

## Public Policy Roundup

### Educational Implications of a Landmark Supreme Court Decision

The November 9, 2012 ruling by the Supreme Court of Canada, in *Moore v. British Columbia (Education)*, has affirmed the legal rights of students with learning disabilities to receive an education that gives them an opportunity to develop their full potential. The decision, which was unanimous, has significant implications for all students in Canada with learning disabilities.

The Supreme Court made an articulate and powerful statement that: “...**adequate special education, therefore, is not a dispensable luxury. For those with severe learning disabilities, it is the ramp that provides access to the statutory commitment to education made to all children...**”.

The ruling also stated that “**There is no dispute that Jeffrey’s dyslexia is a disability. There is equally no question that any adverse impact he suffered is related to his disability.**”

The Supreme Court of Canada validated the position long held by learning disability associations across Canada in their support for the right of all students with learning disabilities to adequate special education programs and services, including intensive evidence-based interventions for those who need them. The Learning Disabilities Association of Ontario has stated this position in its responses to *Education for All* and *Learning for All*.

The Supreme Court ruling stated that “...**for students with learning disabilities like Jeffrey’s, Special Education is not the service, it is the means by which those students get meaningful access to the general education...**”. The court agreed with the British Columbia Human Rights Tribunal in stating that “...**a range of services was necessary for these students...**”

The Supreme Court ruling also stated that “**Jeffrey required intensive remediation in order to have meaningful access to education**”. The ruling addressed both the importance of remedial services and the equality of opportunity for individual students in order to access and master the curriculum at their individual levels. While students have equal access to a general education, in order to have *meaningful access*, i.e. an opportunity to achieve within that curriculum, their needs must be considered on an individual basis.

Furthermore, the Supreme Court ruling states that program decisions must be based on the subjective, child-centered “**individual needs**” of each student and that *equal* treatment may be discriminatory if it violates their individual rights. The Supreme Court rejected the argument that the needs of one special needs student should be compared with the needs of other special needs students. In other words, **one size does not fit all**.