelines also suggest that the Manitoba education system *"must provide a flexible continuum of education programming to meet the unique learning needs of each child with special needs"* (p. 3). The interpretation and operationalization of these guidelines varies according to division philosophy and context. It should also be noted that implementation of these guidelines also changes from school to school within divisions. (More on these differences is presented in a later section.)

Taken primarily from the ADAP's, the following represents the divisional statements regarding their approach (i.e. philosophy and model of delivery). They have been grouped by what appears to be the focus of each approach:

< most enabling environment with a continuum of supports;
< inclusion or most enabling environment;
< supports and program options; and
< individual student needs and abilities.

CASE STUDY DIVISION FOCUS

Focus on Most Enabling Environment with a Continuum of Supports

"Every child has the right to be educated with his/her peers within an environment that is the most appropriate, least restrictive and as accessible to home as possible . . . a range or continuum of placement alternatives and instructional services shall be available to any given student"

"students . . . receive their educational programs in the regular classroom in their home school or within a school based program. The continuum of services offered within the school division follows the cascade model provided by Manitoba Education and Training . . . the principle of placement in the most enabling environment and program appropriateness must be considered when making placement decisions."

"Special education, as one component of a continuum of educational services." To provide the most enabling learning environment the division uses a continuum of supports with three levels i) least restrictive environment with the first choice the student's home school; ii) catchment area supports within the division; iii) lower incidence division-wide programs.

"flexible continuum of educational programming to meet the unique learning needs of each child . . . will educate students with special needs in the most enabling environment."

Focus on Inclusion or Most Enabling Environment*

"[the] division supports inclusive education to meet the needs of individual students and works towards programming that promotes independence. Inclusive schools: are places where all students belong, are accepted, support and are supported by peers and other members of the school community in the course of having their educational needs met, acknowledge and appreciate student differences, and treat all students with dignity and respect."

"To serve the special needs of certain pupils or groups of pupils within these age limits, the Board shall ensure that every possible provision is made in the most enabling environment to respond to those needs . . .The division believes that, for the large majority of special needs children, the most enabling environment is a regular age appropriate classroom in the local school."

"Schools should strive to offer an educational programme based on the least restrictive environment philosophy, i.e. having the child receive as much of his educational programme with his or her peers."

"The [division] is committed to mainstreaming and the integration of special needs students into the least restrictive environment. All children are entitled to an inclusive education with their peers in a regular classroom for the greater part of the school day."

"The goal of special education . . . is to support children with special needs to achieve all they are able to do in the most enabling educational environment . . . for the large majority of special needs children, the most enabling environment is a regular age appropriate classroom in the local school."

** Note: These divisions may also utilize a continuum of supports, but their ADAP's focus on inclusion or an "enabling environment."*

Focus on Program Options and Supports

"considers the addressing of individual student learning needs to be an important part of its total educational program. The Board endeavours to provide within its resources, both human and financial, meaningful and appropriate educational programs for students with exceptional needs." Placement options are offered to parents with choice of schools for some programs.

Focus on Individual Student Needs and Abilities

"committed to providing learning opportunities commensurate with their needs and abilities"

"each student has the right to an appropriate educational program and an educational environment that provides opportunities to learn, to develop personally and to experience success"

"it is an expectation that teachers adapt instruction to meet the needs of all students"

Summary

All divisions present a philosophy or approach that could be construed as consistent with guidelines from Manitoba Education and Training, given that terms are used but not well defined in Special Education in Manitoba. However, based on the language used in their Annual Division Action Plans, it is equally evident that divisions intend to approach special education in somewhat different ways, with some focusing directly on the philosophy of inclusion while others focus on the range of service and programming options available. This does not suggest that these two foci are incompatible, rather that it is possible the various emphases might create different school and community expectations.

b. Special Needs and Program Options

i. Provincial Data

Enrolment of special education students changes annually - neither is it static throughout the school year. The most complete data from Manitoba Education and Training are the number of students in the 1996-97 school year who were funded as Level II and Level III, as well as the percentage of the division population that they represented. (This does not include Level I or students at risk. No comprehensive provincial data are available for these populations.)

As can be observed in the following table, because of the inclusion of large urban Winnipeg school divisions, the case study divisions include 49% of the overall provincial enrolment and 50% of the funded Level II and III students. When combined, the case study divisions, while similar to the provincial data overall, show a slightly higher proportion of Level II and Level III funded students. This is to be expected, as the case study selection deliberately under-represented "low need" school divisions. The Steering Committee felt more could be learned from divisions and communities that had a greater incidence of children with special learning needs.

Table IX-1 Level II & Level III Enrolment in Case Study Divisions/districts 1996-97							
Division/District	Total Student Enrolment	Level II		Level III		Level II & III	
		Number of Students	Percentage of total enrolment	Number of Students	Percentage of total enrolment	Number of Students	Percentage of total enrolment
Winnipeg School Division No. 1	33,858	368.5	1.09%	119.0	.35%	487.5	1.44%
St. James-Assiniboia No. 2	9,369	146.5	1.56%	49.5	.53%	196.0	2.09%
St. Vital No. 6	9,963	96.5	.97%	44.0	.44%	140.5	1.41%
Seven Oaks No. 10	9,312	105.0	1.13%	52.0	.56%	157.0	1.69%
Transcona-Springfield No. 12	8,214	85.0	1.03%	22.5	.27%	107.5	1.31%
Agassiz No. 13	3,077	37.0	1.20%	0	0	37.0	1.20%
Red River No. 17	644	9.0	1.40%	2.0	.31%	11.0	1.71%
Turtle River No. 32	1,015	10.0	.99%	2.0	.20%	12.0	1.18%
Swan Valley No. 35	2,028	20.0	.99%	3.5	.17%	23.5	1.16%
Brandon No. 40	8,184	86.0	1.05%	24.0	.29%	110.0	1.34%
Frontier No. 48	5,916	18.0	.30%	1.0	.02%	19.0	.32%
Mystery Lake No.2355	3,707	39.5	1.07%	16.5	.45%	56.0	1.51%
Overall Case Study divisions & districts	95,287	1,021	1.07%	336	.35%	1,357	1.42%
Overall Manitoba (all provincial school divisions & districts)	195,149	2,148.0	1.10%	549.5	.28%	2,697.5	1.38%

The table also indicates that there were differences among divisions on the percentage of funded Level II and Level III students. These variations could be a result of: real differences in the prevalence of certain conditions across the province; differences in the prevalence of certain conditions because parents are deliberately choosing to live in certain school divisions; differences in how students are identified by divisions; or differential application of funding criteria.

ii. Divisional Reporting of Special Education Students

It is difficult from the Annual Divisional Action Plans to always extract precise descriptors and numbers of the special education population(s). The ADAP's are variable in how they present information on their student populations. Nonetheless, it was clear from the case studies that there was

no dearth of students with special learning needs in any divisions represented in the case studies.

For example, the description from one urban division (which could apply to many) lists:

< severely and profoundly multiply handicapped;
< emotionally behaviour disordered (EBD) and profoundly EBD students;
< ADHD;
< FAS/FAE;
< hearing impaired students;
< severely visually impaired students;
< students with autism and Asperger's;
< Down Syndrome students;
< learning disabled students;
< medical groups B and C students;
< severely cognitively challenged students;
< students with psychological disorders such as schizophrenia;
< "borderline" students (between normal and cognitively challenged students);
< many family problems including transience;
< ESL students (some recent immigrant students from traumatic situations);
< other students at risk; as well as
< a variety of other Level I, Level II and Level III students.

An urban school in another case study division reported that there were more needs than those described for funding purposes.

> *Well, when we talk about special needs we're not just talking about the funded children because less than 2% of our population of 500 the government actually recognizes as fundable or funded. We actually have closer to 32% of our kids identified in our school education plan as children at risk. And that means, basically, they need something over and above their regular classroom teacher - extra support in any number of areas.*

One small rural school division identified 21% of their students as requiring special education services. Comparably, one northern division identified 17% of its students requiring some level of support, while the other division indicated 29% of their student population as having special needs. In the

latter case, this was explained as an over-representation of students ("three to four times the provincial average") with significant academic delays as well as a high incidence of children with severe and profound disabilities.

A listing of the programs offered by the various divisions helps to illuminate the range of special learning needs or exceptionalities that schools and divisions are attempting to address. The range of programming is also influenced by the size of the division and community. All divisions attempt to address the needs of at risk and Level I students, at least to some degree, through some combination of modified curriculum, special materials, and differentiated instruction. As well, all provide some level of integration into the regular classroom for many students with special learning needs, although the level of support does vary.

Regarding service provision, all divisions have some access to clinical and therapy services, although it may be very limited. All report some level of resource and counselling services, although not necessarily in all schools. As well, in some cases the amount of resource teacher time, for example, may only be a small portion of a staff position.

The following is a list of the commonly offered specialized programs according to division/community size. The lists are not completely comprehensive, but signify the range in type of special programming options.

LARGE SCHOOL DIVISIONS	MEDIUM SCHOOL DIVISIONS	SMALL SCHOOL DIVISIONS
Adaptive Skills Program	Life Skills	Early identification programs
Adolescent parents' programs	Behaviour programs	Student tutor program
Annual screening for vision and hearing	Enrichment/Gifted programming	
Aural Rehabilitation Program	Learning Assistance Classroom	
Behaviour programs	Other Special Education classes	
Cooperative Vocational Education programs	Screening for vision and hearing	
Community Transition program	Student Mentorship program	
English Second Language (ESL) programs	Work Education	
Early Intervention Screening Programs		
English Language Enrichment for Native Students (ELENS) programs		
Enrichment/Gifted Programs		
Home tutoring		
Language Development programs		
Learning Assistance Classes (LAC)		
Life Skills		
Modified Technical Program		

LARGE SCHOOL DIVISIONS	MEDIUM SCHOOL DIVISIONS	SMALL SCHOOL DIVISIONS
Off-campus alternative programs for students at risk Programs for Deaf and Hard of Hearing Reading Recovery Re-integration programs Specialized Programs outside home division in Winnipeg (e.g. Inter-divisional Autism Program, Marymound, Manitoba Adolescent Treatment Centre) Total Communication program Work Education Programs	(see previous page)	(see previous page)

Summary

While differences exist in the percentage of categorically funded (Level II and Level III) students across divisions, it is not possible to determine the exact numbers of students who have been identified with all types of special learning needs. All case study divisions reported having large proportions of students who require some type of intervention in order to support their learning. Large school divisions have been able to institute the greatest range of programming and services to meet these diverse student needs.

c. Staffing for Special Education

Staffing for special education is presented by size of the school division. It is not intended to be an exact picture (as staffing will likely have changed again in fall of 1998). However, it does illustrate the divisional differences that are apparent across the province.

Table IX-2
Divisional/district Staffing for Special Education
(excluding clinician support)

	Large Divisions/Districts (number = 6)	Medium Divisions/Districts (number = 3)	Small Divisions/Districts (number = 3)
Resource and Special Education teachers (including Integration support teachers, Special Needs teachers) *also see Table IX - 3*	< all large divisions have these positions; sometimes listed as Resource/ special needs teachers; sometimes with resource teachers as a separate category	< all medium divisions have these positions; one also includes two "district resource teachers"	< in small divisions where resource teacher positions exist, they are usually part-time < one has special needs teachers

Table IX-2 Divisional/district Staffing for Special Education (excluding clinician support)			
	Large Divisions/Districts (number = 6)	**Medium Divisions/Districts (number = 3)**	**Small Divisions/Districts (number = 3)**
Behaviour support/management teachers	< one large division specifically lists this classification of teacher	< one specifies a behaviour management teacher, while two have positions for an EBD classroom	< not identified in the small divisions
Early Childhood Transition Support teachers	< two large divisions refer to this type of position	< none identified	< none identified
"Reading Recovery" teachers	< two large divisions refer to this type of position	< none identified	< none identified
Itinerant teacher for Deaf and Hard of Hearing	< two large divisions refer to this type of position (although one is half-time)	< none identified	< none identified
Counsellors	< not all divisions list their counsellors as "special education staff", although all do have counselling positions	< two list counsellors as special education positions, but the other does have school counsellors	< one small division has counsellors in 3/4 of schools; not comparable in the other small divisions
Special Education Consultants/Facilitator	< four of the large divisions indicate this type of position in addition to the person who is the student services coordinator or director	< one division has an "Enrichment Coordinator:" one has consultants that assist in the special education area (e.g., a part-time Teaching Strategies Consultant); the third has district resource teachers (see above) who play a consultative role	< none identified
Nurse/nursing care	< three have a nurse/nursing care	< one lists 1.5 Registered nurses	< none identified
Para-professionals	< all have para-professionals; some in specific roles as Bus Trainer, behaviour support, speech language	< all have para-professionals; some in specific positions such as "speech language"	< all have para-professionals

The definitions of different "special education positions" are not necessarily consistent across divisions. For example, it is difficult to know where to place "behaviour support teachers" - are they special education teachers? Or special needs teachers? Are these the same thing? The table below

uses data from Manitoba Education and Training's FOCUS PSP database (1995-96) that differentiates among different special education positions. These data are based on teacher self-report in September of each year and since. Teachers themselves may not be classifying their positions in consistent ways, these data must also be viewed with some caution.

Table IX-3
Resource, Special Needs, and Special Education Teacher Positions 1995-96
by Case Study Division/District

Division/District	Total Student Enrolment (1995-96)	Resource Teachers	Special Needs Teachers	Special Education Teachers
Winnipeg School Division No. 1	34,300	152	54	23
St. James - Assiniboia No. 2	9,597	28	8	1
St. Vital No. 6	9,942	35	20	1
Seven Oaks No. 10	9,232	36	15	1
Transcona-Springfield No. 12	8,207	31	12	2
Agassiz No. 13	2,966	8	1	1
Red River No. 17	649	1	2	0
Turtle River No. 32	1,061	2	0	0
Swan Valley No. 35	2,050	7	0	0
Brandon No. 40	8,170	17	8	1
Frontier No. 48	5,768	19	4	0
Mystery Lake No.2355	3,613	17	1	1

How do the various school divisions access clinician staff? Within the City of Winnipeg, school divisions may employ their own clinicians or utilize the services of the Child Guidance Clinic. The Child Guidance Clinic (CGC) is a multi-disciplinary agency that provides clinical services to six school divisions in Winnipeg. Administratively, it is part of The Winnipeg School Division No. 1 but also sells services to five other divisions including the case study divisions of St. Vital, Seven Oaks and Transcona-Springfield. Each division determines its own particular style of service delivery, but all offer psychology, social work and speech pathology services. Educational Psychiatry Services, administered through the Manitoba Adolescent Treatment Centre (MATC), are provided to the Child Guidance Clinic as well as the divisions that provide their own clinical services.

With the elimination of the Child Care and Development Branch (CCDB) of Manitoba Education and Training, clinician positions that were supplied by Manitoba Education and Training were no longer available to rural and northern school divisions. Divisions were, instead, provided with grants to hire (or share in the hiring) of clinical services.

In addition, the School Therapy Services and the Mobile Therapy team program of the Rehabilitation Centre for Children provide education-related physiotherapy and occupational therapy services in 23 school divisions, through fee-for-service arrangements. The Mobile Therapy team program receives funding from the provincial department of Family Services.

Table IX-4
Number of Clinicians Employed by Case Study Division/District 1996-97

Division/District	Number of Clinicians
Winnipeg School Division No. 1	77.1
St. James - Assiniboia No. 2	18.93 (includes .945 purchased services)
St. Vital No. 6	Child Guidance Clinic: 14.6
Seven Oaks No. 10	Child Guidance Clinic: 16.0
Transcona - Springfield No. 12	3.25 plus Child Guidance Clinic: 9.78
Agassiz No. 13	4.0 plus use of Mobile Therapy Team
Red River No. 17	.75 plus purchase of OT/PT as needed
Turtle River No. 32	1.0
Swan Valley No. 35	2.0 plus use of Mobile Therapy Team
Brandon No. 40	11.5 plus access to regionally based supports and school therapy services .33
Frontier No. 48	8.6 plus use of Mobile Therapy Team
Mystery Lake No.2355	5 plus use of Mobile Therapy Team

Summary

Staffing in the case study divisions reflects the same pattern as identified in programming, with large divisions having more specialized staff, although all divisions have some identified special education/resource teachers, counsellors and para-professionals. Access to clinical services exists across all divisions, but can be very limited in some rural and northern areas.

3. Service Delivery in Practice

This section discusses models of service delivery, (including participants' perceptions of the philosophy and practices of their schools and divisions) and the issue of flexibility within provincial and divisional systems.

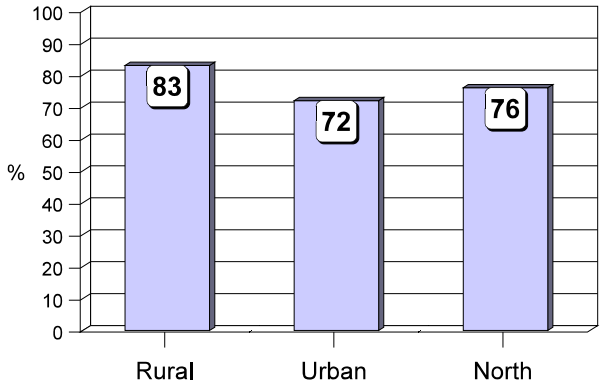
a. Models of Service Delivery

i. Geographic Location

The case studies provided illustrations of how models of service delivery can vary within a division when put into practice at the school and classroom levels. It should be also recognized that people's personal understanding of particular concepts or terms will affect their responses.

The staff survey data suggest variations by geographic area as well as by level of school concerning the frequency with which students are integrated into classroom activities. (It should be noted, however, that overall the percentage of staff indicating that integration into classroom activities "rarely/never happens" was 4%.) Regarding geographic differences, one can speculate that in urban schools the "continuum of supports" includes more support options, while in small rural schools (particularly those which are isolated, students participate in classroom activities partly because other options are limited (Graph IX-1). Division or school philosophy may be another contributing factor.

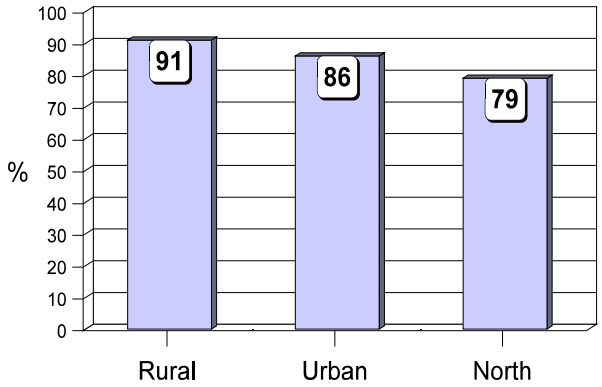
Graph IX-1
Students with Special Learning Needs are Integrated* into Classroom Activities



** "Always/Most of the time"*

Staff were also asked to respond directly to the statement "our school operates on a philosophy of inclusion". Overall, 87% of staff indicated this was true "always" or "most of the time". The findings suggest that rural schools are indeed influenced in their program delivery by their philosophy. However, it must also be noted that one division where 88% of staff indicated this is true "always" or "most of the time" in their school, is a division that has a focus on a "continuum of educational services" within a philosophy of the "most enabling environment". While an inclusive philosophy is inherent, this division does not have the strongest philosophical statement on inclusion *per se*.

Graph IX-2
School Operates on Philosophy of Inclusion*



** "Always/Most of the time"*

In one urban division, a school team described how they operationalized inclusion in their elementary school.

> *We believe in integration in this school, in this division, and that means students spend as much time as possible in their home room classrooms with their home room teachers. The spin off is that, I believe, the other students who are not Level II's and III's in our school have a lot of respect and tolerance for Level II and III children . . . we have an assembly where a child might be vocalizing in some way, shape or form, our kids don't pay any attention to it because that's okay, there is nothing wrong with that. So there is a real positive spin-off.*

However, in this same division, one of the student services administrators commented that, while their schools have tried to resist clustering and take

a more integrated approach, *"they're feeling the pinch financially . . . there is more clustering at senior years and a concern that we are moving toward containment mode as parents hear the extent of problems within the school system".*

Most urban divisions in the case study do provide some specialized programming for students with particular kinds of special learning needs. Behaviour issues seem to be the most prominent of these. While integration into their home school is the first choice for most students, one urban division has developed pilot programs for students with severe behaviour problems with different programs depending on whether behaviour results from cognitive damage or environmental conditions ("not knowing the rules"). A clinician working in another urban division was concerned that *"the kind of classroom recommended for ADHD, FAS/FAE and autism is the same (few distractions, etc.)"* but was not considered a viable option: *"one school wanted to cluster these students for optimal learning . . . [but] the idea was rejected because it was considered segregation*".

For students in the urban case study schools, inclusion in the home school with their same age peers is the first - and most frequent - choice. Common practice is that students with physical disabilities or mental challenges are integrated into classes. Students who require short term intervention receive support from resource either in or out of the classroom. In particular cases where more individual attention was seen to be warranted there was a focus on "*socially integrating the students, rather than restricting integration to an academic setting*" [special education teacher].

As one Student Services administrator stated (and this would appear true in most of the urban case study situations):

> *. . . basically we have a philosophy of inclusion. The physically and mentally challenged students are with their age/grade appropriate peers at the elementary level. There is more clustering for middle and senior years where the content is more demanding, but we try to integrate into regular classroom activities as much as possible with supports . . . there is a team approach with the school support team consisting of resource, guidance, CGC clinicians, paras, classroom teacher, building administration, parents, and community support workers (such as CFS).*

In the rural and northern schools there was much the same pattern. Most have a focus on inclusion or integration and there is an acknowledgment that things have changed over the years. As one Student Services administrator noted:

> *we've developed a continuum of services that's inclusive. There's a three to one focus: school, parents and community focus on the child. [We] Look at the child's special needs and how to meet them, for example, medical, family needs that aren't addressed in the context of regular education. [We] provide alternative forms of education to meet a variety of needs.*

In this same division, one teacher noted:

> *There's been an increase in inclusion. This is the first time I've had a student with CP who's, I'd say, he's a severe level and needs a TA . . . in past years kids who have been that severe, just haven't been included in the gym, so they didn't take Phys. Ed. at all.*

Another Student Services administrator echoed that their division was now operating on a model of inclusion, where programming for students was individualized, but they did not have specialized classes. Instead they have put in more resource supports and "*an on-site guidance counsellor for younger students*". This was confirmed by a teacher in this division who said:

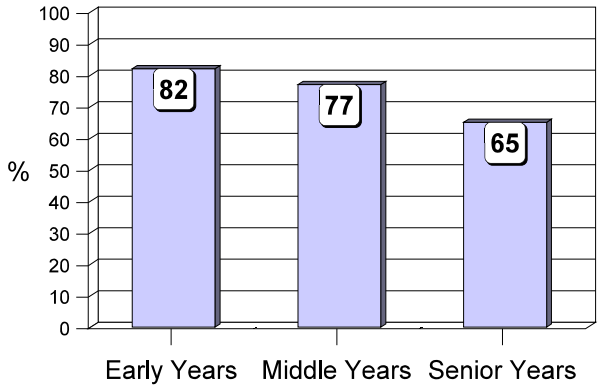
> *we operate from a model of inclusion that tries to empower kids to become independent . . . I make the necessary modifications so each student can stay in class 100% of the time, unless they want to leave to read or to have focus time with a TA.*

Finally, it should be noted that in the very small schools - whether they had been in small remote northern communities or in small isolated rural communities - the practice is that students are integrated into classrooms, although few supports may be readily available. The most common support is the teacher assistant who will work with individual students in or out of class, helping them with reading, math or spelling.

ii. Level of School

Differences were more striking by the level of school. The overall staff data were analyzed by the level at which staff spend the majority of their time (i.e., early years, middle years, senior years). When comparing across levels it is evident that integration into classroom activities is most common at early years (Graph IX-3).

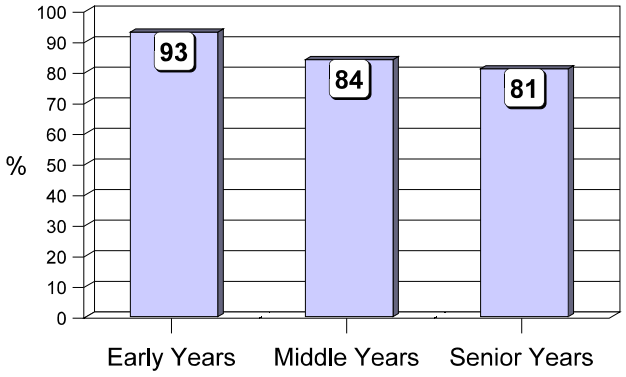
Graph IX-3
Students with Special Learning Needs Integrated into Classroom Activities*



** "Always/Most of the time"*

Early years staff were also most likely to indicate that their school operated on an inclusive philosophy "always" or "most of the time" (Graph IX-4). The other case study evidence provides some insights as to why this might be the case.

Graph IX-4
School Operates on Philosophy of Inclusion*



** "Always/Most of the time"*

In some of the case studies the differences between the elementary/middle years schools and the high school within the same division were clearly

evident. In one elementary school everyone (teachers, resource teacher, counsellor, community members) described the school as "child-centred," which is not a term widely used in the senior years school. The elementary principal's philosophy was clearly demonstrated in the school:

> *Number one, we're here for the kids. Any decision we make we ask 'will it be good for kids?' All kids have the right to an education, to excellence, to be as much as they can be . . . we don't give up on them. We love them and they know that. Catch them being good. We keep trying until we find what works with that kid . . . success breeds success.*

In another division where the elementary/middle school "*aims to work as much as possible in the classroom, with team teaching and maximizing support,*" the high school remained more in the mode of streaming students. As one school administrator stated: "*administratively, we made a decision to program for kids in groups*". However, as one special education teacher in the school observed:

> *When I first started, it was totally segregated. There has been a real tremendous attitude change towards special needs kids. . . . teachers will bend over backwards to include kids.*

The issues of senior years is difficult. High schools tend to be curriculum-driven rather than child-centered. There is also the issue of "more demanding content". The example of one young woman with Down Syndrome is telling. She had been integrated into classrooms with her age peers in her neighbourhood school. At senior years her parents chose to send her to a special program in one high school

> *. . . with great heartache. She had been integrated into regular classrooms all through school, but her parents were concerned about her being at risk in high school . . . [however] she is integrated in the [school] community, into the choir, into the canteen, [but] not into Math and English . . . the philosophy is holistic and inclusive. You have to look at the whole person. Everyone has something to give. She helps the wheelchair kids. She will help with the decorating for grad. The school gives her social integration.*

The young woman won an award for volunteering and graduated in June.

Summary

Practice varies across schools, including between two schools in the same division. It also varies according to the special needs of children and by the level of school. One trend we observed was that early and middle years schools (elementary schools in particular) were more adept at putting an inclusive philosophy into practice. Not only is there a tendency for schools to adopt a more child-centered approach in these years, but curriculum demands are not as intense. Geography has an influence, but more in terms of the supports that are available in the smaller, more isolated communities.

It appears that many things beyond divisional statements of philosophy influence the model of delivery that is operationalized in schools, one of which is the leadership and philosophy of the school principal.

b. Flexibility

To what extent is there a need for flexibility in the system? This question exists at two levels: 1) flexibility from the province for divisions to take into account their local contexts when developing divisional plans and allocating resources; and 2) flexibility at the school level to provide appropriate services and programming for individual students. Questions of flexibility exist within a context where there is discussion of the need for equity and minimum service standards.

In most cases, the divisional Student Services administrators were the people who commented about the relationship between provincial practices and divisional flexibility. (For more discussion, see the following section on provincial policies, practices and procedures.) Student Services administrators valued having the flexibility to address their local needs, although, there was also a desire for some consistency in basic service delivery standards.

Regarding flexibility at the school level, one Student Services administrator stated:

> *there needs to be a variety of models for people to use in schools, but there also needs to be some 'givens', such as each school having a resource or special education teacher - it's the same as*

provincial policy, there are some things you should be required to have.

Some of those interviewed at the school level saw the need for "*more alternative programming options and more flexibility to address the needs of lower functioning students (like FAS/FAE)*", particularly at the middle years. However, most felt that they had the appropriate amount of flexibility at the school level from their division:

It's really hard in a program like this, with students and families that you know do have such individual needs, but I think the division has been very, very open to try new things . . . and I think the division has been really supportive and very sensitive to the needs of the family as well, so I would say that they've been very flexible.

What was viewed as limiting school level flexibility was the pressure of some provincial directions (for example, "M" designation standards testing and new curriculum), as well as contextual features such as geography, funding and school size.

< *Flexibility is limited . . . partly as a function of isolation and partly as a function of cost*" (related to service delivery in small, isolated communities).

< *Special needs means a special outlook, means flexibility [but it also means] funding flexibility - 5% doesn't do it.*

< *The school is not flexible enough, it's so small. They don't have the resources. They're so busy trying to deliver the basic program that it's hard to be flexible.*

Interestingly, the staff in some other very small schools, did not see school size as this kind of limitation: *"the school tries to be flexible and responsive to individual student needs. Teachers have to adapt to help students. In the last five to eight years teachers have come to realize they must be more flexible."*

Summary

Within the system there is a desire to retain a certain amount of flexibility so that both at the divisional and school level, services and programming can respond to local contexts and student needs. At the same time, the need for some underlying set of "givens" or service standards was recognized, particularly by Student Services administrators.

4. Provincial Policies, Practices and Procedures

This section will present case study participants' views of current provincial policy (guidelines) including recent provincial documents such as Success for All Learners (handbook on differentiated instruction). The section also discusses case study participant's opinions and experiences regarding procedures and practices, particularly in the area of funding for special education (criteria for funding, administrative procedures). Some feedback on the administrative changes that were made by Manitoba Education and Training is included from the case studies that were completed after April 1998.

a. Provincial Policy

Many participants in the case studies expressed the need for changes in provincial policy. In the view of Student Services administrators this ranged from:

> *the provincial policy is an antiquated document which doesn't provide up to date guidelines, no best practice - it misses the mark . . . policy is needed to address EBD kids that seem to be an ever-increasing reality . . . [but] by and large what we have provincially is a good system. It beats others, but it is time to add to it.*

Another student services administrator commented specifically on the role of policy in relation to public accountability.

> *The Department [Manitoba Education and Training] needs to take a leadership role, but do this in conjunction with schools . . . they need to retain the ADAP as a vehicle that provides some form of*

accountability to the Department and the public . . . it is an official document ... it is approved by the school board . . . If provincial policy is going to support a truly inclusive model then the supports need to be in place to make it work.

Most comments about the provincial policy pointed to confusion or lack of clarity about some provincial directions. While there were concerns about how differentiated instruction (DI) related to provincial initiatives such as new curricula, standards testing and the modified ("M") designation, most of the confusion seemed to arise from a lack of understanding about how these directions fit together. In other words, educators were not seeing the connections, rather they tended to perceive contradictions. They did agree, however, that the Success for All Learners (document on differentiated instruction) was very useful and of high quality.

The following comments illustrate the concerns raised consistently across all case studies.

< *These struggling learners need to be able to develop their skills. They could become very productive human beings. But the value this new credit system is placing on the foundation subjects . . . such a huge importance on Language Arts and Math . . . the 1950's thinking that all these kids were university-bound, that you can't live if you don't have these credits. The multiple intelligence model needs to be valued. In the light of DI, these requirements are ludicrous.*

< *The "M" designation I think is upsetting a lot of people and it worries me that we've gone into something that's so restrictive for kids . . . I don't think its the right answer. Because they're slotting again and the whole philosophy is sort of funny compared to the DI document . . . we're really sending a dual message.*

< *We've completely individualized supports with complete inclusion [except low incidence students some of whom are in special classes] . . . if we can't do what the government wants we will have to step back in time and group the high incidence kids. We have intentionally avoided a cascade model and try to have all kids in their home school. But we're running into too many kids with too many needs and no money . . . "M" will prevent them from graduating. If we maintain the provincial standards, there will be an increased drop-out rate [and] more kids with no skills.*

< *[Student Services administrators/coordinators] do not want "M" opened up. It should be for kids with low cognitive functioning . . . It should not be for former OEC program students, but another designation is needed to handle these students.*

< *Success for All Learners is excellent, but we can't marry this to exams in January and June. It's not consistent. We may need multiple settings, opportunities to re-write without re-taking the whole course . . . we're not against assessment but it should be consistent with Success for All Learners . . . and it's horrible at grade 3. We recognize you need to see the range [of achievement] , but it just stresses kids out.*

Another issue that emerged related to policy was the lack of clear definitions for terms such as "special education" and "at risk". In some cases the Student Services administrators commented that the use of the term "special education" in their division did not include all student support services (e.g., resource programs services for students at risk). "Special education" referred specifically to students with exceptionalities (Level I, II, III students); a definition more limited than that used in the Manitoba Special Education Review. Who is included in the definition of "special education" varies across divisions. Similarly no consistent criteria are used to define who might be considered students "at risk".

Summary

Clarity in policy direction for is lacking according to the comments of the case study participants. They are confused by what they perceive to be conflicting policy documents. They applaud differentiated instruction and Success for All Learners, but believe it to be in philosophical conflict with other provincial initiatives. Furthermore, there is widespread confusion about the "M" designation and a concern that, in combination with provincial standards testing, it may lead to higher drop-out rates.

b. Provincial Procedures and Practices

The distinction between policy and procedures/practices appear somewhat blurred in the Manitoba experience. Issues such as the "M" designation were raised both under policy and under procedures. This section will focus primarily on procedures and practices around funding (administrative

procedures), the application of funding criteria, as well as (in a few case studies) response to the April 1998 administrative changes. The case studies are discussed together as the issues and perceptions of case study participants were highly consistent across all case studies.

i. Funding Categories and Criteria

The Level I category of funding was perceived as problematic by many case study participants, primarily because of the range of needs that must be addressed through the amount of Level I funding that a division receives. Resource teachers commented:

> *I think the Level I classification is way too broad and highly unfair. (Chuckles.) Because I am having students who are Level I who are cognitively delayed and are mentally handicapped and don't receive any extra funding and I also have kids who are - who have an auditory processing problem who are also Level I and have needs but their needs are very different and the level of need is different. The learning disabled kid who needs lots of help learning to read isn't the same as the mentally retarded child you know. And yet they all fall into the Level I category. The behaviour issue kids also fall into the Level I category. I think it's too broad, the Level I.*
>
> *LI kids are more needy than the amount of support they currently receive . . . we need to look at the whole goal of schools - academics - we don't have the resources to achieve those goals.*

In one urban school division the concern was expressed by the Student Services administrator that:

> *we have the supports in place, but then we have parents moving into the area because of those supports . . . criteria for Level I funding needs to be expanded to address the needs of more students.*

Related to this issue is the fact that some students who are considered to be in the Level I category require specific supports if they are to be integrated into their neighbourhood schools. As stated by a Student Services administrator:

There is a population of kids who are at risk walking to and from school, but there is no funding if they are walking to and from their home school, this is the population that can't be integrated without support (for example, Down Syndrome). On the other hand there are some students who qualify for full time support who don't need it. They need monitoring throughout the day, but not a full time para-professional assigned to them.

Many educators reported that they felt that the funding had become more stringent at Levels II and III, part of this was a perception that *"the style of funding has changed".*

Very narrow restrictive criteria on who gets L II . . . the interpretation of what is 'profound' seems to have changed . . . documenting and meeting the criteria for L III funding is more straightforward.

Educators did not always seem confident that they understood the criteria for the Levels and the application of the criteria - *"I think the categories are too narrow. Do we apply for the autism or do we apply for the behavioural issues, which ones are you going to get more funding for?"* Parents also expressed confusion at how students meet the criteria for funding at the various levels - *"What are the criteria that my daughter isn't meeting?"*

Certain needs were perceived as increasing. Educators felt that this should be acknowledged in the criteria for funding. For example a resource teacher explained:

FAS has to be acknowledged as an Level II need. You need a TA with them all day long and you have to steal from an LI who could improve his/her social skills. FAS/FAE is one of the biggest challenges educators have to deal with.

Behavioural issues were also raised in conjunction with the discussion of Level II funding as it was by the resource teacher who stated:

What I don't think they understand is the students that they are putting as Level II which are often EBD kids or handicapped kids with behaviour issues are way more difficult to work with than a student who's in a wheelchair and needs assistance with toileting . . . and I'm not disagreeing that changing diapers and lifting and putting them in their walker and all of those things. Coming to school and being

called a bitch and told to 'F-off' . . . and knowing that you're not allowed to touch that child no matter what they say or do to you - that's stressful.

ii. Funding Process

The process of applying for funding also engendered many comments from case study participants - educators and non-educators alike. There was concern on the part of parents, clinicians and educators about having to make the child 'look bad' in order to receive funding.

< *I resent persecuting him instead of celebrating his success, every year he has to seem like a really bad child to get support . . . and I resent that* [parent].

< *we have to seek the worst in kids to get funding . . . they are looking for the extremes and this has a devastating effect on the parents* [Speech and Language pathologist].

< *Level II funding should be sustained while the child is gradually taken off it, rather than an immediate end . . . don't show positive progress on the funding application because then they are less likely to receive funding* [principal].

< *The process of putting resources in place is very politically driven. We need to find a kid-friendly, parent-friendly application process. Why should parents have to go to 15 outside professionals for recommendations and letters?* [resource teacher]

Another concern about the funding process was the amount of time the process consumed. Prior to April 1998, children whose needs did not change still had to have an application submitted every year. The annual application for some children was viewed as unnecessary and time consuming by case study participants who recognized the difference between long term and short term student needs.

The way they produce the funding application now is ridiculous in terms of length, time consuming meetings and trying to gather this information and nobody letting the information out. It puts a tremendous bureaucratic burden on staff that the kids who are

funded for physical reasons (e.g., deaf students) that are not changing still need to go through the process every year [para-professional].

It's become too focused on forms, meetings, administrative things and not kids. More and more time is spent on the requirements to get services and less and less on actual delivery. Needs have become more acute because the classroom teacher has become key and they don't have the training [teacher/counsellor].

The frustration of having to "label" students also arose as part of the discussions regarding the application process. Some saw this as counter-productive for the child.

Children have to be labeled and lots of energy is spent looking for the right hook to get the funding, instead of looking at this child and what this child needs . . . there is a label block . . . are we looking at kids or just to get the money? If we helped them a bit we could avoid the life-long label [mental health worker].

In a number of the case study divisions, there was also a concern that funding for EBD children could not be accessed if the parents were not involved.

And now they're putting the onus on us to make sure that there are programs outside of school. So if we're not getting parental support, that will be the reason for not giving us the funding [resource teacher].

This was also an area where there were some concerns specific to remote northern communities because of the economics of some First Nations communities.

In many communities it's extremely difficult to get 24 hour Behaviour Plans in place . . . parents go off onto the trap line for two and a half to three months and an aunt or neighbour looks after the kid. Therefore, you can't write a plan with parent support which the Department says you need [Student Services administrator].

Another concern was in the consistent application of funding criteria across school divisions and sometimes even among schools within a division.

[There is] concern about consistent application of funding criteria ... kids who qualify for LII support in other school divisions or grade levels [principal].

Correctly or incorrectly, parents expressed concerns that changes would occur as their children changed schools within a division.

it seems to be an understanding that in the Senior High, originally funded students don't get support anymore. So next year [my child] is expected to walk into a high school and be one of the students [parent].

Relatedly, there was a perception that there was an invisible "cap" or ceiling on the funding above which Manitoba Education and Training would not provide funding.

I hear, from pretty accurate sources that, there are many kids with more minor difficulties, that get funding. So, I sometimes wonder whether they put a cap on this ... 'No matter what kids you have there, we're not going to give you ...' They can't give [one school] 20 and another school nothing [principal].

iii. April 1998 Administrative Changes

In the four school divisions where case study data collection continued after the April funding announcements, Student Services and other administrators were asked for their opinions regarding the changes. The discussion centred on the dates and process for the funding decisions, multi-year funding for certain students identified as having long-term needs, and the timing of the April 1998 announcements.

Some concerns about funding dates which meant that in some divisions they would not be able to finalize their staffing prior to the start of the school year, whereas previously everyone's funding would have already been determined.

. . . in September we can't assign staff [because we won't have the funding decisions] . . . it's also a problem with [federally funded] students because their programs are on hold and won't be able to

start them until October. The date [we've been given] just doesn't fit with hiring practices [Student Services administrator].

Student Services administrators also expressed a sense of uncertainty: *"We used to be able to predict what would happen but now we can't . . . I feel like I'm caught in an erosion of trust".* Perhaps because of the fact that three of the case study divisions were in large centres, concerns about equity in the old process were not expressed: *"we had a good relationship with the Regional Manager . . . we could sit down and look at things together".*

There was support, for the multi-year funding of students requiring long term support. This change was viewed positively as it addressed a long-standing concern. The use of IEP's as a foundation for Level II and III submissions was accepted and perceived as reasonable.

As previously mentioned, one of the Student Services administrators expressed regret that the ADAP's were being phased out, as they had been a very valuable tool.

Finally, no one interviewed was impressed that changes were made during the Review process.

It was a mad scramble to anticipate the Review and now there's panic all around because of the [recent] changes.

Why did they do this now? There's been concern at every meeting [about the timing of these changes]. The people who know are not happy . . .

Summary

The Level I category was perceived as problematic in that it is not rich enough to provide supports to all the students who require them. The criteria for Level I and Level II were questioned, particularly regarding students with particular needs who did not qualify for Level II categorical support.

The application process was viewed as too time consuming, particularly for those students whose needs will not change significantly from one year to the next. The negative focus of the funding applications was also noted as incongruent with the positive focus necessary to foster successful student

outcomes. Concerns were raised regarding the fairness of the funding procedures, including the widespread belief that there is an "invisible cap" which results in some schools receiving funding for students who would not be funded in other divisions. The perception is that each school division is allotted a maximum amount of funding an ("invisible cap") that cannot be exceeded despite the number of students identified as needing funding.

In the case studies that were conducted after the April 1998 announcements, the changes received mixed reviews. There was general dissatisfaction that changes had been made while the Review was in progress. There was also trepidation about how the "unknown" process would work in practice. Funding dates were viewed as problematic in some cases because of the need to make staffing decisions for the beginning of the school year. There was consensus that multi-year funding for certain students was a positive move which addressed a long-standing concern.

c. Legal and Charter Issues

The case studies did not emphasize questions of legal and charter issues. When raised with administrators, comments were few. However, two of the Student Services administrators expressed a desire for a revision to Manitoba legislation: *"there are no provincial policies . . . we need to look at policy and legislation that protects kids".*

One school principal asked a question arising out of a different legal issue that had not been designated as a Review question, but which reflects the concern regarding an increase in serious behavioural problems: *"Where do we stand legally when we are not able to provide the supports needed to keep others safe from kids with EBD?"*

Summary

The status of legislation regarding special needs students was not an issue explored in depth in the case studies. Where concerns were raised, they came from educational administrators, the people who would be most likely to have to deal with legal challenges.

5. Quality and Effectiveness of Special Education Programs

This section will discuss elements related to the quality and effectiveness of special education programs including:

< identification and assessment practices, as well as the status of Individual Education Plans (IEP's) in case study divisions;

< factors identified in the case studies as being important in a supportive learning environment;

< the status and need for culturally appropriate programming;

< the perceptions of parents, students, educators, and other service providers as to whether current programs and services are meeting student needs;

< practices regarding the evaluation of special education programs and services; and

< the use of financial and human resources (including training and professional development issues).

a. Identification, Assessment and Individual Education Plans

i. Identification

How does the process of identification work in the case study school divisions? When does it occur and who is involved?

Identification of special learning needs, of course, occurs at different times depending on the child's exceptionality. For example, for students with visible disabilities and other obvious special needs, these are usually identified early on in the child's life, prior to entering the school system.

Many of the clinical and community health professionals in the case studies commented that: "*The health system seems to be picking kids up earlier. Most students are identified before entering the [school] program*" [Speech/Language Pathologist]. As a mental health worker noted "*referrals come from physicians and other health care professionals*". In many of the case study divisions (in rural, urban and northern settings alike) there is a conscious effort to connect pre-school services.

> *We connect with the daycare and target kids during the registration year . . . . sometimes physicians call to flag kids or the SMD [Society for Manitobans with Disabilities] calls or the district resource teacher [resource teacher].*

In one urban school division, an Early Childhood Transition Network has been meeting for a number of years. It brings together professionals from the school division, the CGC, the Child Development Clinic, the Rehabilitation Centre for Children, Children's Special Services, the Society for Manitobans with Disabilities, Child and Family Services as well as other agencies to track pre-school children who have been identified as needing special supports when they enter school. Again, identification occurs early and this intersectoral approach helps to ensure that the appropriate programming will be in place for the child.

Even with improving early identification, gaps remain. As one public health nurse in northern Manitoba noted: *"We offer to do assessment of three and a half year olds . . . [but] diagnostically we are missing a lot of the FAS kids".*

If students are identified prior to school age, schools and divisions generally attempt to have some type of formalized intake process. For example, one urban resource teacher described a process which occurs prior to placing the child in a school setting: *"a meeting is held for children identified prior to school, consisting of parents and school division people to decide on the best school for the child".* This practice is certainly not limited to the urban context or to larger school divisions and communities. As one Student Services administrator in a small rural setting stated:

> *We meet with parents in the fall and spring and have meetings at all schools to identify kids having trouble . . . We work closely with the nursery schools for early identification . . . if we know there is a problem we have them tested.*

Schools, however, do play an important role in identifying students' special learning needs in the early years, particularly in kindergarten and grade one. The case study evidence suggests that across the province there is some confidence that early years teachers are doing a credible job of identifying special needs.

< *. . . then we have screening for other children coming into the school who were not identified earlier . . . we assess the pre-reading and writing skills of kindergarten students every six weeks . . . I think we have a really good handle on identifying children who are lacking in language skills, fine motor skills, all of those things, because we target that really early in the process [resource teacher - urban].*

< *The kindergarten teacher does an assessment with the Reading Recovery™ teacher on the highest at risk students even though you may have a list of 12, you take the top half dozen and those are the ones that you put into Reading Recovery™* [school team - urban].

< *Teachers are very good at identifying family situations . . . the teachers are open and very observant* [counsellor and resource teacher - small rural]

< *The teacher's role is important in identifying the students with difficulties, starting in kindergarten and also in grade 1 . . . the reading program picks up kids with difficulties* [teacher - medium rural].

< *[our division] has been implementing the Early Identification and Education Programming Process for all children at K to 2 . . . the team includes parents, classroom teacher, resource teacher, and principal.* [Student services administrators - large rural].

Sometimes when students are not identified until kindergarten, that becomes the time when placement decisions need to be made: *"Students are identified in their home school and parents meet with the school division and apply for the [appropriate] cluster program" [resource teacher].*

While there are many instances of early identification being done well, it is not always consistent across the province or within school divisions. There are some gaps, such as the one described by a rural teacher:

"*Students are identified if a student is struggling and there's concern by the parents . . . a crisis brings on services . . . [then] there are referrals, testing*".

Another example was a parent in an urban division who expressed frustration regarding the ineffectiveness of the early identification process in the case of his/her child.

An audio learning disability was diagnosed in kindergarten and a speech problem later . . . but only in grade 8 was she diagnosed with a learning disability, because I contacted the school when I noticed my daughter's frustration and how much she hated school. If she'd have been diagnosed earlier she could have been a success . . . they should've started [programming] in kindergarten when it was discovered, [now] she is psychologically and academically unable to try.

Although division philosophy plays a role in the approach that is used in identification, in all instances the importance of the classroom teacher cannot be underestimated:

< *We do not have a formal test to identify kids, we use a more holistic approach . . . a lot depends on the strength and ability of the classroom teacher* [Student Services administrator].

< *The classroom teacher brings the student to the attention of the SERT (Special Education Resource Teacher] who takes a work sample. Referral is made to CGC for assessment* [Teacher - integrated program].

In the case studies there were particular populations that seemed to elicit specific comments regarding identification practices, including gifted students and Attention Deficit Disorder (ADD) students. In both cases, the opinions offered highlighted the divergence in how identification occurs. They point to the fact that while, for some exceptionalities, early identification occurs consistently, for others it does not.

<u>Gifted:</u>

< *Students for the [gifted] program are selected based on CSI scores from grade 3 and teacher recommendation* [teacher].

< *Often teachers don't know how to identify the smart kids* [elementary principal].

ADD:

< *In the past five years, ADD has been [better] diagnosed, previously they were considered 'kids who couldn't stay still* [teacher].

< *The ADD label is used too often . . . [so] they don't get the help they really need* [psychologist].

Another related issue concerns the transition out of elementary school, where students must be 'identified' for secondary (which may be junior high/middle years or high school) programming. Again, in the case study divisions, overall, there appears to have been a concerted effort to address this transition issue, whether the division be northern, rural or urban.

< *There is an elaborate team model including teachers, parents, agencies, administration and maybe the counsellor, the resource teacher and maybe the kid. It's a process that takes a month and a half starting in April when the resource teacher and administrator make visits and talk to the staff in a formal team meeting. They talk about each grade 8 student, record issues so they can be followed-up. They do a very good job of finding kids who need consideration. It's all data-based. Receiving teachers receive a record, information, to help them with family liaison. Plus we have an "alert" file for high special needs so we are prepared prior to intake. Special program placement is based on this [resource teacher - northern].*

< *We hold interviews with feeder schools and identify students at risk, with academic or guidance problems. Later in the year the at risk are surveyed. Last year 40 were referred to student services [resource teacher - urban].*

< *There is good articulation between sending and receiving schools in the division . . . however you can be blind-sided by people who transition in from outside [the division]. You don't get their background* [high school principal - rural].

The quote immediately above also speaks to the fact that although articulation may be effective within school divisions, it does not always translate to effective practice across divisions. Whether or not students are

identified appropriately, if a receiving school is not aware of a student's history, all is for nought.

Conversely, there is still the occasional school where the philosophy suggests that the students' past is not of particular consequence. While it can be understood that receiving teachers do not want to assume a predisposed bias towards any student, the danger is that benefits of early identification and effective programming may be negated: "*[we do meet with people from the elementary school] but I don't always buy what they say. I like to make my own opinions* [high school principal].

ii. Assessment

Identification is closely linked to assessment. Again, we ask questions regarding how assessments are conducted, who is involved, how it is communicated, and how results are used.

In the case studies, assessment practices were generally described as multi-faceted. Techniques cited included, but were not limited to, observation (including both of structured tasks and cooperative play), standardized testing, informal testing, and language sampling. There was concern expressed in one urban setting that:

> *Rarely is there assessment of the student's behaviour . . . it's more just coping with it. There is a lot of time spent labeling students, but there are no programs available for kids once they are identified* [counsellor].

However, the more common concern was the amount of time taken by assessments: "*half my job is assessing kids who are suspected of having special needs or having academic difficulties and the school would like some help in pinpointing the reasons why*" [psychologist]. Relatedly, because of the time needed for clinical assessments and the lack of staff to do them, long waiting lists were a concern that was echoed across the case studies. The problem (as cited in the second quote below) is that as more urgent needs arise, students are bumped back down the list.

I have another severely FAS [student], although he hasn't been assessed and there's a huge waiting list and he's on that six month waiting list [resource teacher].

I have a list here of nine children who need a psych assessment . . . of those nine children, psychologists can take two a year [from our school]. I have had people on this waiting list for as much as five years because you get new children coming in and you don't know much about them . . . someone on the waiting list who has moved up to number two now moves down because the other person comes up. It's a dynamic list [school team].

In one division, concerns regarding the "M" designation re-surfaced as part of the discussion of assessment.

With the new guidelines for who we can modify and who we can't, we really need to use our psychologists to do this massive testing because otherwise we can't prove that they should be modified unless we have a psychologist with an IQ number - which we all object to . . . and its very upsetting to think that we are going back to that [resource teacher].

There was also some concern expressed in various divisions regarding the resistance of parents to certain types of assessments, particularly psychological assessments.

We make a recommendation. You know a psych assessment needs to be completed and a lot of the time the family's resistant - the kids are resistant to it too - the schools are overwhelmed with what they can do and a lot of the time it doesn't get done [school team].

It's hard work to get parents to understand that assessments are crucial [Student Services administrator].

In many cases, efforts are indeed made to involve parents in the process. Again, this is not limited to urban or larger rural areas. As was noted in one northern school:

Assessment is done and the reports are sent to parents, the teacher and the administrator. Then programming is put into place by a collaborative team of teachers, the school counsellor, clinicians,

administration, and usually the parent, depending on the severity [teacher].

In an urban setting, a social worker described how *"sometimes after the initial assessment we look at additional factors and we set up an initial meeting with the family where we do part of the assessment".*

The role of parents was not the only one singled out as being important. Resource teachers in the school (sometimes these may be Special Education Resource Teachers or SERTS) not only play a role in the assessment process, but also oversee the programming that results. When the resource teachers are not well trained for this role, concerns arise.

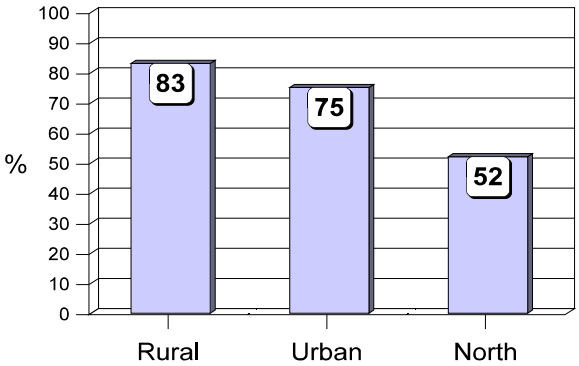
Realistic goals are not always set for students and it is difficult to monitor them . . . resource teachers are not given the training they need . . . resource teachers should be leaders and should be seen as leaders [Student Services administrator].

iii. Individual Education Plans (IEP)

A discussion of IEP's revisits some of the same issues that were raised around assessment practices. Do schools use a team approach? Who is involved in the process? The staff survey data provides an overall picture of how school staff view the answers to these questions.

Overall, 75% of staff surveyed across the case studies indicated that their school "always/most of the time" uses a team approach for developing IEP's. There was some variation according to geographic location, with rural school being more likely to concur (Graph IX-5).

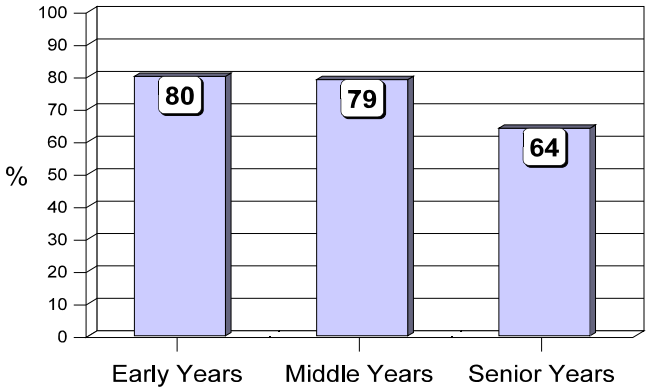
Graph IX-5
School Uses a Team Approach for IEP's by Location*



*"Always/Most of the time"

Differences were also observed by the level taught, with early and middle years staff being more likely than senior years staff to say that a team approach was used "always/most of the time" (Graph IX-6).

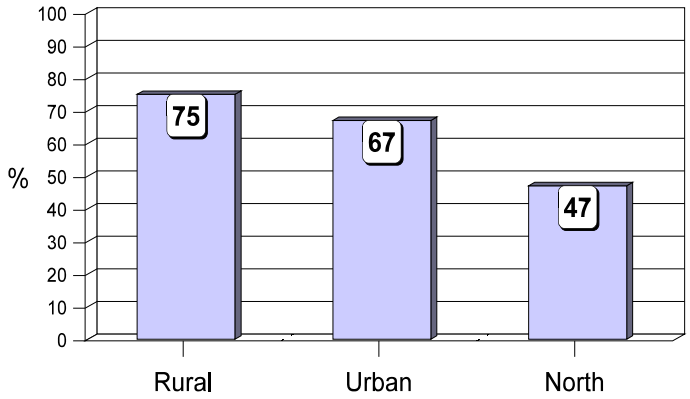
Graph IX-6
School Uses a Team Approach for IEP's*
by Level



*"Always/Most of the time"

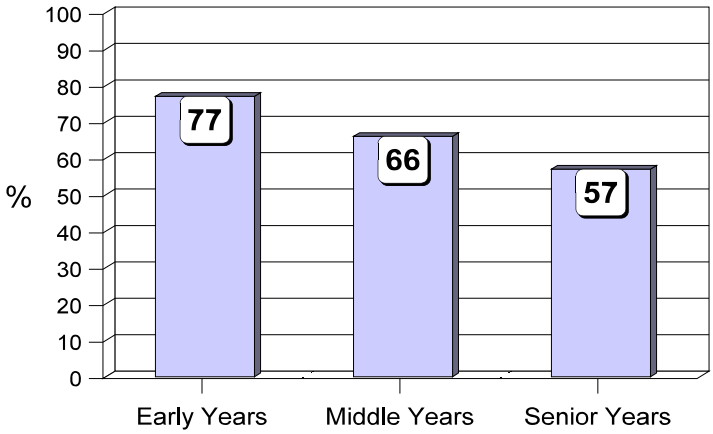
What about the involvement of parents in developing goals and educational plans for their children? Overall, 67% or two thirds of school staff surveyed indicated that parents were involved in the process "always/most of the time". Involvement appears greater in rural divisions according to school staff (Graph IX-7) and steadily decreases from early to middle to senior years (Graph IX-8).

Graph IX-7
Involvement of Parents in Developing Plans*
by Location



*"Always/Most of the time"

Graph IX-8
Involvement of Parents in Developing Plans*
by Level



*"Always/Most of the time"

The other case study evidence confirms that there is variability in the IEP process regarding which students have IEP's, who creates and monitors the plan, and how parents are involved in the process. An IEP (sometimes by a different name) is, nevertheless, an accepted and generally valued tool in programming for students with special learning needs.

Who has IEP's? Again this not only varies across divisions, but also across schools within the same division. Divisional policies may state that all students with special learning needs or whose program has been significantly altered will have an IEP. Consistently, Level II and Level III

students do have some form of IEP, even if "*they are done to meet funding requirements and are not revised or evaluated as a team*" [counsellor]. But, in many schools, students who are Level I or who have some kind of special intervention or program have a form of IEP. The following examples come from case studies in all areas of the province.

< *We prepare instructional plans for all LI, LII and LIII students . . . the resource teacher writes up the IEP... we use a resiliency model . . . we are trying to identify students early and put supports in place . . . we are also trying to work with the home* [principal].

< *I don't have a hard number . . . but I bet you it's close to 20% of the kids. I mean every classroom has, I don't know, five to six IEP's to do. It's close to 32% of kids that are identified* [school team].

< *The division focuses on LII and LIII but I like to do a mini-form of IEP, something for the resource file for a record for the high incidence and LI students* [resource teacher].

< *All LI students have an IEP which the parents have to sign, but they are less detailed than the LII and LIII IEP's* [Student Services administrator].

On the other hand, there are also circumstances where teachers of special classes indicate that the students in their classes do not have IEP's: *"I don't have time to do IEP's* [teacher in an alternative class]; *I haven't seen the IEP's but I know the kids are on individual programs"* [teacher - behaviour class].

In most cases, a team approach is used in the development of IEP's. However, the membership of the team varies according to the school's philosophy, the availability of the various players, as well as the child's circumstances.

< *The teacher, resource, divisional support services and outside agencies are all involved in the IEP process. Resource performs the academic assessments. Twice a year minimum, there is a meeting with parents, support staff, the special ed teacher, the student - in the case of older students - psychologist, resource and the classroom teachers* [assistant superintendent].

< *The IEP goal is to increase integration of special education students . . . I do some IEP's, the counsellor does behaviour, resource does academic . . . the parent, teacher, TA's, counsellor, psychologist, CFS, Mental Health - all the people who are appropriate are involved* [principal].

< *IEP is outcome based . . . we have a strong process using continuums . . . parents are involved in the IEP process* [Student Services administrator].

< *We meet as a team with parents and SMD to determine what life skills are needed. Goals are often social, not academic* [Special Education Resource Teacher].

< *We set up a meeting with the parents to start a partnership . . . may request medical tests, or agree on [other] actions . . . there is weekly phone follow-up and meetings with the family three times a year to go over the IEP goals. We look at each child individually. If the goals haven't been met - 'why not?' - and if they have - 'why didn't we expect more?'* [principal].

< *We usually have IEP meetings three times a year where we invite all the consultants that are involved with the child, classroom teachers, para-professionals, sometimes the gym and music teachers, everybody sits around the table and talks - and develops the IEP jointly . . . we invite parents but it [their attendance] is usually quite poor* [principal].

What does not appear to be as common is the involvement of the child in the IEP process, recognizing that this is not always possible depending on the child's age and exceptionalities. However, some schools were moving more in this direction.

> *We've got input from everybody from the classroom teacher to the para-professional to the support team - parents where parents are willing to be part of the process and I guess the next step that we are looking at that we haven't been as actively involved with - but, you know, we see the involvement need is the kids themselves, so everybody is working together on the same page for the same goals [school team].*

In addition to student involvement, the role of para-professionals and parents in the IEP process also comes under discussion. For example, in some schools para-professionals are automatically included, while this is not the case elsewhere. Even within the same school division practices can differ from school to school as comments from these two para-professionals illustrate: "*I'm involved in writing the IEP and reporting on the student's progress . . . I feel very much involved in the problem solving*"; "*More credit should be given to the TA's - they implement the programs but have little input into the IEP*". As a para-professional in another division commented: *"IEP's are well done here . . . [but] my involvement completely depends on the people involved".*

It must be noted, however, that it is not always easy to include everyone in the IEP meetings; this can be particularly difficult in some situations with the para-professionals.

> *I tend to meet more separately with the different people involved because it's really hard to get everybody together . . . with para time so tight, it's really hard to free up the para-professional because usually if they have a para-professional they can't afford to be left without one [resource].*

Philosophically, everyone agreed that parental involvement as part of the team was important. As one parent noted: "*We work as a team instead of working against each other*".

Parents sometimes have differing experiences with the process of setting goals and developing plans for their child as part of multi-person teams, as these three quotations from different parents aptly illustrate. They are all in the same school division.

< *The school has been very supportive and the teachers have been fabulous. The IEP involves all the teachers, the aide and us. We talk about concerns . . . I feel comfortable talking to the teacher and the aide to get more information . . . the team approach is very important* [parent].

< *I have monthly meetings with the principal, teachers, psychologists . . . we do group planning to develop strategies to keep him in school . . . he [the child] is there for part of it* [parent].

< *I find the usual IEP meetings to be very, very traumatic . . . there are 20 professionals who all know my daughter differently . . . some are excellent but most are intimidating . . . they say things like 'she'll never do this and she'll never do that' . . . it was very negative. In the end I put in a request not to attend the meetings and just receive the minutes... I believe the person who runs the meetings should be a person you trust - an advocate* [parent].

Looking across divisions, the same phenomenon is evident, as is demonstrated by these comments from parents of Level II funded students in different divisions:

> *I go to all the meetings but feel that the suggestions that we [parents] make and the concerns we express are not always heard.*

> *We work as a team . . . we have meetings to discuss her [the child's] future . . . where she should be in six months . . . it works well. The meetings are beneficial . . . [I know] what's going on and what I can do to help at home.*

While the survey data indicated that at early and middle years the involvement of parents is more frequent, this cannot be generalized to every situation, as one grandparent observed: "*I appreciate that the teacher keeps in regular touch . . . communication is excellent . . . this never happened at elementary school*".

Summary

Although exceptions exist, the case study evidence indicates that students are often identified as having special learning needs relatively early - whether that be through the health system prior to school or in the early years of their schooling. Assessment appears to be more problematic, particularly given the issue of waiting lists for certain types of assessment. This results, at least in part, in a lack of early intervention services whether these be pre-school or early years services.

The IEP process is generally accepted and used, although the type of student who would be included varies across the case study divisions and this aspect is even more inconsistent in school-based practice. A team approach is acknowledged and, in most cases, implemented, although who

plays a significant role on the team is again subject to local conditions. While the case studies themselves present little quantifiable data, the evidence suggests that often - but certainly not always - parents are valued members of the team.

b. Factors Contributing to a Supportive Learning Environment

The assumption is made, in the questions relating to the Areas of Inquiry for the Special Education Review, that a supportive learning environment is one which accommodates the needs of all students and contributes to successful student outcomes. What are the factors necessary to create a supportive learning environment? Although the factors are many, the same set of factors are consistently described across the case studies.

i. Attitude

While it may seem obvious that people are a key ingredient to a supportive learning environment, there appear to be three particular aspects to this ingredient: having sufficient numbers of people, having people with the necessary skills and having people with a positive, open and supportive attitude. It may be that the last factor should be most emphasized. As one elementary principal stated: "*Hire for attitude; train for skills*". Parents and students agree, teacher understanding, caring and the ability to motivate students are very important.

< [We need] *young enthusiastic teachers with patience and an ability to motivate kids* [parent].

< *A good teacher is fair, a lot of fun, and doesn't punish you when you don't deserve it . . . when you are bored the teacher should be sensitive and challenge you* [student].

< *I was falling through the cracks before . . . teachers here [at this school] have given me an understanding of my abilities and strengths [Level I student].*

< *A good teacher has to be someone who understands your opinions and you have to count on the teacher . . . the principal here knows everyone by their first names. She is someone you can trust . . . there are lots of things to help kids if you are having trouble . . . there are people you can count on. I think that's what all kids need. Kids act really tough, but inside kids are sensitive . . . something might have brought back bad memories and you don't know how to express feelings, so you lash out and express anger* [at risk student].

The student's comment above is echoed by a Student Services administrator who said *"kids we are dealing with have 'human contact needs' and we need the staff to provide it".* He made the point that not only do you have to have the right people, you need to have sufficient numbers to work directly with the students.

> *I think we need more trained personnel that are working with children, because it's people that teach people. We spend a lot on computers and we spend a lot on those who do paper work, [who] write policies or whatever, [but] we need people working with children [school team].*

ii. Skills and Supports

If classrooms are to be supportive learning environments, teachers also need the skills to put appropriate plans and programming into place for all students. Not only do teachers need professional development to help increase their repertoire of skills, they also need "*access to consultants to help us develop our plans"* [Life skills teacher]. Having resource programs in schools, run by skilled resource teachers, was mentioned as an important way this type of consultative support can be provided to classroom teachers who may not have all the necessary training and knowledge to program well for the exceptional students in their classes.

Other specialized human resource support was also identified as necessary by case study participants. While it is assumed that these people would work in a collaborative model or team approach that included classroom teachers, their services relate more directly to specific student needs:

< school counsellors [at the elementary level and specifically for sexually abused children];

< home-school liaison workers;
< ASL (American Sign Language) interpreters;
< occupational therapists;
< speech therapists;
< “on-site” psychologists and social workers; and
< nurses.

Trained ASL interpreters were viewed as a key support for deaf children.

> *We make lessons available to students who are deaf or hard of hearing ... we accommodate their needs ... Without supports these students can not function at grade level. LII funding helps kids to bridge the gap and integrate into the mainstream. ... EAs are not sufficiently trained [for this role] ... many people who are hired are not qualified for interpreting. There is a difference between education assistants and interpreters. ASL and interpreting are very different [Deaf and Hard of Hearing Consultant].*

If they are to function at a high literacy level they require skilled ASL interpreters.

Nursing support was also mentioned, particularly in relation to medically fragile students and students with severe medical needs:

> *there were too many close calls and the para-professionals were doing too many - making too many medical judgements - that I felt I was sitting on a time bomb here. We were going to lose a child . . . [now] the training has taken place [and] there’s not a different nurse coming in every time. It’s the same nurse. She’s trained the paras on the buses; she’s trained the bus drivers. We have all the protocols in place now [principal].*

Para-professional support is, of course, a direct human resource support to students and classroom teachers alike. Teachers sometimes felt that they needed more hours of para-professional support for certain students, if the total in-school time of the students was going to be covered:

> *You can’t walk away from a child who could die or needs constant attention and support, for 15 minutes . . . you need seven and a quarter hours of para-professional time for a five and a half hour*

school day if you are going to really have supports to integrate students [school team].

The importance of well trained and caring para-professional support (also know as EA's, TA's, IA's, LA's) was emphasized by almost everyone.

< *Para-professionals go out of their way to help students . . . some of these kids need to go and participate in an activity with the EA's - they will show up, pick up the kid and take him to an activity, whether it be a concert or drama or participating in some activity - maybe not necessarily be involved in a sport - but they want the kids to get the feel of being participants* [principal].

< *My child's IA has no idea about ADD . . . she belittles him . . . she is not a positive influence on him* [parent].

< *EA's do a great job of being firm, kind, concerned and caring* [parent].

iii. Individualization

The need for sufficient numbers of trained teachers and support staff relates directly to issues of individualization and class size. In cases where teachers have large classes, individualization may become more difficult, particularly if there are numerous children with different types of special learning needs, coupled with limited professional and para-professional supports.

Teachers understand the value of knowing their students and being able to make individualized programming decisions: *"Getting to know kids so you can pick up on their triggers when they are showing signs of needing something to be changed or adapted [school team]."* However, it is perhaps the students with special needs who best point out the importance of individualized help:

> My teacher gives me help with my work. She sits beside me and sometimes helps after school . . . when it's just me and the teacher I get more done [LI student]
>
> I often have to leave for doctors' appointments, so I have a folder of missed work. During lunch or PE I catch up on this work [LII student].

How individualization is achieved matters. Instruction must be personalized as well as individualized. One parent spoke of how her son felt that he had been singled out: "*[I think we] need less one-on-one . . . the negatives outweigh the positives . . . it hurts his self-esteem . . . maybe this is more true in rural areas . . . the special education kids are physically there, but they are not really included*".

iv. Instructional Practice

Instructional practice is another key component of a supportive learning environment. Those who cited this in the case studies mentioned the importance of differentiated instruction, multiple intelligences and *"meta-cognition not worksheets for special education"* [teacher]. As one senior years student observed when she was commenting on how students learn in different ways, "*I like teachers to explain things, draw diagrams, that's for me".*

Embedded in the need to pay attention to instruction is the need for teachers to be open to new strategies and "best practices" that achieve results in terms of student outcomes: "*we need time for teachers to change their strategies, so they can learn programs like Reading Recovery*" [resource].

v. Peers and Sense of Belonging

Supportive learning environments not only are dependent on the attitudes and skills of professionals and para-professionals, but also on the interaction among the students themselves. Students interviewed for the case studies from all across the province spoke eloquently to this issue. Two students in a rural division described learning experiences that were enhanced by working with peers.

> *I think it's easier [to learn things] when [the teacher] will explain and then you'll have to go with a partner and you'll sit down and talk about it and work together. I find it easier that way to understand.*
>
> *If you teach someone else stuff . . . that makes them independent. Then they can learn even more and not depend on anyone.*

Attitudes of students both inside and outside the classroom are critically important to creating a sense of belonging or inclusion. Comments of students with special learning needs in two different schools in the same division, illustrate the negative and the positive experiences that affect children.

> *Kids are rude to you. They swear and call me 'four eyes.' I want the kids to be kinder to me [at risk student];*

> *There are more kids in wheelchairs here than in other schools. The kids are friendlier here - they don't call me names [LII student].*

vi. Physical Supports

Physical supports were identified as another component of a supportive learning environment. These included more spaces to work with individual students or small groups, adapted material (particularly at the middle years level), and more specialized equipment. Two Level III funded students' experiences illustrate the need for specialized equipment. In each case, upgrading had been done, but the need for further improvement remained.

One student had a new voice-activated computer, but it was not compatible with his existing Macintosh. The other student who was deaf had an ASL interpreter, but support was limited to the mornings. A TTY (Tele-Typewriter for the deaf) had recently been obtained, as had a closed caption machine, but the school still did not have all the necessary technology, such as a flashing lights fire alarm.

vii. Families

Although families may not be a direct part of the classroom environment, their support and role as valued team members should not be underestimated. As one urban principal noted: "*The chances of success are poor if the family is not involved*". This was echoed by a rural principal who said: *"it has to be a team effort . . . parents come in and also help.* [Often] *parents feel their input is discounted . . . parental input is important. We are trying to get parents involved."*

In a number of the case studies, supports for families were viewed as lacking. This concern was raised in many schools and communities, regardless of geographic area.

> *There needs to be parenting programs so parents learn to set limits and not be abusive, take care of basic needs, give regular meals and physical affection, and to deal with poverty, and alcohol and drug issues [psychologist].*

viii. Teaming

The need for teaming, like the need for parent involvement, was also mentioned earlier. Within the school, the need to have a collaborative and mutually supportive team was described by a counsellor and resource teacher as follows:

> *With some students you just can't say 'integrate' and leave it to the teacher, because it will burn people out. You are setting the teacher and the student up for failure . . . it's very demanding but the collaborative approach can help to relieve this.*

The 'team concept', however, extends beyond the professionals and the parents, to community as well as these quotes illustrate; the first from an urban school and the second from a northern one.

> *Another success . . . is the community in terms of how they are very supportive, whether it be from the parent council or other activities, or just on the phone with one parent [school team].*

> *Supports seem to have increased - more EA's, more groups have come into the school like AFM [Addictions Foundation of Manitoba] . . . there is more on-the-job training - there seems to be more of a team effort [para-professional].*

ix. Pre-school Services

While pre-school services may, on the surface, appear to be unrelated to a supportive learning environment in public schools, numerous case study participants raised it as an issue. One Student Services administrator,

however, summed up the reason that pre-school intervention is inevitably linked to later success for students with special learning needs:

> *Integration has been a real success and people now look at programming in the home school first, but unless students are identified at school entry with the major supports already in place, inclusion won't be as effective*.

Summary

Factors contributing to a supportive learning environment that were cited in the case studies included elements of:

< attitude (understanding and caring teachers, para-professionals and school administrators);
< skills and supports (teachers have the training and the classroom supports, such as skilled resource teachers, counsellors, therapists and para-professionals necessary to provide quality programming);
< individualization (class sizes that allow for one-to-one support and personalized programming);
< instructional practice (use of recognized 'best practice" in the classroom, such as differentiated instruction);
< peers and a sense of belonging (positive interactions among students based on acceptance and understanding among children);
< physical supports (appropriate physical space and technologies);
< families (the importance of parental involvement and family support);
< teaming (collaborative and mutually supportive teaming among parents, educators, other professionals, and community); and
< pre-school services (the importance of early intervention and services to set up students for later success in the school "learning environment").

c. Availability of Culturally Appropriate Programs and Services

In only a few of the case studies was there any mention of cultural programming in relation to students with special learning needs. As one staff member in an urban Winnipeg setting noted "*staff are very sensitive to these issues and they take their cues from families*". In one school there was concern about one special needs student because "*we don't have the capability to determine her needs and her parents don't speak English - and there are cultural differences as well*". As one resource teacher in another

urban school noted: "*we need more division-wide awareness of students' cultural backgrounds - and [in this school] a Bosnian interpreter*".

Lack of understanding of Aboriginal students was in evidence in some places. Some school staff realized they did not have much experience dealing with Aboriginal students.

> *He has a lot of social problems here. I think we find, you know, living in this area, we don't have very many Native kids . . . they have to adjust . . . and I don't think that is really fair to those kids.*

Other schools and divisions have made more of a concerted effort to make linkages for their Aboriginal students: "[we have a project] *with three schools with the highest percentage of Aboriginal students. It links elementary kids with junior high, with high school, with Aboriginal teachers, an Aboriginal community liaison worker and Aboriginal para-professionals*".

In another rural community the ELENS teacher was in control of the ELENS funding, assessing where it should be allocated, including TA time. Part of the money also helped support a consultant position in the division to help teachers with classroom strategies. However, their most effective professional development was to bring in outside consultants to work in the classroom, showing teachers how to use teaching strategies with different special needs students. "*It totally turned teachers and students around*." But the ELENS teacher still spoke of the need for Aboriginal speakers--ESL programming strategies to use with Cree second language students "*who learn in a different way*." The problem is "*some teachers and TA's won't take any p.d."*

In another rural area the Student Services administrator expressed concern about the lack of cultural programming and materials for students with special learning needs.

> *We need culturally sensitive at risk grants (for example, Mexican Hutterites and Aboriginal) . . . as the number of foster parents increase there is also an increased need for them to have culturally appropriate materials.*

In the North:

> *there's a large cultural component, but it's difficult to approach and we don't do it as well as we should. We do have a special class with an Aboriginal teacher, trying to make it a more welcoming environment. This class allows adapting time, but the curriculum objectives are still all provincial. All these students are at risk. We need a para [in the class] but we can't afford it.*

However, an School Liaison Worker (SLW) in this community noted:

> *there could be an increase in culturally sensitive programming. There should be a greater emphasis on hiring Aboriginal teachers, with the result in changing structures and the way things are taught."*

The other issue in the North was the importance of speech and language support for language development. Children come from communities where they speak little English and, at the same time, they may not have highly developed skills in their own language.

Summary

While some examples were given, the case studies did not produce much evidence that culturally appropriate programming for students with special learning needs was being developed or implemented. (In fact, in some interviews, the respondent would find the question puzzling.) Nevertheless, there were people across the province who recognized that this was an area that needed increased attention, including new strategies and new ways of thinking.

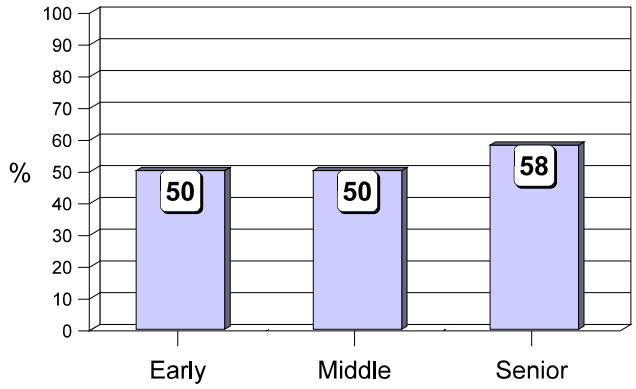
d. Meeting the Needs of Students

i. Results from the Staff Survey

All participants in the case studies were asked about whether the programs and services were meeting student needs. The staff survey data provides some overall indication about how well school staff perceive that students' special learning needs are being met.

When asked whether supports for students with special learning needs are available when needed, overall 53% of staff indicated they were "always/most of the time". Differences were observed by geographic area and by level of school.

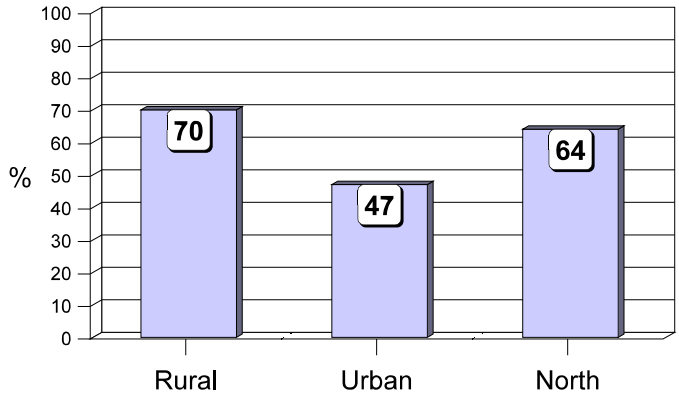
Graph IX-9
Staff Perceptions: Supports are Available*
by Level Taught



*"Always/Most of the time"

Differences were not as evident by level taught as they were by geographic location.

Graph IX-10
Staff Perceptions: Supports are Available*
by Location

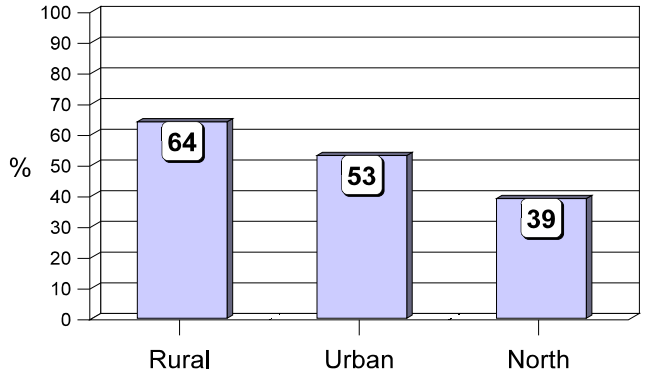


*"Always/Most of the time"

In terms of whether the school is able to provide appropriate programming for all students, regardless of their learning needs, 54% of staff responding

to the survey perceived this to be true "always/most of the time". While rural staff were still most likely to indicate that appropriate programming is usually provided, staff in the northern schools were least likely to do so. This is likely connected to the fact that, although rural schools may not have the resources of their urban counterparts, urban staff are more likely to have seen a decrease in supports over the last three years (Graph IX-11).

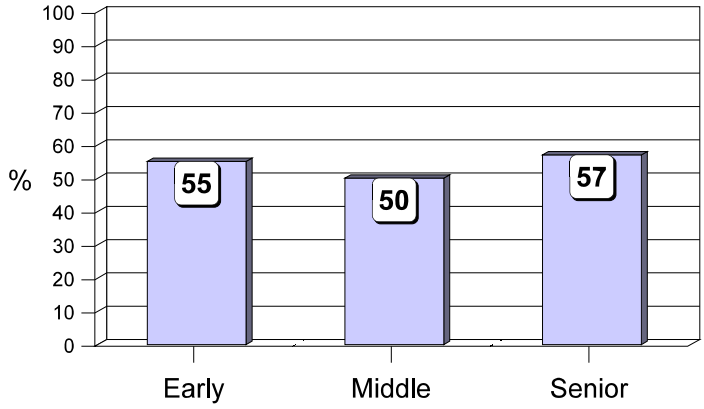
Graph IX-11
Staff Perceptions: Appropriate Programming is Provided*
by Location



*"Always/Most of the time"

Respondents' perceptions as to how often appropriate programming was available for students with special learning needs also varied somewhat according to level taught.

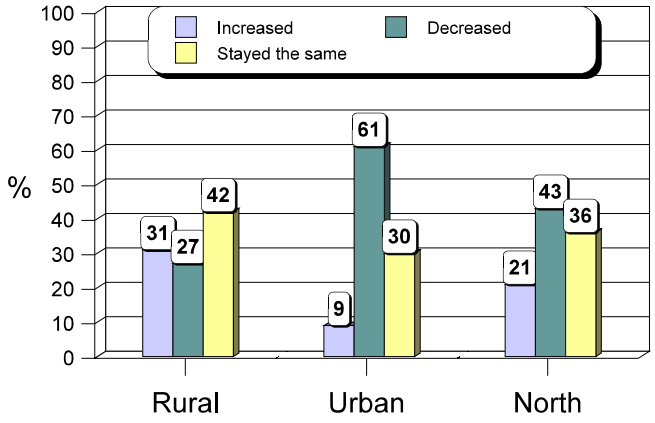
Graph IX-12
Staff Perceptions: Appropriate Programming Provided*
by Level Taught



*"Always/Most of the time"

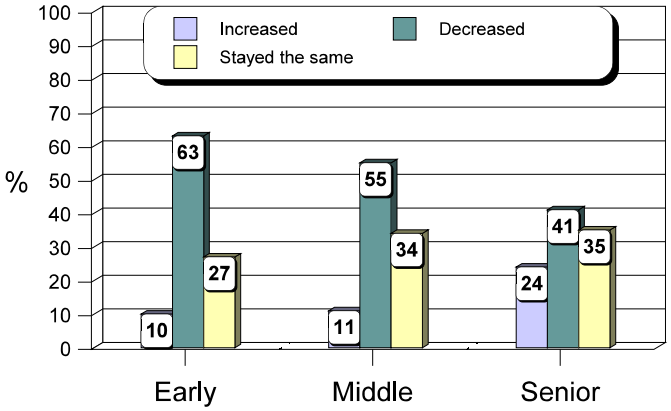
Staff were also asked whether they thought supports in their school for students with special needs have increased, decreased, or stayed the same over the last three years. Rural teachers were least likely to perceive a decrease in supports.

Graph IX-13
Staff Perceptions: Supports in the School Over the Last Three Years
by Location



There were also some differences by level taught regarding the perceptions of increasing or decreasing supports.

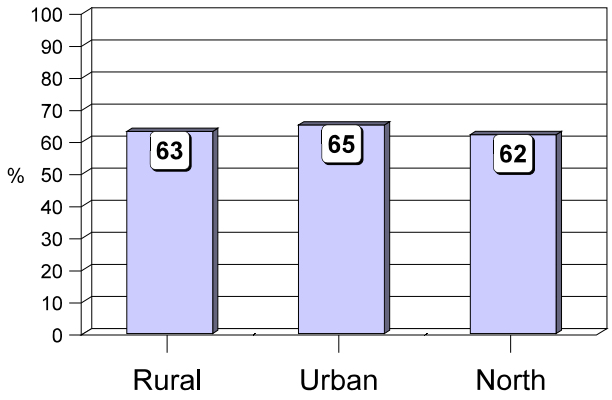
Graph IX-14
Staff Perceptions: Supports in the School Over the Last Three Years
by Level Taught



Respondents, regardless of geographic area, perceived that the number of students with special learning needs had increased over the last three years. Overall, 64% believed this to be true (Graph IX-15). Overwhelmingly, staff cited an increase in severe behavioural issues (28% of all respondents

identified behaviour as a specific need that had increased). This was followed by learning disabilities (14% of all respondents). A variety of other needs were also cited (see Appendix J6).

Graph IX-15
Staff Perceptions: Number of Students with Special Learning Needs
Have Increased Over the Last Three Years
Overall Percentage Who Agree



Middle years teachers were most likely (69% as compared to 59% of senior years teachers) to perceive an increase in the number of students with special learning needs. Regardless of level, behaviour issues were most often cited, followed by learning disabilities. However, almost as frequently as learning disabilities, early years teachers identified ADHD and middle years teachers identified severe academic delays.

The case studies provide examples of what student needs are not well met, while, at the same time, they highlight rich and reassuring success stories. Given that the question within the third Area of Inquiry asks directly about the perspectives of parents, students, educators, and other service providers the perspectives of each of these groups will now be discussed.

ii. Parents' Perceptions

Parents' perceptions as to whether programs and services were meeting the needs of their child varied according to the individual child's situation and the services that the child required. Many parents were happy with the supports their child had received, but there was also an undercurrent of concern that supports might be reduced or disappear in the future. For example, a parent

expressed concern that her child's *"hearing equipment is always breaking down . . . making communication difficult and . . . I'm afraid she is going to lose her supports".* (In fact, during the interview the child's hearing equipment did break down.)

Using a particular program as an example, the parent of a child in an alternative class stated: *"There are no programs to support my daughter [in LAC] after grade 7. I am concerned that she will end up involved in gangs".* On the other hand, another parent felt that, for his/her child, the program had done what it was intended to do and this same type of support did not need to continue.

> *The program [LAC] is great. It helps my son out a lot. These programs help kids to be more self-confident and then they want to learn. He'll be going into a regular class next year because of this program . . . He enjoys his school work and the teachers whereas before he hated going to school. They need more programs like these in schools.*

The one area that was a consistent concern from parents was limited support for therapy services:

> *[my son] can't have full time physio because he's got to share an aide. And if one has to go to the bathroom, well, then he can't sit in class . . . if the aide is sick he has to go to sit in a room for three days because he is not allowed in the classroom by himself. So he just plays for three days instead of learning for three days . . . they said basically we didn't get the funding for him, but he'll be in a room where there is an aide, so it's really not going to be a problem.*

> *[my son] needs help with fine motor, but there's no O/T help so he hasn't been toilet trained . . . I am concerned that the speech therapist is just someone off the street. He needs help daily and he only gets it once every month or two.*

> *They should receive more speech therapy. My daughter only gets it once a month, my son gets it every couple of weeks.*

In a small rural setting speech therapy was delivered daily using the collaborative, consultative model and, generally, appeared to work well:

[my child] receives speech therapy every day and is talking a lot better . . . hopefully one more year will be needed [would like more reports from the therapist but] his speech shouldn't be a problem. He's a good learner, but I want him to be understood.

Another area where parents gave mixed reviews was life skills programming. In this area satisfaction or dissatisfaction appeared to vary by how parents defined success for their child related, no doubt, to the skills and abilities of the particular child.

They say they are teaching him life skills, but I think they are missing the point. They are not teaching him the academics, they've given up.

When she is having a bad day, they'll pull her out and do life skills with her, which is fine because she does need a lot of work on life skills . . . I think that might be more important than ABC's because she's got to know how to take care of herself at some point. She could always ask somebody to help her read a letter, but she needs to know how to catch the bus.

[my child has developed skills] she is learning to be independent through work experience and life skills outside school . . . I want her to be as independent as she can.

She's not receiving the help she should. She gets more help with her work at home than at school . . . she's strong at vocational stuff, but she needs help with Math and reading, and she's not getting that help.

Para-professionals were viewed as a valued support by parents. Individual attention to the child was perceived as arising from the presence of a para-professional. "One-on-one" support was often described as important and needed. However, parents did realize that other supports helped to create a positive environment for their children.

My daughter is up to par with the other kids in her class, thanks to her para.

TA support is wonderful. The TA is like an Auntie or a Grandma . .

. I feel totally comfortable in contacting the school. The IEP team works well together . . . teachers give my son lots of options . . . it's such a positive environment.

Some TA's are excellent, resource is invaluable. But my daughter became uncomfortable having a TA following her from room to room [in high school]. She didn't want the other kids to know . . . there should be a room they can go to in confidence, where support will be there if they want it . . . without supports I don't know if she would have made it through school.

Another issue that was raised as a concern was labeling of students:

Once a kid is labeled . . . you know what it is and that's it, we're not going to try any harder. We're not going to do anything else. We'll just throw drugs at them . . . but you have to be labeled to be funded.

While there was a recognition that labeling was somehow related to funding, in some instances the concern was deeper in that labels masked the necessity of having to understand and pay attention to the individual.

I wish the school would listen to kids, pay more attention to their needs . . . creativity isn't appreciated . . . kid's who don't get A's get put into non-university courses and then graduate with the wrong courses. No one helps them understand which courses to choose . . . kids are typecast, hard work doesn't matter . . . the school is too big, you're just a number, not a person.

There is a tendency to see individualization as being more common and easily done at the elementary or early/middle years levels. However, these two quotes from parents of high school students, illustrate that this is not a universal nor necessary phenomenon.

The re-entry program keeps my son in school and off the streets. Thank God for [the high] school's programs.

I think [the school] is fantastic, that since [my daughter] . . . went to this school she's gone in leaps and bounds and I'm really impressed. She retains what she's learning - they have two assistants with the

teacher - and she is now going into English where she's never done English before.

Clearly, another aspect of creating a place where programs and services can meet the needs of children concerns the importance of peer relationships (as previously discussed in the section on a supportive learning environment). In the few instances where this was raised in the case studies by parents, it was a serious concern of parents that there was no peer acceptance:

Kids have no friends, they need a Circle of Friends . . . we need to break down barriers . . . total integration for kids is to be with kids.

At recess she gets left out and harassed . . . she's vulnerable because she's alone on the playground.

For students who are gifted, some parents believe that the classroom teacher could provide enrichment activities. Although this did not universally occur, one parent described the difference that a classroom teacher makes: *"[my child] has a good teacher who challenges him with projects. . . . a multi-media environment . . . I'm also involved in working with the teacher about goals [for the child]".* In one case study, parents whose children were in gifted or advanced programs were surveyed. When asked what they thought was "very important" that schools provide for their children, the top two items were "to help the child develop the ability to learn" and "to develop the ability to communicate effectively" (Table IX-5). (One can speculate that this list of priorities might look very similar for parents of all children.)

Table IX-5
"Very Important" for Schools To Help Children Develop - TOP 5

	Percentage	Rank
the ability to learn	94%	1
the ability to communicate effectively	94%	1
the foundation for further education/training	92%	2
the ability to set goals	88%	3
self-esteem	88%	3
self-discipline	87%	4
necessary skills to obtain a job	83%	5

Finally, it is important to note that parents are generally appreciative and understanding of the school's efforts. One parent described her son's situation and how there had been a team approach to his programming.

> *He was harmful and he went to [a] Mental Health Centre. He was in seclusion. He spent over a year there. But they left his TA funding with him. They tailored his schooling and his socializing. It was a three-way partnership - the hospital, the school and Mom. He was an in-patient for a year and an out-patient for a year. He was discharged in grade 7, but still with contact with [the Mental Health] Centre. They transitioned him to school in May. He came down for half a day and built up slowly. So they built up 'til he could come to school full time. In grade 7 and 8 he had modified times throughout the day and was in Resource for a break. So in grade 9 he's allowed to come and go as a normal kid. He's had for the first time in his life, his first successes. He got three academic credits last semester and he may get three more credits.*

Parents have high expectations for their children - and their children's schools - but they recognize some of the constraints of the system:

> *I'm really happy with programming, but I need to know what's going on [regarding her goals] . . . due to high caseloads, reporting [to parents] is difficult.*

iii. Students' Perceptions

Students' perceptions of how programs and services are meeting their needs were not dissimilar to those of the parents interviewed. Some students were extremely positive about their school experiences, while others had suggestions for improvement. These two following quotations are from very different students, one in an advanced program and the other, a Level I student.

> *The curriculum is confusing and does not offer enough choices . . . they don't give correct information regarding required credits . . . maybe I should have taken other courses and got higher averages [student in advanced programming].*

I was taken out of French to go to resource and now I'm doing bad in my French [Level I student].

Overall, however, students stressed the importance of their teachers to their success:

More people need help than there are teachers [Level I student].

[I] like school because teachers help - not like Toronto where I failed a course [Level II student].

In my old school I didn't do as much work. Now I pay attention . . . teachers here try more to get your attention and they explain everything to you. I like the partnership classes at [the high school] - I get to learn about Native culture [Level I student].

I think this is a perfect school. No one beats me up . . . the principal and vice-principal and teachers help me when I have a problem... I work harder because the pills help calm me down . . . my reading and spelling have improved [Level II student].

The voices of students at one particular school - including "regular" and "at risk" students as well as students identified as Level I and Level II - together paint a picture of the factors that have contributed to the school meeting the needs of its diverse student body. (It should be noted that this is a rural early/middle years school that does not have easy access to the range of clinical and other support services.)

Teachers make learning interesting . . . last year I didn't have confidence so my grades dropped, but then I got more confidence and everyone was encouraging me, parents and teachers and friends . . . my teachers really helped me gain confidence . . . you almost feel like they're family [at risk student].

I have problems getting along with people . . . if it weren't for the counsellor and other people here, I never would have gone anywhere. They helped a lot [at risk student].

We learn a lot about technology . . . our teacher helps us with the seven intelligences . . . we do steps in Math. You have to explain in your own words, write down in point form, select a strategy . . . I like

school like it is. I wouldn't change anything at this school [at risk - Level I student].

I like this school a lot . . . [one TA] takes me in English and in spelling I'm catching up a bit . . . I'm getting better at math, way better than last year . . . every time I get good at something they make it a little harder . . . they're also teaching me anger management. I'm from an abusive family and I'm learning to control my anger . . . I used to throw punches if someone teased me [saw the counsellor and resource teacher] and they talk to me about my family problems and things at school . . . they mainly help. I believe kids need that, otherwise they get angry and frustrated [Level II student].

The grade 4's, they had this kid that stayed in the class. And I don't know, he wasn't too self-confident or whatever, and he was just angry at the world, causing trouble . . . then the teacher's aide started working with him and you can talk to him now and he doesn't break out into those fits [student in the regular program].

The final comment (above) is not unique. It is echoed by students in some of the other case study schools: "*We work with special needs kids in our class . . . we help them with stuff they are doing and we teach them".*

Students in other schools, as well, identified the importance of teachers, guidance counsellors and para-professionals in helping them. For example: *"TA helps in class and sometime takes us out of class to help us do things we don't know how to do".* Or in the case of a young woman who was a single parent:

Some teachers helped a lot . . . guidance counsellors try to find ways to make it easier for you to stay in school so you don't drop out . . . I have had a lot of support from the school.

Other students felt that individualized instruction, or small groups had helped them, while for others it was particular programs:

I like the fact that you work at your own pace [in a high school re-entry program] . . . I wouldn't be in school without this program . . . in modified it was crazy. You didn't get the help you needed.

Although behavioural issues have been identified in case studies (as well as in other aspects of the Review) as being increasingly severe, students in the case studies were often able to identify how schools had helped them with their behaviours. The second student quoted below is particularly notable as this is a student who had received mental health treatment, who was Level III EBD in the past, and who in the 1997-98 school year was funded as Level II EBD.

> *I'm getting better at self-control - fighting and swearing - anger management and Second Step are helping me . . . I'm getting better grades . . . I am feeling happier.*

> *I was a loose cannon. Now not often, it depends on the circumstances . . . I had a big file. I used to do things that I don't do now . . . some kids have problems with anger . . . I wouldn't punch someone through glass anymore, but that's how enraged a person can get. When I'm angry pain means nothing.*

Other students also recognized the importance of a non-violent environment - and they valued the fact that their schools were safe. As one young man (who was a ward of Child and Family Services and a new father) stated:

> *Of all the schools I've been to, this is the best for me . . . There's not as many fights here. I would send my kid here if I had a choice.*

While the majority of students interviewed felt that their school had helped them, this was not the universal opinion as one Level I student noted:

> *Teachers think I'm not trying hard enough - I think I'm just a bad kid. Teachers should help people who are having trouble.*

Students were particularly negative when they felt they were singled out or labeled. One young woman, although she appreciated the supports the school had provided, reflected this opinion as follows:

> *it was hard when they called me names when other kids heard I had a learning disorder . . . It was hard to ignore . . . but I liked what the school did because nowadays for a child to get help like I did is very hard . . . you really have to push for it.*

Her comments also echo those of parents both in the importance of peer acceptance and the fear that supports are diminishing for students with special learning needs.

In other cases, students were more adamant about their treatment (and their future):

> *I'm mainly a behaviour problem . . . my Dad is unemployed and he drinks and does drugs . . . my Mom gets angry at me . . . I'm going to [a special school] next year, but I don't want to because they're all psychos and crazy there.*

Students in some schools (more often non-urban schools) did not appreciate being labeled through their placement on "modified" programs (even if this was using an occasional pull-out from the regular classroom).

> *We don't want to be on modified because people think there's something wrong with you then, people think you're geeks . . . it's harder for me [than for another girl] because I'm Native and sometimes I think people here are a little racist . . . [and they told us] because our mother drank when she was pregnant, my sister can't take French . . . she can't do other languages and higher level learning.*

Interestingly, in two schools, students who participated in the case study interviews commented that they could not do higher level thinking or learning: *"I wish I could do LA. I can't do writing . . . I was told I can't do higher learning".* This raises a serious concern about the impact that certain labels, programming decisions, or even unwitting comments can have on children's self-confidence and, potentially, their future success.

In most cases, students believe their teachers, principals, and para-professionals are helping them - their needs are being met. While most students in the case studies were able to identify the specific supports (people or programs) that had helped them in school, the voices of students who had negative experiences are those that demand our attention.

iv. Educators' Perceptions

First, it must be recognized that some educators interviewed in the case studies wanted to be sure to make the point that *"students with special needs have their world opened up by being in school".* They also noted: *"Generally special education in Manitoba is quite excellent. We are a forerunner in inclusion and this should be celebrated".* A number of specific programs were also touted as important exemplars. This does not detract from the issue, however, that improvement is the goal. In fact, regardless of geographic location, educators raised a number of key issues - needs they felt were not currently well addressed by the system.

A Student Services administrator in an urban division succinctly listed a number of these 'big issues.'

> *There are three main areas that represent the 'big issues' or places where needs are not being met. 1) behaviour; 2) school therapy services (lack thereof); 3) transition into the community after high school. . . . Kids take Life skills programming but there are no jobs to go to . . . A fourth would be dealing with the needs of gang kids, for example, transitioning them out of the Youth Centre and into schools.*

A principal in the same division agreed that: *"There is a huge vacuum in terms of children's psychiatric needs. Largely their physical needs are being met, but not their emotional needs".* A principal in another urban division noted: *"Kids who are visibly handicapped, I think their needs are being met . . . I think their needs are being met very well in the school system, but not necessarily after".* Other needs that were often raised were: students with learning disabilities, Level I students, gifted students, ESL students, and FAS/FAE students.

For example, more resources for students with learning disabilities were perceived as being needed: *"Students with learning disorders who used to be modified can't cope in class because they don't have the skills [teacher]".* This also relates to the desire to have more opportunity to provide "one-on-one" support for some students, as the following quotations from an urban and a rural school division illustrate:

Some students need one-on-one and we end up having to group them, so they don't receive the help they need. Behavioural students take away from the academically needy [resource team].

One boy, everything is too much for him, so he disturbs others. He can't cope with the work, so he gets frustrated and then acts out. He would do much better with more one-on-one [para-professional].

Not far removed from this issue, is the perceived lack of support for Level I students. The general concern was that *"we are spreading resources too thin . . . trying to do too much for too many with too little".* This was raised and reinforced in case studies across the province.

Those students classified as LI are not getting enough support . . . we didn't have the capabilities to meet the needs of a self-elected mute child who required years of support in and out of the school environment [teacher].

If these kids do not have the support they are going to be a drain on our social system for the rest of their lives . . . you need somebody to work with them on a consistent basis and I'm not talking about somebody who is going to be in my room to work with a group of kids maybe for half an hour. That's not enough. These kids need support and consistent support. And it's not there for them - for the Level I kids [special education team].

They [LI] are way above the percentage - it's 10% not 5% . . . Kids are so far behind academically that they'll never catch up [vice-principal].

Also in the Level I funding category, the needs of gifted students were raised - *"There's nothing for gifted students at certain schools".* Principals, para-professionals and teachers alike recognized this gap in programming:

Six years ago every school had a teacher for the gifted, now none do [principal].

I think that one group particularly . . . that could benefit from para-professional support are the kids who need enrichment. I think that group of kids is not as well serviced as they could be [para-professional].

Gifted and talented kids and those below grade level can become behaviour problems to get attention [teacher].

Concerns regarding ESL were not universal, but were raised in a number of urban school divisions:

There's no ESL in our division . . . two students who transferred into the school [this year] are ESL so they spend a lot of time in resource; an ESL is not funded who is in his second year here - resource provides service; and there is no real ESL program [teacher].

FAS/FAE was an issue that was consistently identified across the case study divisions as a high need area: *"[there are] increasing numbers of FAS/FAE coming in and we don't have the training or resources - and we can't teach them".* While this may be an extreme view, there was widespread concern on the part of educators regarding how to provide the most appropriate programming and support for these students.

The issue of students themselves using alcohol and drugs was also raised. In one northern school there was a great concern expressed regarding a group of students.

There are chronic sniffers in grades 4 and 5 who need a treatment program, but there are no specialized supports . . . we've gone everywhere, but they're not 12 years old and they don't have a record, so we can't get supports for them [resource].

Overall, behavioural issues (regardless of their genesis) were a principal concern of many educators in the case studies. This 'catch-all' category included violent and aggressive students as well students who might be frustrated due to a lack of challenge. As one teacher stated: *"lack of success equals frustration and angry kids".*

Aggressive kids are wearing down teachers, parents and administrators . . . in this division there are no options for aggressive kids . . . we don't have any options for violent kids. If our kids can't be handled here and they get to a point where they are in the time-out room, spinning and hurting others . . . the eventual consequence is home tutoring [principal].

A couple of kids are totally beyond the school's ability - really out of control, mean and malicious. Maybe if [local agency] and the school had worked together it would have been better [teacher].

We can't find anger management for girls and the counselling they need [teacher].

Interestingly many of the success stories that were told by educators in the case study interviews concerned students with behavioural problems, who had learned to function in the school and classroom. The following examples come from urban, rural and northern schools.

< *One LIII student was totally segregated because she was significantly delayed and violent . . . she is now starting to be integrated into music and art and hasn't had a violent incident [resource teacher].*

< *[this student was removed from school for violent behaviour, now] he's having a much more successful year, is on the honor roll, and there hasn't been one suspension this year [special education team].*

< *[this student came in grade 4 and is now in grade 8] . . . the objective was to have him in class half time. He was a like a wild animal. He was involved with Mental Health. His father had been arrested and [a sibling] had been killed. By grade 6 most of his crises were worked out with his TA. Now this year he has not stormed out once. He's totally integrated now. It just took time and having someone to listen to him, plus a team approach with Child and Family Services, [and] Mental Health, all working with the school. He's in a new foster home and starting to read [Support services staff].* As the student said when he was interviewed: *I like to play with electric stuff . . . [the TA] helps me with Math. It's me and her and a few other kids . . . [this year] I learned handwriting, reading and Math [Level II student].*

< *One student who was belligerent has totally changed. [Last year] every Wednesday he was in court. Now he's serious about graduating. We gave him small chunks of work and support, so he was successful. Plus he's got a different peer group - he's not labeled the same as in his previous school [teacher].*

Improvement in student behaviour (and related academic gains) were not the only successes noted by educators in the case studies.

I think that the successes are seen in the culture of the community of the school, because we have at risk, Level I, Level II, and Level III students integrated into the school and respected in the school. And they are part of the school and not considered different in the school [special education team].

[one student in a wheelchair] benefitted so much by having his peers around . . . being with his peers his speech really came along [para-professional].

[this program] is the only stable piece in his life - he has an addictive, unstable mother, and has been moved around to four different homes in two weeks. He is now modeling the language of the program - 'I'm going to make big boy choices' or 'I used my words to solve my problems' . . . building confidence in children leads to academic improvement [teacher].

You can see the light bulb goes on - the frustration seems to cease. Kids are more willing to try things in the classroom. There is increased motivation level - success builds on success [resource].

Summary

Approximately half of the staff surveyed believed that supports and appropriate programming were available "always/most of the time," with rural teachers most likely to support this statement. Rural teachers were least likely to believe that supports have decreased over the last three years. Approximately two-thirds of teachers reported that over the last three

years there has been an increase in the incidence of students having special learning needs, overwhelmingly citing an increase in severe behavioural issues.

While many parents were positive regarding the supports their child received, perceptions varied according to their child's needs. Parents valued one-to-one support for their child and valued para-professionals, as they were seen as being the provider of this individualized attention. Concerns were expressed by parents regarding a number of issues including; the labeling of students, acceptance of their child by their child's peers, and the fear that supports might be reduced or disappear in the future. Additionally, the limited support for therapy services was a concern consistently voiced by parents.

Students, as with parents, varied in their perceptions of how the programs and services were meeting their needs. Many students stressed the importance of their teachers, guidance counselors and para-professionals to their success. Students cited individualized instruction, working in small groups and particular programs as examples of approaches that had worked for them. However, a number of students mentioned a dislike for being singled out or labeled.

Generally, educators held the perception that Manitoba has done a positive job in the area of special education. Overall, behavioural issues were a central issue to many educators in the case studies. Other, "key" issues identified by educators included: the lack of school therapy services, FAS/FAE, transition into the community, and students having learning disabilities. In addition, the perceived lack of support for Level I students was identified as a major issue when looking at special education in Manitoba.

e. Other Service Providers' Perceptions

As with teachers, other service providers (for example, clinicians, social workers, mental health workers) were able to identify both successes as well as concerns about particular needs that are not being met. Similarly to educators, there was a concern that:

Students are getting their needs met to the extent schools are able to and not to an ideal level . . . We always know more of what the child needs than we can actually provide for the child [clinician].

Again, as with educators, there was a perception that some students' needs were well met, while others could use improvement. Exemplary programs were cited, for example:

the gains are more rapid in ECLC (Early Childhood Language Centre) than in conventional speech pathology programming. I really see gains in this segregated programming [speech and language pathologist, ECLC].

Again, other service providers (particularly social workers) noted the increase in "unbelievably disturbed kids". The same concern was expressed that there are:

kids who are in danger of being neglected . . . or are out or control and out of their homes. They [clinicians or schools] can't deal with the lesser emotional problems - kids who are upset about a divorce in the family, a death in the family [social worker].

There was also a concern that:

we have a large number of kids that are just dropping out, and just poor attendance and if they have the right programs for them at an earlier grade where they are able to feel successful, I think that, you know, we really see the problems that are developing [clinician].

Generally, there was a consensus that students with visible disabilities *"are having their needs met, more so than emotionally needy kids".*

Clinicians and other service providers often felt that services were stretched to their maximum. In some severe cases, clinicians noted that:

We have kids in the building that say one or two sounds . . . and that is very severe. No one can understand these children and its very important that they get as much as they can . . . but we are doing the maximum that we can.

In some cases, clinicians reported that they spent most of the time assessing or in consultation. They raised questions of the role of clinical support and how this could be best used to support students:

> *. . . many times the speech pathologist will gain the trust of the family which allows the other clinicians access - they often work as an interdisciplinary team.*

Other service providers also realized that teachers were dealing with the key issues including learning disabilities, the needs of Level I students and behaviour issues.

> *I think that the teachers just have so much to deal with - a lot of these kids bounce off each other and I think that you get more and more of this kind of behaviour stuff going on. Some of the behaviours are of a threatening or aggressive feeling, violent nature, and other behaviour that won't be tolerated, so it is an automatic suspension [clinician].*

Other service providers, like parents, students and educators, had success stories to tell. One mental health worker told the story of a medically fragile child, from an abusive home, who was placed in foster care and had coordinated interagency involvement. The child was now on Ritalin in a more structured foster home. There had been a significant decrease in violent outbursts. The mental health worker believed that *"it all resulted in the school working with different agencies".*

There were other positive stories of interagency cooperation. In one case the Friendship Centre *"worked as a team through the EBD protocol"* and by working with the special class for behaviour problems was able to address student needs more effectively.

Despite these examples of success there were still concerns about: a lack of support for FAS; *"speech is a huge problem;"* as well as concerns regarding waiting lists for assessment; and, a dearth of behavioural programming.

Summary

Many parents, students, educators, and other service providers all perceive strengths in the current system and are able to cite examples of good practice and positive experiences for students. At the same time, examples exist where parents are frustrated, students feel de-valued, educators recognize serious programming problems (particularly around behavioural issues) and other service providers point to a system stretched to its limits.

f. Evaluation of Special Education Programs and Services

The case studies confirmed a suspicion that systematic evaluations of special education programs and services are rarely conducted. The norm was more as one principal described:

> *There's no formal structure in place. It's more individualized [at the student level]. We look at the progress of the individual student, getting ongoing feedback between professionals working with the student. Evaluation is at the child-level, not the program level.*

Some school divisions had conducted (or were in the process of conducting) their own reviews of special education, while others did evaluation "*less formally"* by comparing their programs to those in existence elsewhere. Some divisions had experience with "*occasional program reviews.*" One division cited an evaluation of a particular program they had undertaken with the help of their clinical services which resulted in moving a teacher along with the students into grades 7 and 8 to provide needed continuity. In this same division, divisional administrators intend to track some students in a language development project to check outcomes and impact and "*would like to do a longitudinal study on high risk or EBD populations.*" They believed that the greater focus on curriculum outcomes might make evaluation easier in the future.

There were a number of reasons advanced at the school level to explain the absence of program evaluation such as lack of time or supports for evaluation ("*We don't have time to effectively evaluate our programs. There's no instrument"*). In some instances there was an underlying fear of evaluation ("*it's such a high-risk area that you can't blame the lack of success on the program*"). However, in a number of schools, interest and desire for more evaluation was expressed:

> *We want to evaluate programs ... for programs that we know are working we need the opportunity to have a pilot project or a research project to see if things are really making an impact on staff or on the kids. That's something we don't do enough of, we don't do enough research.*

In two schools an ongoing process of tracking or evaluation was identified. In one school the team explained - "*we look at the number and frequency of suspensions and discipline incidents.*" At another school, evaluation was part of the school planning cycle, so special education programming was "*integrated into the plan as programming fits with school goals.*"

Summary

Evaluation of special education programs and services appears, at least from the case study experiences, to be neither systematic nor commonplace. However, there was some interest in paying more attention to evaluation in the future, if the appropriate supports can be mustered. The approach of an integrated school plan that includes systematic monitoring and program evaluation holds promise but, as evidenced by the case study schools, is infrequent at best.

g. Use of Resources

i. Use of Human Resources

Human resources are, of course, central to program and service delivery. As has been previously noted, clinical services (particularly speech/language, occupational therapy and physiotherapy) were viewed as being thinly stretched. For example, in The Winnipeg School Division No. 1, more than 6,000 students were seen by the Child Guidance Clinic in one year, with a year-end waiting list of 441. The general consensus was: *"We need more direct service - more therapeutic time."*

Speech and language pathologists noted that: *"Our case load is expanding. We do less direct servicing to kids and more consulting."* In some divisions, the reduction in the number of TA's has resulted in a change in the speech and language pathologist role:

then my role was more one of assessment, providing a program, explaining it to someone else, and they carried it out. Now, unfortunately, most of the TA's have disappeared, but I have the same numbers, and an even more severe caseload.

The appropriate use of speech and language pathologists, however, varies according to circumstance and student need. In some cases, speech and language pathologists can most effectively work by instructing para-professionals in service delivery while, in other cases, direct clinical service is more appropriate.

Social workers, too, were concerned about increasing caseloads:

"We are there one day a cycle and there are 38 students that need to be assessed. That's overwhelming. Over the last few years we've had to work harder and faster, basically with less time to do things."

Another area where human resource support was perceived as often lacking was nursing support: *"Nursing requirements are big due to the number of medically fragile kids."* However, in some case study divisions, URIS in combination with nursing staff had assisted schools in developing procedures and protocols to address medical issues.

Resource teachers are another key special education support. However, in many of the case study schools, they were perceived as being *"loaded down." ("People support is the most valuable, but time is required to do the programming, report writing and this takes away from program support.")* The demands on resource teachers, however, were not strictly program support.

The paperwork that the resource teachers have to go through - they are not able to focus 100% of their attention on the children and the programming. That's wrong. They spend 40% or more of their time filling out forms and doing secretarial work.

Again, as previously noted, para-professionals (TA's) play an important role. In some divisions, numbers were reported as decreasing. As one principal stated: *"We've taken a beating in terms of [the number of] paras."* Another issue was the scheduling of para-professional time.

You need to take into account safety issues, behavioural concerns, lunch time, bathing time, recess, etc. Only one third of the allocated hours are spent in the classroom. The coordination of para time is stressful.

It takes a lot of juggling in terms of practicalities of para-professionals who need lunches and breaks and there's still children who need to be toileted - there's all those things to consider - what time the bus comes, what time the bus goes ... we don't have the luxury of staff being here from 8:30 to 4:30.

Finally, in some case study divisions, contract issues were also viewed as having an impact on the effective use of para-professionals.

TA's are on the seniority list, it is not based on education, qualifications or how well you do your job. It's not the needs of the kids that are being addressed - it's politics.

Another very specific human resource need voiced below, concerned qualified ASL interpreters:

We don't have a role and classification for interpreters, so many people who are hired are not qualified for interpreting. There is a difference between education assistants and interpreters. ASL and interpreting are very different.

Many of the above issues have a direct effect on the staffing both divisionally and at the school level. Some divisions had looked to innovative staffing to support the implementation of quality special education programming.

One main support is the teaching strategies position, a new p.d. model - the best that's ever been in our school. Twenty days working with the teacher in the classroom has significant importance to program delivery. Having a professional person doing resource with the teacher and the kids [has been very effective].

There was also a recognition that staffing configurations have changed and, somehow, schools need to become more responsive.

> *We needed to readjust staffing patterns to accommodate students in the special education centre. The superintendent provides emergency TA time. But we need more para-professionals and another counsellor. There is not enough access to specialists as teachers would like.*

> *We had [in the past] a much different configuration in terms of the kind of help that we could direct to kids. Right now what we have is a very wishy-washy kind of nebulous system, giving us resources and we throw them into a nebulous mass of ... like where do we put these particular resources because they are extemely limited. It's the kind of piecemeal system we have.*

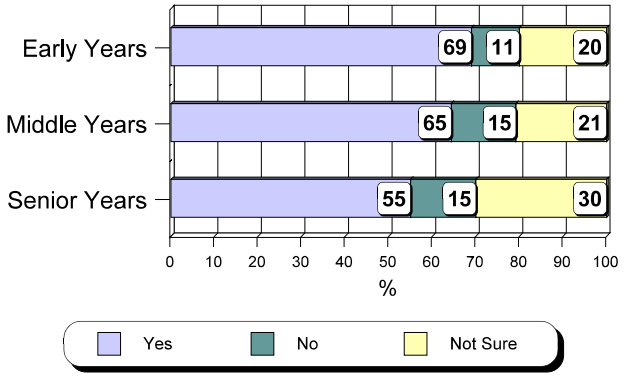
Not all schools in the case studies, however, have experienced change that is negative in terms of the allocation of human resources. For example, the experience of one very small rural school tells a positive story.

> *We have the reading clinician twice a month, speech pathologist once a month, psychologist once a month, para-professional support, coordinator support ... we're pleased with the level of support ... it's all a team effort - all are linked and all are important... supports have increased dramatically ... we have more access to clinicians and we're more organized.*

ii. Training and Professional Development

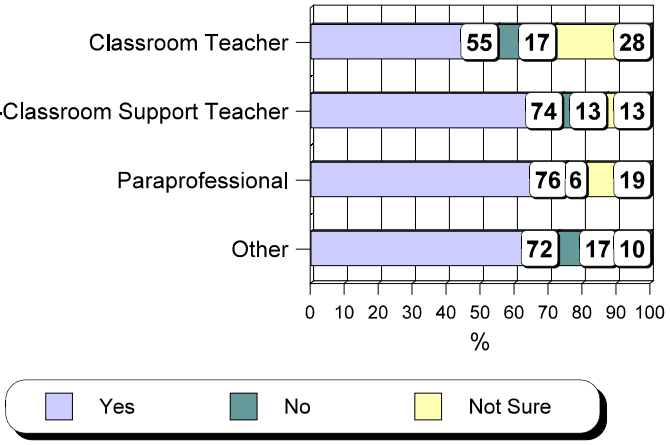
Regarding professional development (p.d.), the results of the staff survey clearly indicate that people working with students having special learning needs think that more professional development would be of benefit to them.

Graph IX-16
Would Training/P.D. Help You Work With Special Needs Students?
by Level Taught



At all levels, the majority saw a need for professional development, however, those working in early years settings were most likely to do so. Almost one-third (30%) of those working in the senior years were "not sure."

Graph IX-17
Would Training P.D. Help You Work With Special Needs Students?
by Position



Classroom teachers were the least likely to indicate that professional development would help them (55%), but another 28% were not sure, suggesting that it is sometimes difficult to determine what you need to know if you do not already have a certain knowledge base.

Professional development opportunities were identified as needed in all case study divisions, although in some areas (remote and northern communities) the cost of delivery was seen as a major obstacle. It was also noted that professional development had to be more than one day workshops to be

effective: *"In one day inservices you learn a little bit and forget, you know, 90% of it."*

The professional development areas of need most often cited (in no particular order) were:

< FAS/FAE;
< autism/PDD;
< strategies for teaching students at risk;
< writing IEP's;
< writing behaviour management plans and behaviour management strategies;
< differentiated instruction strategies; as well as
< use of multiple intelligence theory;
< rubrics; and
< outcome-based learning.

These topics for professional development were not limited to teachers (and for TA's as well), but also were cited as being important for school administrators: *"Principals need some aggressive inservicing about inclusion."*

It should be noted that where para-professionals had access to professional development opportunities they found them to be extremely valuable, as the following quotes illustrate (the first from an urban case study division, the second from a rural case study division).

> *There are many useful inservices about gangs, violence and mental health issues . . . I feel fortunate to have had inservicing ... you get motivated, it gets you back on track - it kind of makes you feel more comfortable.*

> *Here we're encouraged to go to p.d. and we're supported financially ... the division was very supportive of my getting TA accreditation ... I took the TA course and this really helped my work with special needs students. I understand them much better and have more ideas than before.*

Finally, the need for <u>qualified</u> resource teachers and counsellors was raised consistently across the case studies, including schools that were in more isolated and/or northern communities. Pre-service teacher training (courses)

in the area of special education was also widely cited as something which should be required of all teachers, regardless of their specialty area.

iii. Use of Financial Resources

Funding issues are also addressed in other sections of the case study analysis. However, it is important to note that some school divisions made the point that they expended considerably more dollars than they received in grants: *"The division contributes 50% over and above the special ed. dollars they receive and most of it goes to staffing."*

Regarding the use of financial resources, a common theme across the case study divisions was that financial resources (which often translate into human ones) are needed to support an inclusive approach.

> *We need money for field trips, materials and bussing concerns. Our philosophy is inclusion, but special needs kids are transported (by bus, taxi or handi-transit) separately to ensure their safety and because they have to transport all the equipment.*
>
> *The fact of the matter is that for them [students] to be successfully integrated the support has to be there ... it's probably more cost effective to have the segregated classrooms, but I don't think that the benefits are the same and I don't think you end up with kids that are independent. That independence leads to better cost effectiveness in the long run.*

Summary

The case studies indicated that certain types of human resource supports were more difficult to access than others, particularly certain clinical/therapeutic services. Resource teachers and para-professionals were also viewed as key human resource supports that were sometimes overworked and/or whose time was difficult to juggle.

The need for more professional development and training in the area of special education was almost universally cited in the case study divisions and schools. This included specific training for teachers, resource teachers, counsellors, and para-professionals. In addition to these groups, the need

for professional development for principals in the area of special education was also raised.

Effective use of financial resources was closely related to the utilization of human resources. Case study participants were quick to point out that both were needed to support quality inclusive programming.

6. Examination of Strengths and Limitations of Costs and Funding Models

Participants were asked to comment on the perceived strengths of the current funding model, and how well it is meeting the needs. Specifically, participants were questioned on:

< fiscal resources - the ability of fiscal resources to meet the needs of students with special learning needs;
< the funding model - suggested changes or accountability mechanisms to the funding model; and
< resource balance - the success of schools/divisions in balancing resources.

Details on funding models and financial analysis based on FRAME is found in Chapter VII.

a. Fiscal Resources

All divisions expressed the view that the present funding allocations do not meet actual funding costs. Although some schools stated that, despite cutbacks, they are doing well in meeting student needs, they also expressed concern as to whether this can continue.

> *The division has supplemented government funding for special needs students by enormous amounts of money. Often times we end up going to our division and they have to dig deeper and deeper to try to find the supports because the money just isn't there from the government agencies [Student Services administrator].*

In rural and northern divisions especially, individuals noted that while funding has not decreased, neither has it increased to meet the growing needs of students. Many of these divisions noted that they experienced cutbacks in staffing, particularly in access to specialized consultant services. Rural divisions as well noted that consultants are non-existent or stretched too thin. Even divisions that did not perceive an impact from cutbacks reported it difficult to meet the needs of all students. In those cases, the needs are increasing, but the funding was not seen as increasing to meet these needs.

A parent from an urban division also commented that while supports have helped her son tremendously, more contact (i.e., individualized support) more often would have been better: "*The amount of contact is limited due to budget or number of people"*.

i. Increasing Needs

Divisions throughout the province are noticing an increase in the number of needy students. Northern and rural schools located in regional centres which draw students from surrounding areas, especially noted the strain these increasing needs are placing on their system. In particular, divisions felt that there are insufficient programs and services for students with behaviour problems. Even a division which received an increase in staffing at the senior years level through student support program grants, had a greater number of Level I students than they felt, the grants covered.

> *Resource, counsellors are cut to half, funding parameters have been tightened from Department. Kids that used to get funding aren't. Needs of students have increased - including social emotional, family problems, more students need altered or adapted programming. We need more support systems for early intervention, especially for reading.*

Rural and northern divisions also stated that they do not have the funding to provide resource materials and equipment necessary for some students.

> *[We have] concerns about funding going down, class size going up, [we] can't buy the variety of materials . . . computers eat the budget (software comes from the book budget), and staff cuts. [One]*

student in a wheelchair with CP has been waiting three years for new computer that speaks for her . . . . Also, in a small class, desks had to be moved for her to get in and out of the classroom, this "made her feel awkward".

Certain divisions were particularly concerned about future cutbacks which would potentially eliminate programs or services. They stressed the need to maintain or increase funding of services.

A large urban division also noted that they have a need for programs to address the social needs of students from low income homes, as well as physical space for private counselling and/or to accommodate different learning styles.

ii. Support for Integration

The concern of many school staff in urban divisions was that funding is not sufficient to support full integration. Some stated that they did not want funding to go to "showcase" initiatives or programs, but rather to support a comprehensive philosophy of inclusion. Many individuals, teachers especially, felt that the financial support was not in place to ensure that these initiatives could be successful. One clinician stated that full integration is:

a great philosophy - I agree with it wholeheartedly, but it takes more than words on paper. It takes money to provide the kids with what they need, with the supports they need, and that's where the whole thing falls apart ... We welcome them with open arms into the classrooms and these poor teachers are dealing with everything from Asperger's, to autism, to severely profoundly retarded kids, to kids who have Spina Bifida and require catheterization, and toiletry, and feeding, and then they got behaviour problems, AD/HD ... I think it's dishonest in school systems to keep promising mainstreaming like this and not being able to deliver the goods . . . it's getting stuck on the teachers to reinvent the wheel.

Summary

All divisions argued that funding allocations do not meet actual funding costs. Furthermore, all divisions reported increased numbers of students having special needs at a time of staffing cutbacks, and decreased access to consultant services, making it increasingly difficult to meet the needs of students. Concern was also expressed that funding support is not sufficient to support full integration.

b. Funding Model

All divisions suggested that to respond to these increased needs, changes need to occur in the funding categories to include students who presently are *"nearly excluded from specialty funding".* Frequently, individuals mentioned the need for increased funding for Level I students, or students with behaviour problems.

A principal from a rural division liked the idea of funding based on IEP based formats. Others suggested that funding should be based on need, not a formula based on the number of students.

> *Need to deal with Level I students fairly. May need more money, special teachers, more para-professionals, maybe different classroom structures. [Resource teacher, northern]*

> *We spend considerably more [on para-professional support] than what our Level I support would be [student services].*

Some school staff (urban) feel that certain students are not funded because it is assumed that the para-professionals in the class will work with these students as well as the funded special needs students.

> *We weren't funded for our EBD kids, because we have lots of paras it is assumed they can do EBD as well, but it takes away from special needs kids [resource teacher].*

Others feel that para-professionals are able to successfully integrate these students. A resource teacher from an urban division stated:

Our paras that are working with our Level II [students], when they are working with three kids, they will, without jeopardizing the work with those three kids, pull in a fourth ... pull in a kid who's slightly at risk learning-wise, with two kids that are obviously funded ones, and another one as well. So that there'll be a multi-level conversation about the theme but it's all about building understanding, towards it and meeting future curriculum outcomes.

Only one case study participant, a principal in an urban school, stated that s/he would *"like to see block funding for all levels so that supports are there".*

Summary

There was a frequent suggestion to expand the Level I funding category in order to include students currently excluded such as students with behavioural problems. A number of suggestions were provided which dealt with the funding formulas including being based on the IEP, while others suggested the formula becoming based on "need".

c. Balancing Use of Resources

Throughout the case studies there was a concern expressed that integrating students with special needs, without proper supports, "*takes away from kids at the normal level*". In particular, there was concern that students with behaviour problems are consuming large amounts of the teacher and para-professional's time, at the expense of average or "borderline" students who might be able to improve with a little extra support. This concern was expressed by teachers, student services coordinators, and parents alike.

Disruptive kids tie up teacher time and class time and ruins it for the good kids in class [principal].

I hate to say it but it almost improves the atmosphere of your school when these kids are gone .. for some of the kids who are overshadowed and bullied most of the time it has made them feel better, safer, and more comfortable in the school [teacher].

A Student Services Coordinator stated that "*in the parent community, there is a growing intolerance for students with special needs*. [Parents] *resent having to use the funding for those* [students]". In addition, s/he expressed the belief that parents are scared that their kids won't get the programming they need if there are disruptions.

One parent in that division stated: "*We're not getting what we should for our tax dollars*", indicating that they should have more teachers and resources for learning disabilities, or more money for a private school that can take care of [behaviour] needs.

Northern divisions and rural divisions shared the concern surrounding students with behaviour problems, but also felt that there was an increased focus on students at the "lower end". One teacher stated that the gifted program was the first to go when there were cutbacks, and a principal admitted that they "*feel that they ignore the gifted student and place the emphasis on the lower level*." Others noted that support for students with behaviour problems also took away from students with learning disabilities.

> *Level II funding is going to behaviour students rather than Learning Disabled or gifted students [teacher].*
>
> *The focus has changed to kids with behaviour problems rather than those with learning difficulties [principal].*

Students expressed some concerns regarding the balance of teacher time, particularly when it involved paying attention to behaviour management. Students in regular programming in rural divisions stated:

> *We just think that students with special learning needs shouldn't get all the teachers' time, like the teacher also has to spend time with the other students.*
>
> *I noticed especially lately that a lot of the teachers' time is spent with discipline and stuff instead of concentrating on teaching new things.*

A high achieving student suggested that a special class for gifted students would be *"very beneficial to us".*

Summary

School divisions were concerned that funding allocations for special needs services are not adequately meeting student needs. Perceived cutbacks have reduced staffing and access to specialist support. School staff in all divisions noted that the number of needy students has been increasing, and funding has not kept up with these demands. Case study participants believed that the number of at risk students and students with behaviour problems are increasing. Parents, students and school staff are concerned that these students are overshadowing the needs of other students by consuming inordinate amounts of energy and other resources.

7. Intersectoral Collaboration

This section will explore case study participants' experiences of intersectoral collaboration in relation to special education. In particular it will explore: aspects of intersectoral collaboration that require improvement; the role of the Manitoba Children and Youth Secretariat; and the manner in which various sectors work together to assist in the transition of students, both into and out of school.

a. Intersectoral Coordination

School divisions in all regions of the province recognized a need for improved communication and coordination of service provision among schools, government agencies and community organizations. They acknowledged that a team approach would provide a broader perspective on the student, enabling the team to provide services more effectively for the child.

Many school staff were receptive to the idea of intersectoral approach, and some stated that they "*are excited by the prospect of an interagency program being set up*". Participants suggested that this approach would eliminate situations that had occurred in the past where, for example, *"a kid could be in class after a crisis and no one knows",* the school is "*unaware of outside agency involvement*" in the child's life, or the school is unaware of a student's needs or academic history. Sharing of information has perceived as a necessary first step.

Urban schools suggested that schools are having to deal with issues that occur outside of school, and often feel that they are working alone.

> *The most important thing the program requires is more interagency cooperation. We are finding so many times that we are the kids managers. And social workers change, and they're not allowed to release information. . .a probation officer hasn't seen a kid for a month, month and a half. It seems that the schools are being responsible for kid's entire lives, when they have paid professionals out there, that they are overrated as well. And they're just not involved with the kids, and all of that responsibility is coming back to the school. So we need more cooperation between health, justice, welfare workers, social workers - nobody is talking to each other.. That would really, really help.*

Many of the participants from rural and northern divisions felt that the various sectors were not working together to meet the needs of the child.

> *There are duplicate services because nobody shares anything with other agencies, we undo each other's work. This is where at risk and Level I really suffer, because they never get together to discuss each other's cases.*

> *[We're] not working together ... no referrals from school . . . [it's a] power struggle between Health and Education. The URIS system is good; it is helping us deal with medical stuff. However, we need better coordination between Education and Health. [I] had to fight with the public health nurse about procedures - she was not aware of manual. There's not good communication between departments.*

In northern and rural regions, it was hoped that a collaborative approach would alleviate the lack of professional consultants. A team approach (the marriage of Education, Probation, and Family Services) would enable consultants to be available in the community. A mental health worker in the North stated:

> *There is a lack of resources. We need a psychologist. Health doesn't have access to psychologist either. It creates situations (e.g. Schizophrenic child) [where there is a] big rigamarole about who pays for what to get him to Winnipeg. They had to put him in jail to contain him. It was a very negative experience for the child.*

Rural participants also expressed a need for consultants to be available.

> *[There's a need for] a branch of Manitoba Education [that's] really involved with behaviour needs students who have psychologists, etc., and working together with Child and Family to come up with plans for these kids; and trained workers who would come into the field to assist the schools.*

> *[We need] a branch of specialists in FAS/FAE who come to work with FAS/FAE children.*

i. Participating Sectors

The agencies or community groups most often involved in intersectoral collaborations include: police/RCMP, Child and Family Services, and Health. Many school staff, social workers, resource teachers, and principals identified the need to develop stronger collaboration with parents, and medical profession, Child and Family Services, Manitoba Health, Manitoba Justice and Manitoba Family Services. An urban social worker stated that: *"good communication between home and school is important for success"* and an urban division administrator added, *"we need a mechanism to involve them".* A resource teacher, also from an urban division identified the need for the medical profession to become more involved in identifying students with special needs early on, and relaying this information, as well as how it will affect the student, to the schools. A gap in communication was perceived to exist between the medical profession and schools.

Some school staff perceived Child and Family Services (CFS) to be unresponsive and inflexible usually because of overworked or limited staff. Same school staff also felt that the agency did not always act proactively, having only the capacity to respond in crisis situations.

> *It seems there has to be an incredible crisis - abuse or Dad drunk with a gun to get them to come to the school.*

> *Child and Family Services is not responding to the needs because they don't have the staff.*

The issue of team involvement to support foster families was also raised. In some case studies, school staff felt that more follow-up with foster families by Child and Family Services would be helpful.

ii. Potential Difficulties

Three issues presented difficulties for intersectoral collaboration: sharing information, coordination, and agency responsibility.

Sharing Information

Case study participants noted that a balance is often required between confidentiality and the need to share information so that all the parties involved "*get the full picture*". A principal from a small rural school admitted that confidentiality was an issue at first, but they "*hashed it out*" because "*if all agencies keep their cards to themselves, there's no way you can help the child*." Some of the larger, urban schools noted that the success of the collaboration or amount of communication shared about a student depends to a large degree on the individual case worker.

Coordination

Participants noted that someone dedicated to case coordination is a necessity for an effective intersectoral team.

> *[You] need a dedicated case manager from outside the school for students who are most at risk, to bring all players together, school doesn't have time for coordination of intersectoral, 24-hour plans [resource teacher].*

As this resource teacher indicates, schools often feel that responsibility for initiating a team collaboration falls on them. One participant suggested that this may be due to the fact that the school does not get funding if other agencies do not act in concert, s/he questioned the logic in a crisis of initiating the development of a team, rather than acting proactively.

Case study participants reported that teachers sometimes take on the responsibility themselves for communicating with outside agencies. For example, in a rural school, the teacher would phone the CFS worker for an

hour at least once a month to review what was happening for a particular student.

Lack of time was reported as a factor mitigating against intersectoral coordination. Urban divisions were especially conscious of the large amounts of time required for meeting with outside agencies.

> [There is a] need to build in meeting time in the school day. The agencies aren't always as accommodating or available as you need them to be. Professionals don't always give the time necessary to discuss the students [special education team].
>
> There are a lot of services provided up until school, but those services are pulled back once the child enters school. It's difficult to schedule meetings; our priorities may not be the same as theirs. We used to have more workers at our team meetings [resource teacher].

Some rural and northern divisions find that they have additional demands on their systems which affect their ability to hold intersectoral meetings.

> *[We] can't get a doctor to come to intersectoral meetings because there's no way to pay him [student services coordinator].*
> *People want to coordinate but burn out, so many demands on remote system. We need things to happen that break down boundaries. [School liaison worker]*

Responsibility and Resources

Schools in the case study often found that intersectoral collaboration was hampered by the unwillingness of agencies to take responsibility (often financial responsibility) for the child's needs, or share the responsibility.

> *[Meetings are] incredibly time consuming, frustrating, no guidelines, no procedures, no help. [the] URIS manual was never given an update . . . [there is] little continuity in members and directors and a need to name someone to look after it. URIS is dumping all medical needs on schools in rural Manitoba. Coordination doesn't work that well as each one tends to live in their own little world [principal].*
>
> *It seems that if education doesn't take the lead, no one else will. Where is the interagency attitude? [We are] frustrated sometimes [because we] have to know the information when dealing with at risk*

kids. Seems there's a lot of money spent on various agencies. Coordination would produce more effective results and more efficient use of money. [We] need more proactive planning, their parents and social services would jump. [We] should get someone from the outside to look at agencies. [We] need a paradigm shift - everyone's protecting their turf [principal].

Child and Family Services needs to provide in-home support workers for families with aggressive, violent kids who are not in danger of being apprehended. The linking of services is tough ... for example, if we work with the Health Sciences Centre ... they won't work if anybody else is working with them. We're not really aware of all of the outside agencies that can be of assistance. So, a lot of the time you're just trying to find out the rules of the game on your own [principal].

There is a lot of in-fighting between departments — community services, education, and health. Sometimes the division says `Why should we have to facilitate, this is a family problem. Why should we do Family Services?' [social worker].

Kids are in a drug treatment program, for at least half of the year, but are not receiving academics — there is confusion over 'whose jurisdiction is it.' [community agency representative].

Large urban school divisions most frequently discussed the necessity of pooling financial resources among departments to address student needs, especially where students require medical intervention. Parents and school staff were supportive of this type of interdepartmental approach to funding student services.

Health and Education should work more closely together so that there would be more social worker contact to assist the transition out of high school, as they are available to assist the transition of seniors out of their homes [principal].

The [school division] administration agrees that we need clinical services but trustees argue that the money for those services should come from Health [assistant superintendent].

iii. Successful Intersectoral Approaches

The success of intersectoral coordination appears to be more dependent upon the relationships between the staff of an individual school and the staff supporting agencies, rather than the school's size or geographic location. The comments from various schools illustrate the varying degrees of success of their efforts and also point to a growing commitment to working together.

> *We coordinate when feasible ... so that we all have same information. [But] it doesn't always happen.*
>
> *They are teaching the schools' student services people to make interagency connections on their own, and other agencies are doing a good job of outreach and making their services known and 'more approachable*'.
>
> *It's gotten better here in terms of the community. The mental health worker works in collaborative mode with the school.*
>
> *I found [an outside agency] very helpful and they'd even start to say - 'can we just team altogether? Can we just have one meeting, instead of meetings one at a time?'. These interagency meetings make communication a lot clearer, so no games could happen.*

Commenting on the success of their intersectoral approach, this participant from a division outside Winnipeg noted:

> *[It] has been excellent for keeping track of our 'busiest' students. It's the first of its kind in the province; 40 spots for high risk, special needs. All agencies are on line and have access. Crime statistics are going down, but Probation case loads are higher. Probation [activity] has increased but criminal activity has decreased*.

Summary

Case study participants agreed that there are many benefits to be gained in working collaboratively with other sectors to address the needs of students. There was also a consensus that not only was this important, but that people were in fact making more of a commitment to collaborative efforts.

Successful efforts highlight the importance of commitment of individuals in coordinating efforts. In addition schools and agencies need to be willing to share information, resources, and financial responsibility in order to provide services in an effective manner.

b. Role of the Manitoba Children and Youth Secretariat

Very few case study participants commented on the role of the Manitoba Children and Youth Secretariat. Those who did were usually people in divisional administrative positions, such as Student Services administrators. In general, there was support for the Secretariat's initiatives particularly in the development of certain protocols. For example:

> *Transition Protocol [Manitoba Transition Planning Process Support Guidelines] is good - and very important to us - but people don't know how to use it.*

Case study participants who were familiar with the Manitoba Children and Youth Secretariat also recognized that more needs to be done. The Manitoba Children and Youth Secretariat has the potential to take greater leadership in this area.

> *Children and Youth is doing good things. They need more good initiatives for truancy and students under the age of 12 with behaviour problems.*

> *Children and Youth has not taken leadership. They have reproduced protocols developed by others.*

Summary

Although few individuals commented on the role of the Manitoba Children and Youth Secretariat, those who did were generally supportive of their various protocols. Many felt that the Secretariat should take increased responsibility in leading the coordination between sectors.

c. Transition into School

Some schools, especially those in urban divisions, identified extensive transition practices into the school system. One area of the transition process which teachers and principals felt could be improved is the length of time over which the transition process occurs.

> *Early identification and transition works well, but would like more notice of incoming students [teacher].*

> *Transition time (2 weeks) for special needs students is needed at the kindergarten level. Need to stagger the entrance time over a couple of weeks because it's a difficult transition for parents [principal].*

A number of large urban schools consider themselves to have successful transition initiatives that have been in operation for some years.

> *[Our transition network] has helped to address these issues. Children and Youth used [our] protocol as the basis for the one they developed* [Student Services].

Within the northern and rural divisions, there were some difficulties identified in the transition process. In the northern divisions, it was mentioned that transition into the high school often includes transition into a new community and *"trying to keep students in their house communities through the use of technology. . . doesn't work, for special needs students".* There was a perception that in the North there is a need for *"better communication between Health and Education in the transitioning of students, both in and out of school; more of a team approach".*

d. Post-High School Transition

The transition process out of school was, generally, laden with more difficulties. Many school and division staff noted that there is "generally a gap when students turn 18 ... there are no supports if they leave school". It is in this gap between 18 and 21 where students are eligible for education but not for community services or vocational programs - they are *"locked*

into limbo". It was suggested that Health, Education and Family Services should work more collaboratively to assist in this transition process. In addition, case study participants encouraged the development of intersectoral relations within the community to ease the transition out of school and into the workforce. Some schools, usually larger schools, are already successfully implementing this type of collaborative approach.

> *During the last 4-5 years of the child's formal education meet as a team (vocational community services, parents, school rep, the individual) to look at expectations/goals for the individual after they leave school. How long student stays in school depends on whether they get full time [work] position. The focus is on outcomes.*

> *[We] try to place students in work placements that meet their interests. When they leave at 20 they already have work experience, rather than having to start at the beginning as with students from other programs. Vocational Rehab is involved in transitioning meetings and knows about the students, their family, the type of work they've done. As a result, the transition is much smoother.*

> *[We] need to build stronger partnerships with businesses for work experience. Government needs to support bridging between schools, community and business.*

> *Work experience placements often lead to jobs.*

Parents supported the need for post-high school agency involvement: *"Some agencies work with the students in high school, but assistance didn't continue past high school"* and others stated that they needed to be better informed about available program options for their children after school.

> *[Concerned that if their child goes into a community living program they won't be able to live at home.] There is less benefit for children who want to live at home. Why should the government have a say to where a child lives to receive this program?*

School personnel also identified the need for recreational programs for special needs youth, once they finish school. *"[We] need recreational activities for students after high school."* Recreational programming was

perceived to be clearly linked to successful transitions from school into the community.

> *[Wonderful kids are sometimes left without recreational programming, the program directors are untrained and underpaid. In the schools, they were] exercising their bodies, using their minds as creatively as they can - looking at developmental growth, which should be ongoing throughout their lives, and then they get into these situations as adults, where they are expected to do a simple task, they lose their physical ability , their mental and social ability. I think that it's tragic. [There needs to be] better transition from school to work [and] school supports should accompany students into the working community.*

Summary

Case study participants agreed that there are many benefits to be gained in working collaboratively with other sectors to address the needs of students. There was also a consensus that not only was this important, but that people were in fact making more of a commitment to collaborative efforts. They reported that issues of information sharing, coordination, and responsibility must be addressed in order to develop an effective collaboration. Schools and agencies need to be willing to share information, resources, and financial responsibility in order to provide services in an effective manner.

When receiving incoming students, many schools desire more time and information to prepare for the transition, although initiatives such as the Guidelines for Early Childhood Transition to school were viewed as useful. For outgoing students, collaboration with the broader community has been an effective strategy in some schools for making this transition a positive experience. However, improved collaboration is necessary with other agencies to improve the supports available for youth between the ages of 18 and 21 and their transition into the post-school world.

C. Concluding Remarks

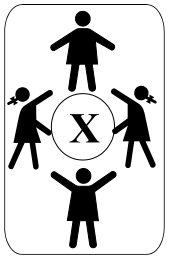
As one might expect, the case studies serve to highlight the fact that implementation of special education philosophy and approach rest largely with the individual school. While it is possible to identify some trends by

school level (early years, middle years, senior years), by geographic location, and by community size, within any discernable trend there are exceptions.

Over and above the impact of resource allocation, the fundamental component remains a human one; that is, the commitment to providing the best possible learning opportunities for every student who is a part of the school community. Integral to this commitment are awareness, understanding and knowledge of how to institute “best practice” to promote the growth and learning of exceptional students. Clearly this “best practice” includes the meaningful and coordinated involvement of parents, caregivers, community professionals and the students themselves.

Building the capacity of the school and its community to put inclusive philosophy into practice may be challenging - but is possible, as evidenced by case study examples. The case studies illustrate the importance of coupling characteristics of good practice with appropriate resources and relentless commitment to act in the best interest of students.

CHAPTER X
REVIEW RECOMMENDATIONS



In keeping with the collaborative spirit in which the Review was conducted, the Steering Committee and the consultants believe that everyone (for example, school divisions/districts, the Province, parents, teachers) in partnership, has a stake in ensuring recommendations are acted on in timely and appropriate ways. Therefore, recommendations will be presented by Area of Inquiry rather than by stakeholder group.

A. SPECIAL EDUCATION PROGRAMS AND SERVICES IN MANITOBA

It is recommended that:

A.1.i The Province develop a mechanism for tracking the actual special education programs and services being provided and that this mechanism be compatible with the new program review process being developed by Manitoba Education and Training. (See recommendation A.5.i.).

A.2.i. Manitoba Education and Training and Manitoba school divisions/districts retain policy that supports a philosophy of inclusion, where first choice of programming for students occurs in regular classrooms with their same age peers in neighbourhood schools. Furthermore, this policy be substantiated in practice by a continuum of supports, services and placement options in order that each child can receive the supports, services and programming that are most appropriate to his/her needs.

A.3.i. Manitoba Education and Training revise the policy document Special Education in Manitoba. (Further direction to this recommendation is found under the second Area of Inquiry.)

A.4.i. Manitoba Education and Training continue to develop documents that provide support to educators on "best practice," including, but not limited to, issues of emotional/behaviour disorders (EBD) and FAS/FAE.

A.4.ii. Manitoba Education and Training, in collaboration with other stakeholders, review the various "zero tolerance" approaches and policies to assess their potential and actual impact on students and other systems.

A.5.i. Manitoba Education and Training develop and institute a collaborative, consultative program review process where representatives from Manitoba Education and Training work in concert with school divisions/districts and parents. Rather than an "audit", the regular program review process would focus on accountability for purposes of improvement rather than compliance. Furthermore, the program review should have an action focus, coupled with clearly defined program outcomes in order to address both the need for accountability and for continuous improvement. Requirements of the process could also ensure that consistent and accurate data were collected from divisions/districts on special education programs, services and students served. School divisions/districts should continue to produce annual reports, similar to the ADAP's, but based on revised reporting guidelines. The annual report should be "updated", rather than re-done, in non-program review years.

A.5.ii. Manitoba Education and Training pilot and formally evaluate the program review process.

A.6.i. Manitoba Education and Training develop and articulate minimum service standards for special education (to be contained in the revised policy document).

B. Special Education Policies, Practices and Procedures

It is recommended that:

B.1.i. Manitoba Education and Training revise its special education policy document to become a comprehensive handbook on policy and procedures including:

- statement of philosophy and policy (including minimum standards);
- definitions of terminology;
- detail regarding administrative practices and procedures;
- expectations regarding identification and assessment processes, including IEP's;
- detail on the appeal process;
- an outline of roles, responsibilities and expectations of all stakeholders (including Manitoba Education and Training, other government departments, agencies, the division/district. the school, as well as parents and students);
- expectations regarding the qualifications of educators, para-professionals and other service providers.

Furthermore, the special education policy document needs to: be grounded in "best practice" (see the following section); include all the pertinent supporting documentation; and delineate the connections to other Manitoba Education and Training directions and initiatives.

B.2.i. Manitoba Education and Training continue to provide support to the field in areas of "best practice" (as they have done with the Success for All Learners document).

B.3.i. Manitoba Education and Training, in collaboration with other education stakeholders (e.g., Student Services Administrators Association of Manitoba) take steps to clarify confusion over perceived contradictions in provincial directions.

B.5.i. The Province of Manitoba make changes to Manitoba's legislation in order to achieve consistency with the Charter of Rights and Freedoms, particularly to ensure the right to equality as it is

understood in Canada and relates to the right of access to education for exceptional children.

B.6.i. Manitoba Education and Training develop a process to engage educators in the field in how to address the issue of struggling learners who do not qualify for a Modified designation. (The recommendation is not to change the Modified designation, but rather to find solutions that will address the educational needs of struggling learners for whom a Modified designation would be inappropriate.)

C. Quality and Cost Effectiveness of Special Education Programs

It is recommended that:

C.1.i. The Province give priority to early intervention services, including both pre-school and early years identification, assessment and intervention services. (This is clearly an area requiring intersectoral involvement as pre-school services are beyond the mandate of Manitoba Education and Training.)

C.1.ii. Manitoba Education and Training, in its revised policy and procedures document on special education, give direction on assessment criteria, assessment practice (in order to promote appropriate assessment), and expectations regarding the development and use of Individual Education Plans, as per its recent document Individual Education Planning - A Handbook for Developing and Implementing IEP's Early to Senior Years. (See recommendation B.1.i.)

C.1.iii. Manitoba Education and Training assist the field in developing alternative methods to promote appropriate assessment practice as applicable to students with special learning needs.

C.2.i. Manitoba Education and Training, in collaboration with educators, parents, students, and community, develop authentic, credible and appropriate indicators of student learning outcomes as a basis for both student and program evaluation.

C.3.i. Manitoba Education and Training, in collaboration with other stakeholders, develop, pilot and evaluate culturally appropriate programming approaches that would be appropriate for Aboriginal students who have special learning needs.

C.3.ii. Manitoba Education and Training, in collaboration with other stakeholders, develop, pilot and evaluate culturally appropriate programming approaches that would be appropriate for students from recent immigrant communities who have special learning needs.

C.4.i The Province develop an information booklet specifically for parents that not only summarizes provincial policy in special education, but also provides references as to where parents can go to access support services. Information should be available in multiple languages and formats, including American Sign Language (ASL), and should be widely available.

C.4.ii Educators hold high expectations for students which are reflected in defined outcomes for students inn order to foster success through building on student strengths, rather than emphasizing deficits.

C.5.i Manitoba Education and Training articulate expectations for ongoing and systematic evaluation of special education programs and services, backing these expectations through inservicing and other supports. It is reasonable for this to be linked to the school planning process, as well as to the proposed divisional/district program review process.

C.6.i Human resources be deployed according to needs and programming goals. This assumes, for example, that para-professionals support programming goals, rather than para-professionals being viewed as the sole support for students with exceptionalities.

C.6.ii People who work with students who have special learning needs must be appropriately trained. This includes:

a) mandatory pre-service training for all teachers in topics related to special education. (This would require course work in addition to the one required course, Psychology of Learning and Instruction, that is currently part of the undergraduate program.);
b) ongoing professional development for teachers in areas related to best instructional practices and special education (see list of topics on page 46);
c) professional development for school administrators relating to special education issues;
d) training and/or required qualifications for para-professionals who work with exceptional students, including ASL qualification for para-professionals working with deaf students;
e) reinstatement of minimum qualifications for resource teachers (not all of which need to be based on academic course work).

C.6.iii Manitoba Education and Training, in collaboration with stakeholders develop indicators that would be appropriate to measure program quality and outcomes. (Note: this is a similar recommendation to C.2.i.)

D. Strengths and Limitations of Costs and Funding Models

It is recommended that:

D.1.i. Manitoba Education and Training redefine criteria for categories of support (i.e. Level I, II, III) based on student needs, rather than on labels which assume that all children with certain named disabilities require exactly the same level and type of support.

D.2.i. The base Level I funding be increased, and additional Level I funding be available in relation to high levels of need, as identified through the proposed program review process.

D.2.ii. A specific allocation be made to ensure the delivery of gifted programming.

D.2.iii. If, in future, Manitoba Education and Training wishes a more definitive answer to the question of program and service costs, FRAME will have to be adjusted to capture more discrete financial information.

D.3.i. Equity be a primary focus of any revisions to the funding model and accompanying funding formulas for special education. Equity and provincial support targets be coupled with expectations of minimum service standards and appropriate accountability processes.

D.3.ii. Manitoba Education and Training revise the funding model and formulas for special education, retaining a model based on some degree of provincial divisional/district partnership, but with the flexibility to increase provincial Level I funding based on identified local needs. (See recommendation D.2.i.) In addition, the revised funding model take into account:

a) the need for funding to follow the student, with some mechanism or formula to recognize the expenditures required to implement programming that may have a broader application than a particular child;
b) categorical grants be based on the level and type of student need rather than labels intended to represent specific exceptionalities which in themselves may be highly variable in the degree of support required. Then if students require a certain level of support, the funding would be forthcoming. (There is a need to be outcomes focused, rather than disability focused, which might help to change the perception that funding decisions are part of a negative process. See recommendation on criteria for categories D.1.i.)

D.3.iii Provincial funding needs to be allocated to support increased levels of certain clinical and therapeutic services.

D.3.iv Ratios for clinician grants be reassessed to take into account local contexts (such as large geographic areas).

D.3.v. School counsellor grants should be extended to include kindergarten to senior 4, rather than grade 5 to senior 4 enrolment.

D.4.i. As per recommendation A.5.i., a collaborative program review process be instituted where Manitoba Education and Training works in concert with school divisions/districts to review their divisional/district program and service delivery on a regular basis. (Every three years as proposed by Manitoba Education and Training appears to be a reasonable expectation).

D.5.i A continuum of supports and services become the basis for supporting all students, with "special education" students receiving supports within this continuum.

E. Intersectoral Planning in Relation to Special Education

It is recommended that:

E.1.i The role and mandate of the Manitoba Children and Youth Secretariat be clearly articulated and more widely publicized.

E.1.ii The Manitoba Children and Youth Secretariat continue to address important issues that impact on the lives of children and youth, and to develop intersectoral protocols through a process of involving all pertinent stakeholders.

E.2.i The URIS manual be completed and distributed.

E.2.ii Intersectoral cooperation include the provision of consistent and accurate information to parents regarding the school system and the range of service/supports available to school-age children. The Manitoba Children and Youth Secretariat could take the lead on such an initiative.

E.2.iii A "single window" for accessing services for children and youth be developed through collaboration among Manitoba Education and Training, Manitoba Health, Manitoba Family Services and Manitoba Justice. In this model, children and youth would receive the necessary programming, and supports and services regardless of their current placement (e.g., in nursery school, in youth centres).

"Living and learning" plans could be developed in pre-school years and for the starting point for educational IEP's.

E.2.iv A child profile information system be developed and ultimately linked to cross-sector funding. Implementation would require case managers with cross-sectoral authority or someone who is accountable for providing the supports that will produce desirable student outcomes.

E.2.v Manitoba Education and Training explore a full service or service-linked school concept where the school is the physical site for service delivery, (although this does not necessarily require school personnel to perform the coordinating function). In non-urban areas, an option for central coordination could rest with the Regional Health Authority.

E.3.i Concerted intersectoral efforts be made to develop, pilot and evaluate collaborative transition models so that young people are able to leave school for meaningful lives within their local communities, including social, recreational and employment options. Manitoba Family Services needs to play a major role in these efforts.

F. Suggestions for Further Research

There are a number of areas that warrant further research in the coming years. One area which justifies particular attention is in the area of "best practice". Answers to the following questions will be helpful in determining the most effective approaches in meeting student needs.

< Are all individual best practices equal and what is the connection between each? Is there a hierarchy of importance with some being more important than others or are they all equally important? Are some best practices pre-requisites to others? For example, are some necessary in order for others to occur or to work well while others are stand alone?

< Is there a group of best practices that are considered as being sufficient to cross an agreed upon"adequacy" threshold?

< Is the benefit of best practice, in terms of student outcomes related to each practice, roughly equal? Are all combinations of best practice equally good?

< What are the financial implications of implementing these best practices? Is the cost of implementing each roughly equal?

G. Dissemination of the Review Report

It is recommended that:

< The report on the Manitoba Special Education Review be a public document, with the exception of the data that compromises the anonymity of Review participants.

< A separate public document, approximately 10 to 15 pages, be developed for widespread public dissemination and be available in multiple languages and formats, including American Sign Language (ASL).