**Inclusive Education: Individualized Education Programs**

**Preparing yourself and your child for the 2020-2021 school year**

**ARCH Disability Law Centre and Disability Alliance BC**

**Slide 1 – Cover Slide**

Inclusive Education:

Individualized Education Programs.

Preparing yourself and your child for the 2020-2021 school year

ARCH Disability Law Centre and Disability Alliance BC

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**Slide 2 – Roadmap**

1. About ARCH and DABC
2. International Framework - UN CRPD
3. Human Rights and Education
4. Individualized Education Programs/Plans
5. Responsibilities and Advocacy Tips
6. Questions

**Slide 3 – 1. About ARCH and DABC**

**Slide 4 -** **ARCH – An important part of the legal system**

* ARCH Disability Law Centre is a specialty legal clinic that practices exclusively in disability rights law
* Since incorporation in 1979, ARCH has been a leader in disability rights advocacy and test case litigation.
* ARCH is dedicated to defending and advancing the equality rights, entitlements, fundamental freedoms and inclusion of persons with disabilities with low income in Ontario
* ARCH is primarily funded by Legal Aid Ontario

**Slide 5 - ARCH Services**

* Test Case Litigation
* Public Legal Education
* ARCH Alert
* Publications
* Summary Advice and Referral Service

**Slide 6 -** **Disability Law Clinic at Disability Alliance BC**

* The Disability Law Clinic is a new program of DABC. We opened in March 2020
* It is the first community law clinic in BC that specialises in Disability Rights Law
* We provide free legal advice and assistance to people with disabilities who live in BC, in some disability-related areas of law

**Slide 7 - 2. International Framework – UN CRPD**

**Slide 8 - Convention on the Rights of Persons with Disabilites (CRPD)**

* Article 24 states, in part:
  + “State Parties recognise the right of persons with disabilities to education … without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive education system at all levels … .”

UN General Assembly, Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106

**Slide 9 - Convention on the Rights of Persons with Disabilites (CRPD)**

Obligations that State Parties must ensure include:

1. Persons with disabilities are not excluded from the general education system on the basis of disability, …;
2. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
3. Reasonable accommodation of the individual’s requirements is provided;
4. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
5. Effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

**Slide 10 -** **3. Human Rights and Education**

**Slide 11 - Human Rights and Education**

* The right to education of a child with a disability is protected by multiple pieces of international legislation
* However, Canada has no federal legislation protecting a child with a disability’s right to inclusive education because education comes under provincial and territorial jurisdiction
* Policies on inclusive education vary widely

**Slide 12 - Inclusive Education**

* No single definition of “inclusive education”
  + E.g.: “Education that is based on the principles of acceptance and inclusion of all students. Students see themselves reflected in their curriculum, their physical surroundings and the broader environment, in which diversity is honoured and all individuals are respected.” - *Ontario’s Equity and Inclusive Education Strategy, 2009*

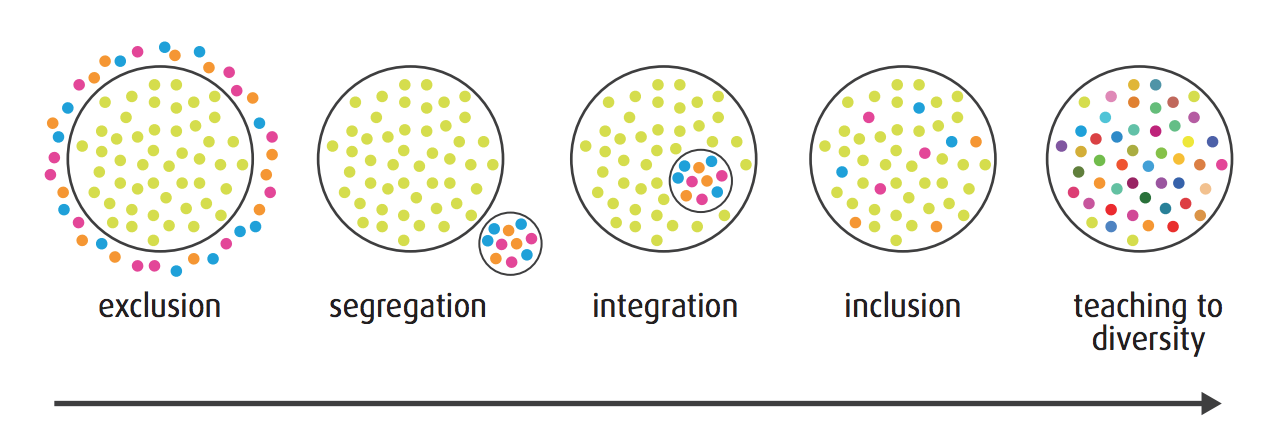


Image from: Inclusion BC *“Implementing Inclusion in BC’s Public Schools”* Report on the June 14, 2017 Inclusive Education Summit (Richmond BC).

**Slide 13 - Human Rights Laws Across Canada**

|  |  |
| --- | --- |
| **Province/Territory** | **Human Rights Laws** |
| AB | *Alberta Human Rights Act* |
| **BC** | ***British Columbia Human Rights Code*** |
| MB | *Manitoba Human Rights Code* |
| NB | *New Brunswick Human Rights Act* |
| NL | *Newfoundland & Labrador Human Rights Act* |
| NS | *Nova Scotia Human Rights Act* |
| **ON** | ***Ontario Human Rights Code*** |
| PEI | *Prince Edward Island Human Rights Act* |
| QB | *Quebec Charter of Rights and Freedoms* |
| SK | *Saskatchewan Human Rights Code* |
| NT | *Northwest Territories Human Rights Act* |
| NU | *Nunavut Human Rights Act* |
| YT | *Yukon Human Rights Act* |

**Slide 14 - Ontario’s Human Rights Approach in Education**

**Slide 15 - Ontario’s *Human Rights Code*: What’s Covered**

* The Code guarantees freedom from discrimination and harassment regardless of disability and/or other protected grounds;
* The Code applies to delivery of services including education
* **Education** is considered a service under the Code
* **“Disability”** is defined differently depending on the particular law in operation
  + More than just “exceptionality”

**Slide 16 - What is Discrimination?**

* Generally, discrimination means:
  + treating people differently because of their disability, **and**
  + the different treatment hurts, harms, offends or prevents someone from getting where they need to go, getting what they need or reaching their goals.
* Discrimination also includes situations where a rule or policy seems to apply to everyone equally, but in practice has a negative impact on certain groups of people.

**Slide 17 - The Duty to Accommodate**

* Generally, those who provide education services have a duty to accommodate the needs of students with disabilities;
* Accommodation refers to the prevention and removal of individual and systemic barriers;
* Disability accommodations must be provided unless undue hardship is proven.

**Slide 18 - Examples of Accommodations**

* Extra time for completing tests and assignments
* Alternative forms of evaluation
* Academic materials in alternative formats
* Provision of and training on adaptive technology
* In-class assistance and supports

**Slide 19 - Undue Hardship**

* Overall, disability accommodations must be provided up to the point of undue hardship
* Undue hardship under Ontario’s *Human Rights Code* consists of:
  + costs;
  + outside sources of funding, if any; and
  + health and safety requirements, if any.

**Slide 20 - Components of the Duty to Accommodate**

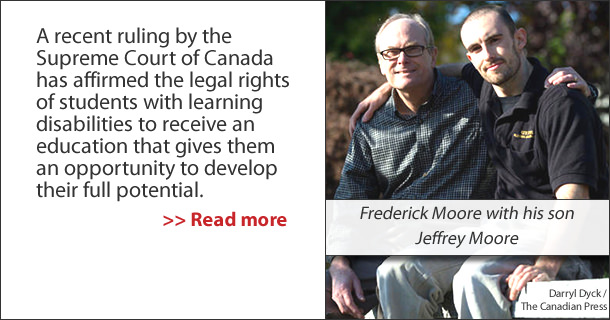
* Duty to accommodate is both substantive and procedural
* Substantive = considers the appropriateness of the accommodation provided or whether it cannot be provided because of undue hardship
* Procedural = the methods and approach to developing and implementing the accommodation

**Slide 21 - Components of the Duty to Accommodate**

|  |  |
| --- | --- |
| **Substantive** | **Procedural** |
| Accommodations are:   * appropriate, individualized, respect the **dignity** of the student | Educators to:   * take appropriate steps to sufficiently determine an **appropriate accommodation** |
| * highly **individualized** | * conduct an **individualized assessment** of the student |
| * to consider **strengths, needs and requirements** of the student, and the context | * **consult** with experts and others to gather information relevant to providing accommodation (where necessary) |
| * provided in a **timely** manner |  |

**Slide 22 - Notable Decisions**

* Supreme Court of Canada decision in *Moore v. British Columbia (Education),* 2012 SCC 61;
* This decision provides guidance on how human rights cases within the education context are to be adjudicated;



**Slide 23 - 4. Individualized Education Programs/Plans**

**Slide 24 - Human Rights and Inclusive Education**

Ontario’s *Education Act*

* Governs all publically funded elementary and secondary education services
* Sets out rules and timelines for the Identification, Placement, and Review Committee (IPRC)
* The Act puts an obligation on the principal and the school board to create an Individual Education Plan (IEP)
* You do not have to be “identified” in order to have your needs accommodated

**Slide 25 - Identification, Placement and Review Committee’s (IPRCs)**

Ontario’s *Education Act*

* IPRCs are essentially the mechanism by which placements are chosen
* IPRC process can be started by parent/guardian or the principal
* Before considering placing a student in a special education class, committee must first consider whether placement in a regular class, with appropriate special education programs and services, would meet the student's needs and be consistent with the parent's preferences

**Slide 26 - Identification, Placement and Review Committee’s (IPRCs)**

Ontario’s *Education Act*

* Remember that a school is still required to provide services, programming and accommodations regardless of whether an IPRC has been conducted
* IPRC’s may be appropriate in certain situations and not in others

**Slide 27 - IEPs in BC**

* In BC, there is no equivalent to the IPRC
* Schools must ensure that IEPs are created for all students who have special needs
* Special needs are defined as disabilities “of an intellectual, physical, sensory, emotional or behavioral nature” and learning disabilities

**Slide 28 - IEPs in BC**

* Students with special needs must be placed in integrated classrooms unless their educational needs, or the educational needs of other students, indicate that a different placement would be better
* If a parent believes a child would benefit from an IEP, ask the teacher for a meeting with the “school-based team” which assists the teacher to plan for students with special needs

**Slide 29 - BC: Appealing a school’s decision**

* BC’s School Act allows a parent or student to appeal any decision that “significantly affects the education, health or safety of a student”. This includes decisions about IEPs
* The board must make a decision about the appeal within 45 days
* You can submit a further appeal to the Superintendent of Appeals

**Slide 30 - Individual Education Plans (IEPs)**

* In general, IEPs are essentially accommodation plans
* Written by school in consultation with parents/student
* They set out learning expectations, and an outline of how the student’s progress will be evaluated

**Slide 31 - Individual Education Plans (IEPs)**

General Issues to be Address in an IEP

* Student’s strengths and needs
* Student’s current level of achievement
* Annual program goals
* Learning expectations
* Teaching strategies, accommodations and resources
* Assessment, Evaluation, and Reporting
* Transition Plan
* Parent/Student Consultation

SOURCE: The Ministry of Education, *Individual Education Plans: Standards for Development, Program Planning, and Implementation*, 2000

**Slide 32 - IEPs during COVID-19**

* In general, school boards must ensure that IEPs, as accommodation plans for students with disabilities, reflect the current needs of students with disabilities accessing education services within the COVID-19 context
* Need for IEPs to be followed
* Need for plans to be revised as appropriate

**Slide 33 -** **IEPs in BC**

* If teacher or parent suspects a child would benefit from an IEP, they can ask the school for a meeting of the school-based team
* The IEP is usually developed by a case manager or research teacher, in consultation with parents/guardians, at an IEP meeting
* It is not necessary to get a formal diagnosis of a disability, but it helps a lot

**Slide 34 - Examples of issues during COVID-19**

* Access to technology
* accessible online platforms/materials
* Students with disabilities must not be excluded from school



**Slide 35 - 5. General Responsibilities & Advocacy Tips**

**Slide 36 - Examples of Problems**

* Students denied:
  + timely and appropriate accommodation;
  + interim or alternate accommodation;
* Students and parents denied participatory rights in accommodation identification and development;
* Students in regular class placement in elementary school pressured to transition to segregated placement in secondary school;

*\* These examples are drawn from ARCH’s work with parents & students with disabilities*

**Slide 37 - Examples of Problems**

* Students with intellectual disabilities are disproportionately impacted;
* Improper use of behaviour/discipline legislation;
* Barriers when transitioning to middle school, high school and transitioning out of the education system.

*\* These examples are drawn from ARCH’s work with parents & students with disabilities*

**Slide 38 – Responsibilities of Parents/Guardians & Students**

* Tell the education provider about need for disability-related accommodations;
* Make his or her needs known so that the education provider can implement an appropriate accommodation;
* Assist and collaborate in finding accommodations by providing relevant information, answering questions, co-operating with experts, participating in discussions, etc.

Source: Ontario Human Rights Commission’s *Guidelines on Accessible Education*

**Slide 39 -** **Responsibilities of Education Service Provider**

* Advise students, or their parent/guardian of available accommodations, and the process to obtain them
* Investigate and canvass possible accommodation solutions
* Where necessary, obtain expert opinion or advice (costs are to be borne by the education provider)
* Provide accommodations in a timely manner

Source: Ontario Human Rights Commission’s *Guidelines on Accessible Education*

**Slide 40 - The Value of Informal Processes**

* Informal conflict resolution is often the most effective approach
* Informal processes can involve all interested parties, and allow for timely solutions to problems – formal processes can take much longer and be detrimental to students
* These processes may include the help of a third-party facilitator

Source: Ministry of Education. *Shared Solutions: A Guide to Preventing and Resolving Conflicts Regarding Programs and Services for Students with Special Needs* (Toronto: 2007).

Image of people with different disabilities sitting around a table. 

**Slide 41 - Advocacy Checklist**

* Use relevant P/T guidelinesto help you negotiate with the teacher, principal or Superintendent of Special Education for accommodations
* Keep contemporaneous notes of conversations with teachers, principal, Superintendent of Special Education
* If going in for a longer meeting, consider bringing someone with you to take notes
* Keep copies of school records, letters sent to and from school

**Slide 42 – Advocacy Checklist**

* Go up the chain: first talk to the teacher, then the IEP team or Principal, before appealing to the School Board
* If possible, get all communications in writing or by email
* If you don’t get a reply promptly, keep going up the chain

**Slide 43 – Advocacy Checklist**

* Consult and get the support of outside professionals if required
  + (e.g. MD, social worker, psychologist etc.)
* If needed, keep track of behaviours and/or incidents
* Explore informal resolution processes
* Call your provincial legal clinics for legal information and advice
* Consider whether a human rights application may be appropriate

**Slide 44 - More Advocacy Tips**

* Make sure IEP refers to all accommodations provided, in writing
* Always try to empathize with teachers. You want to make sure they get the resources they need.

**Slide 45 - BC Advocacy Resources**

* Inclusion BC, inclusionbc.org
* Family Support Institute of BC, familysupportbc.com

**Slide 46 - Thank you!**



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**Slide 47 - 6. Questions?**

