

LDAO Public Policy Manual 2002

Section E: IPRCs and Special Education Programming

The policies in this section relate to the legal requirement to provide special education programming and the formal procedure for the identification and placement of a student (IPRCs). Policies address the necessity of formal identification and the procedure to be followed at an IPRC, including the use of advocates, what information is to be considered, parent and student involvement and appeals.

LDAO provides information about the process of special education program and service provision in its Guide to Special Education in Ontario for parents.

Policies

- E1 Provision of Special Education Programs and Services
- E2 Purchase of Special Education Programs and Services
- E3 Identification, Placement and Review Committee (“IPRC”)
- E4 Formal Identification by an IPRC
- E5 Procedures for IPRCs
- E6 Membership of the IPRC
- E7 Consideration of Information by the IPRC
- E8 Portability of Identification From One School Board to Another
- E9 Determination of Programming at the IPRC
- E10 Procedures for Special Education Appeal Boards
- E11 Procedures for Mediation
- E12 Procedures for Special Education Tribunals
- E13 The Role of Advocates at Appeals, Tribunals and Mediation
- E14 Annual Review

Policy E1 – Provision of Special Education Programs and Services

LDAO endorses s8(3) of the Education Act which requires all school boards in Ontario to provide appropriate special education programs and services for all students identified as exceptional.

Rationale

The right to free public education for all students is enshrined in Canadian and Ontario legislation. Students with learning disabilities (and in fact all students identified as exceptional) have the same right. Implicit in this “right” is the notion that the education received will be of benefit. As such, students identified as exceptional must be guaranteed, by law, the provision of special education and other support services necessary to ensure that they also receive this benefit.

References

- Education Act s8(3)
- Ontario Human Rights Code, 1981
- Regulation 181/98
- Guidelines for Assessing Accommodation Requirements for Persons with Disabilities, Ministry of Citizenship, 1989
- Report of the Interministerial Working Group on Learning Disabilities, 1992

Policy E2 – Purchase of Special Education Programs and Services

LDAO endorses s170 of the Education Act which requires each school board in Ontario to purchase appropriate special education programs and services for any student identified as exceptional for whom the school board is unable to provide such programs and services.

Rationale

LDAO recognizes that a school board may not in some cases be able to provide from its own staff or other resources appropriate special education or other services to a student identified as exceptional. However, this inability, whatever the cause, does not negate the right of the student to such special education or services. Therefore, in such cases the school board must purchase the necessary program or service to ensure the student is accommodated appropriately.

References

Education Act, s170(7)

Ontario Human Rights Code, 1981

Guidelines for Assessing Accommodation Requirements for Persons with Disabilities, Ministry of Citizenship, 1989

Regulation 181/98

Policy E3 – Identification, Placement and Review Committee (“IPRC”)

LDAO endorses the revised time lines and procedures for initiating IPRCs set out in Regulation 181/98.

Rationale

Regulation 181/98 provides that a principal shall upon the written request of a parent refer the student IPRC. The regulation also establishes time lines regarding such referral.

References

Education Act, s 11

Regulation 181/98

See also: Appendix B

Policy E4 – Formal Identification by an IPRC

LDAO advocates the formal identification by an IPRC of all students with learning disabilities as an essential step to meeting the needs of those students. While school boards will provide special education programs and services to non-identified students, these students and their parents do not have access to the due process and appeal rights provided through the IPRC.

Rationale

The Report of the Royal Commission on Learning recommended that special needs should be addressed without formal identification if possible. Several school boards have used this as their rationale to deny families access to the IPRC process. Currently, under the revised funding formula and in response to the perceived thrust towards inclusion and parental wishes, many students are receiving special education programs and services and have written IEPs.

LDAO does not recommend this direction to its members. Formal identification as set out in legislation is a fundamental first step to gaining access to ongoing special education programming support throughout school and postsecondary education. If a parent or student wishes to forego identification, they should only do so with full knowledge of what they are giving up. Access to ongoing programming and support is not guaranteed without formal identification.

A second benefit to formal identification is that the self-esteem of the student is often greatly enhanced by an understanding of their strengths and difficulties. The student will hopefully understand that his or her difficulties are not the result of “just being stupid”.

The decision to forego identification should be reversible at the instigation of the parent or student at any time. If the parent or student changes their mind, an IPRC should be convened within the usual time frame.

References

“For the love of learning”, Report of the Royal Commission on Learning, 1995
Response to the Royal Commission Report on Learning, LDAO, 1995
Learning and Employment Assessment Profile, LDAO, 1998
See also: Appendix B

Policy E5 -- Procedures for IPRCs

LDAO advocates that the Ministry of Education develop a formal Ministry of Education Standards document, delineating appropriate procedures and best practices for the functioning of IPRCs, in order to augment Regulation 181/98 as well as enhance consistency of process, procedural fairness and equity for all exceptional students and their families throughout Ontario.

Rationale

Regulation 181/98 sets out in some detail the legislative requirements for the IPRC process. However, school boards interpret these in diverse ways. For example, in spite of the statements related to the discussion of program at the IPRC within the Regulation, many school boards still focus on identification and placement exclusively. Similarly, the annual review and the opportunity for a second meeting with the IPRC are open to interpretation by school boards. In the same way that the IEP Standards Document has altered the IEP development process, an IPRC Standards document would improve the process for all exceptional students and enhance the accountability of school boards in terms of legislative compliance as well as meeting the needs of their exceptional students.

References

Education Act, ss.8 and 11, Ontario, 1990
Regulation 181/98
“Still Putting the Pieces Together”, LDAO, 2000
IPRC monograph No.2, Ministry of Education, 1985
Response to the consultation on Regulation 181/98, LDAO, 1998
See also: Appendix B

Policy E6 – Membership of the IPRC

LDAO advocates that the membership of the IPRC should consist of internal and external members, i.e. staff from the school where the student under consideration is attending as well as from another school or the school board.

Rationale

The purpose of the IPRC is to identify the strengths and needs of a student and to determine what, if any, alternate placement or programming is required to meet those needs. Information prepared and presented by the school and school personnel is obviously important to this process. However, external information, such as that from parents or others who have had dealings with the student may also provide insight into the student’s strengths and needs and should be considered by the IPRC.

References

Regulation 181/98

Response to Regulation 181/98, LDAO, 1998

Policy E7 – Consideration of Information by the IPRC

LDAO advocates that the IPRC consider both internal (that is, provided by the education system) and external (that is, provided by others, such as parents or community agencies) information in arriving at its decision about the student's exceptionality and/or placement.

Rationale

The purpose of the IPRC is to identify the strengths and needs of a student and to determine what, if any, alternate placement or programming is required to meet those needs. Information prepared and presented by the school and school personnel is obviously important to this process. However, external information, such as that from parents or others who have had dealings with the student may also provide insight into the student's strengths and needs and should be considered by the IPRC.

References

Regulation 181/98

Response to Regulation 181/98, LDAO, 1998

Policy E8 – Portability of Identification From One School Board to Another

LDAO advocates that once a student has been identified as exceptional by an IPRC, that identification, including the category and the specific exceptionality, be accepted by any other school board in Ontario.

Rationale

Once a student has been identified as exceptional, consistent and continuous programming is important to maximize his or her educational success. This continuity and consistency should be maintained even where the student moves schools or school boards.

Section 1 of the Education Act establishes the definition of exceptional pupil. Section 8 further provides that the Minister of Education and Training shall prescribe the categories and definitions of exceptionalities and shall require the use of these definitions by all school boards; these categories and definitions are set out in the Special Education Handbook, 1984. Finally, the IPRC process to be used by all school boards is set out in Regulation 181/98.

The effect of this legislation is that the criteria for identification should be consistent throughout Ontario. Parents and students who move from one school board to another should therefore not have to repeat the process of assessment and identification. Rather, the new school board should, on the basis of the existing identification, place the student appropriately and provide such services as are required. This would result in less delay in programming for the student and, secondly, reduce the funds currently spent on "re-identifying" exceptional students.

References

Education Act ss1, 8

Regulation 181/98

Special Education Information Handbook, 1984

Policy E9 – Discussion and Determination of Programming at the IPRC

LDAO advocates that the IPRC discuss and make decisions about program as well as placement.

Rationale

Placement in a particular classroom is less important than the quality and content of the program to be delivered there, particularly given the increasing trend to placement in the regular classroom. LDAO considers that the role of the IPRC should include discussions and, where appropriate, decisions about programming and services as defined in section 1 of the Education Act. At present, regulation 181/98 provides that an IPRC may discuss and make recommendations, although not decisions, about special education programs and services. Recommendations may be used for the IEP, but this is not required. A parent or a student who is 16 years of age or older can require the IPRC to discuss programming. Parents and students should be informed of this right in the parents' guide.

References

Regulation 181/98

Response to Regulation 181/98, LDAO, 1998

See also: Appendix B

Policy E10 – Procedures for Special Education Appeal Boards

LDAO advocates that the Ministry of Education update and reissue the Ministry Monograph No. 1, originally issued in 1985, as a formal Ministry of Education Standards document, delineating appropriate procedures and best practices for the functioning of Special Education Appeal Boards in order to enhance consistency of process, procedural fairness and equity for all exceptional students and their families throughout Ontario.

Rationale

Although the majority of IPRCs are successful and most parents do not choose to appeal the IPRC decision regarding their child's identification or placement, the right of appeal is a very important legal right, which is assured within the Canadian legal system. Many parents and students are not aware of the right of appeal or of the process which must be followed in order to appeal the IPRC decision. They are often led to believe that their only option is to agree with the IPRC or withhold their consent. It is important that all parents understand fully their and their child's rights and that they have access to a consistent and meaningful process which meets the goals of natural justice and procedural fairness.

References

Education Act, ss.8 and 57, Ontario, 1990

Regulation 181/98

Monograph on Special Education Appeal Boards, No. 1, Ministry of Education, 1985., "Still Putting the Pieces Together", LDAO, 2000

Policy E11 – Procedures for Mediation

LDAO advocates that the Ministry of Education develop and distribute a Policy and Program Memorandum to delineate appropriate procedures and effective practices for the mediation process that is usually recommended to parents before proceeding to appeal the decision of the IPRC and/or the Special Education Appeal Board.

Rationale

Although the legislation governing special education procedures and practices does not mandate a mediation process, parents who do not agree with the decision of the IPRC and/or the Special Education Appeal Board and indicate that they plan to appeal these decisions, are urged, often by the Ministry of Education, to participate in a mediation process to resolve the disputes. The Ministry has developed a mediation process and has established a panel of mediators. However, because the process is generally handled informally, parents do not have the requisite information available to them about how to prepare for mediation or what to expect at the mediation meeting. Further, where the mediation meeting is convened for the purposes of trying to resolve a dispute related to the IPRC, before appealing to a Special Education Appeal Board, school boards manage the mediation process within their own interpretation of what mediation is. As a result, there is no consistency of process from school board to school board.

A relevant Policy and Program Memorandum setting out the recommended process would enhance procedural fairness as well as assure greater equity for all exceptional students and their parents.

References

Education Act, ss.8 and 11, Ontario, 1990
Regulation 181/98
“Still Putting the Pieces Together”, LDAO, 2000
Ministry of Education informal memorandum on mediation, Ontario, (1997)
Letters to Policy Branch re mediation, LDAO, (1997)

Policy E12 – Procedures for Special Education Tribunals

LDAO advocates that the Ministry of Education develop and implement a Regulation for the functioning of Special Education Tribunals, in accordance with Section 57.2 of the Education Act, which sets out all the appropriate procedures for the functions of the Tribunal, including the relevant components of the Statutory Powers Procedure Act and any follow up activities that are available to parents and school boards relating to the decision of the Tribunal.

Rationale

Although Special Education Tribunals are infrequent, they provide an important avenue of appeal for parents of exceptional students.

The Education Act states that the Lieutenant Governor may enact a Regulation to govern the procedures of tribunals. However, the Ministry of Education has chosen not to proceed with this. As a result, although all tribunal panels have functioned under the auspices of the Education Act and the Statutory Powers Procedure Act, the actual appeal process, as administered by the tribunals and their decisions, which are supposed to be legally binding, have been quite varied. Further, although the Tribunal has as its secretary an Education Officer from the Ministry of Education’s Policy Branch and the tribunal reports to the Ministry as well as the two parties concerned, neither the Ministry of Education nor the Attorney General’s Ministry review the tribunal decision for accuracy or validity, before it is released. This makes the process more complex and difficult for parents.

A Special Education Tribunal Regulation would enhance the appeal rights of parents and improve the procedural fairness of the process.

References

Education Act, ss.8 and 57, Ontario, 1990
Regulation 181/98
Monograph on Special Education Appeal Boards, No. 1, Ministry of Education, 1985.,
“Still Putting the Pieces Together”, LDAO, 2000
Letters to the Ministry of Education from LDAO, 2001

Policy E13 – The Role of Advocates at Appeals, Tribunals and Mediation

LDAO advocates that the Ministry of Education establish a policy and inform all school boards that parents and students who are 16 years of age or older are entitled to have an advocate or representative present with them and speak on their behalf at the hearings of a special education appeal board, special education tribunal or mediation.

Rationale

Regulation 181/98 provides that parents and students who are 16 years of age or older may be accompanied by an advocate or representative at the IPRC meeting. The advocate may speak on the parent's or student's behalf.

The same right is not explicit for the various appeal processes. However, as a general legal principle and in the interests of fairness to parents and students, such a right should be allowed.

References

Regulation 181/98

See also: Policy I1

Policy E14- Annual Review

LDAO advocates that the Ministry of Education mandate that the annual review of identification and placement for all exceptional students be based on the results of the implementation of the decisions and recommendations of the previous IPRC and the current IEP, which in turn is based on the needs statement from the IPRC.

Rationale

The Education Act requires an annual review of identification and placement of all exceptional students. However, in many cases the annual review is a brief formality with parents often advised not to attend. Regulation 181/98 provides that parents may waive their rights of participation.

In reality, the annual review is extremely important for the purposes of determining whether the IEP outcomes were met and whether the student has made any progress. Parents should be advised of the purpose of the annual review and encouraged to attend.

References

Education Act ss1, 11

Regulation 181/98

IEP Documentation, Resource Guide, Ministry of Education, 1998

“Still Putting the Pieces Together”, LDAO, 1994

See also: Appendix B