



IN THE MATTER OF the Education Act, R.S.O. 1990, c. E.2, as amended, ss. 57(3),
IN THE MATTER OF Ontario Regulation 181/98,
AND IN THE MATTER OF the minor child, born 1991.

BETWEEN

Ms. I, Appellant

-and-

The Toronto District School Board, Respondent

Tribunal Members

Ms. Marilyn Thain Chair
Ms. Donna Gracey Member
Ms. Deborah Moskal Member

Appearances

I Parent
MJ Advocate

Ms. Brenda Bowlby Counsel for the Toronto District School Board

Mr. Stephen Kelly Secretary

The hearing on the matter of the merits of the appeal was held on April 4, 5, 6, 7, 11, 12, 13, 14;
May 30, 31; June 17, 27, 28; July 4, 2005, in Toronto, Ontario.

Introduction

The Appellant, appealed to the Ontario Special Education (English) Tribunal regarding the identification and special education placement of her child, an exceptional pupil. The decision of the May 11, 2004 Identification Placement and Review Committee (IPRC) is the subject of the Appeal.

The child is now fourteen years old and has Down syndrome. At the time of this hearing, the child was in a regular Grade 7 class where the child received some classroom support from an educational assistant and a special needs assistant. The child was placed in a regular class at the parent's request when the child started school, and has remained in a regular class placement. At the March 20, 2003 IPRC, The child's identification was changed from Multiple Exceptionality to Developmental Disability, and a regular class was recommended. At the May 11, 2004 IPRC, the child's identification remained Developmental Disability and the child's placement was changed to Special Education Class (Home School Comprehensive). As a result of the Appeal, the child's placement in the regular class continues.

The issues before the Tribunal are the identification and placement of the child.

On the first day of the hearing, the advocate for the Appellant requested that she have the opportunity to serve as a witness, so that she could share her knowledge and expertise in this matter. Ms. Bowlby, counsel for the board, agreed to this arrangement, as long as she had the right to raise objections. As the hearing progressed, it became clear that there was a significant conflict of interest in the Advocate serving in both capacities. The Advocate chose to continue as advocate for the Appellant and withdrew herself as a witness.

A voir dire was held to determine whether psychological assessments could be entered as evidence in this hearing. The Tribunal decided in favour of the board to admit the psychological assessments as evidence in the hearing.

The hearing lasted fourteen days. Twenty witnesses were called to give testimony: fourteen for the Appellant and six for the Respondent. The Appellant gave her testimony over seven days.

To accommodate witnesses and to expedite the hearing, witnesses for both parties were heard out of order. Both parties agreed to this procedure.

Relevant Statutory Provisions

The Tribunal's authority is set out in section 57 of the Education Act, R.S.O. 1990, c.E.2, and the regulations made there under. The Tribunal's procedures are governed by both the Statutory Powers Procedure Act and by the general rules of "natural justice" and "procedural fairness" applicable to administrative tribunals.

- Statutory Powers Procedure Act, R.S.O. 1990, c. s.22
- Education Act, R.S.O. 1990, c. E.2

Subsection 57 (3) Right of appeal: Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may appeal to a Special Education Tribunal for a hearing in respect of the identification or placement.

Subsection 8 (3): Identification programs and special education programs and services: The Minister shall ensure that all exceptional children 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, and for these purposes the Minister shall,

(b) in respect of special education programs and services, define exceptionalities of pupils and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

- Regulation 181/98

Regulation 181/98: Identification and Placement of Exceptional Pupils governs the identification and placement of exceptional pupils, Identification Placement and Review Committee (IPRC) reviews, appeal procedures and the role of parents/guardians in these proceedings. This Regulation provides a mechanism for parents to appeal the identification and placement decisions of an IPRC to an Appeal Board and sets out the time lines that must be met for such an appeal.

Subsection 17 (1): When making a placement decision on a referral under section 14, the committee shall, before considering the option of placement in a special education class, consider whether placement in a regular class, with appropriate special education services,

- (a) would meet the pupil's needs; and
- (b) is consistent with parental preferences.

Subsection 17 (2): If, after considering all of the information obtained by it or submitted to it under section 15 that it considers relevant, the committee is satisfied that placement in a regular class would meet the pupil's needs and is consistent with parental preferences, the committee shall decide in favour of placement in a regular class.

- Special Education Tribunal Case Cited

Eaton v. Brant County Board of Education, 1995

- Ministry of Education Documents

Special Education: A Guide for Educators, 2001
The Ontario Curriculum, Grades 1 to 8, Language, 1997
The Ontario Curriculum, Grades 1 to 8, Mathematics, (Revised 2005)

Appellant's Position

The Appellant requested that the Ontario Special Education (English) Tribunal identify her child as exceptional, with no category of exceptionality named, and place her child in a regular class setting with a full-time qualified educational assistant.

The Advocate said the IPRC did not follow Ministry policy in subsection 17 of Regulation 181/98 when it failed to consider integration as a placement of first choice. She said that when the Appellant requested an integrated placement with a full-time assistant, she was advised that regular class placement would not be considered, because an educational assistant could not be guaranteed due to lack of funding.

The Advocate stated that the Appellant has struggled for eight years to educate her child. She said that accommodations have never been adequately provided, and therefore the mother has been forced to volunteer at her child's school to ensure that her child receives an education.

She stated that because the school personnel are unfamiliar with adaptive instructional techniques, they inaccurately concluded that the child could not handle abstract concepts, and that the marks the child attained in the presence of his mother are unattainable without her. She said the child has done very well when properly supported and understood. She said no inclusionary specialist was provided by the board to help liaise with the staff and family.

She stated the board cannot justify a half-day special program or a Developmental Disability identification, pursuant to the decision of the IPRC.

She said that the board has a duty to inform parents as to their rights. A parental guide was never given to the Appellant until the time of her appeal request.

It is her position that the board cannot act in the best interests of the child "because they have breached their duties toward the child as a pupil with exceptional needs".

Respondent's Position

Ms. Bowlby, counsel for the Toronto District School Board (TDSB), stated that the issues before the Tribunal are the identification and placement decisions of the May 11, 2004 IPRC. The identification was Developmental Disability, and the placement was a Special Education Class for at least 51 percent of the child's day, with integration into a regular class.

Previously, on March 20, 2003, the IPRC changed the identification from Multiple Exceptionality to Developmental Disability. On May 11, 2004, the IPRC maintained the identification of Developmental Disability. This decision is the subject of the Appeal. Ms. Bowlby stated that Developmental Disability is the appropriate exceptionality. The primary disability interfering with the child's ability to access regular education is that the child has a mild developmental disability. No other disability has been identified.

Ms. Bowlby said it is not in the child's best interests to continue in a full-time regular class. She indicated that the child has not had the opportunity to benefit from being in a regular class because the child has had [the child's] mother with [the child] at all times. The child does not have the opportunity to socialize with [the child's] peers as the child's mother keeps the child inside at recess. The presence of the child's mother, the Appellant, is isolating the child, both inside and outside the classroom, from other students. The intensive support the Appellant provides to her child in the classroom is precluding the child's ability to perform independently.

Dr. Ruth Baumal	Coordinator of Psychology, TDSB
3. Ms. D	Vice-Principal, and Method and Resource Teacher (MART)
4. Ms. P	Principal
5. Ms. S	Special Education Coordinator, TDSB
6. Ms. Marilyn Lowe	Supervising Principal of Special Education, Southeast Quadrant, TDSB

Evidence

a) Identification

Three identifications were considered by the Tribunal: Multiple Exceptionality, No Exceptionality Identified, and Developmental Disability.

The IPRC of May 11, 2004 maintained the identification of Developmental Disability from the March 20, 2003 IPRC. The Appellant wanted the identification to be Multiple Exceptionality. The Appellant stated that she understood that the change of the identification from Multiple Exceptionality to Developmental Disability was the result of the findings of the psychological assessment and that the Developmental Disability identification was required to apply for Intensive Support Amount (ISA) funding. The Appellant also understood that if she agreed to the psychological testing, a full-time assistant would be provided for her child once it was completed. With these understandings, she agreed to have the testing done.

The Appellant said she changed her acceptance of the identification of Developmental Disability in May 2004, once she understood from the Advocate what that identification meant. She wanted the prior identification of Multiple Exceptionality reinstated for her child because she felt that it would enable the child to have an assistant in the regular classroom. The Tribunal understood that the Appellant had a concern with the Developmental Disability identification.

The Appellant, during her testimony, described the variety of health difficulties the child has. Ms. L, the board's supervisory principal of special education, expressed concern that there were no medical reports on file about the child's medical conditions and that the child missed in excess of twenty days of school in Grade 7. The Tribunal heard from the Appellant that she did have medical information about the child's health and that she would share it "in her own time". She indicated that no one had asked her to sign a form so that they could get information about the child's health problems. The Appellant indicated that she had shared some information when the child attended Public School, but no support documentation was provided to the Tribunal to confirm that information. At no time did the Appellant produce documentation or clear evidence to the Tribunal to substantiate the child's current medical conditions.

Ms. S, an educational psychologist, gave testimony that she had completed testing with the child on May 16, 1997, when the child was in Kindergarten. She said she chose appropriate tests that appealed to children and gave more opportunity for practice to ensure that the child understood what the task involved. She also conducted the test in the Kindergarten classroom

as it was a familiar environment. She relied on the Differential Ability Scale and then had the Kindergarten teacher complete the Vineland Adaptive Behavior Scale. This scale looked at socialization, daily living and more practical adaptive skills. The results showed that the child had major delays in language development. Non-verbal intelligence, as measured by the Differential Ability Scale, revealed significantly higher functioning, but it was still far below age expectancy. Ms. S stated that the Differential Ability Scale has a verbal cluster and a non-verbal cluster. She said that she did not use the verbal cluster when arriving at her estimate. She stated it was an estimate to assist an IPRC in placement and programming, and it was an estimate done under less than standardized testing conditions. The child's adaptive functioning was rated as falling within the first percentile, a score that was consistent with the child's attainment on the test of cognitive ability. Ms. S stated that these results suggest a developmental delay within the mild range. She said that the assessment was done when the child was age five and that she didn't know whether it would have had a great deal of immediate use when the child was older. The Appellant indicated that up to the age of five, she had only spoken to the child in Gujarati and that English was the child's second language. No additional information was given by the Appellant to support the possibility that the child's knowledge of the English language interfered with the test results.

On January 22, 2002, the Scales of Independent Behavior Revised was completed for the child by the child's classroom teacher, to comply with the Intensive Support Amount (ISA) funding requirements. The child's scores were rated below the first percentile as compared with others the same age. Broad independence, a measure of overall adaptive behaviour, was at the 0.1 percentile. Ms. S stated these results imply that the student cannot be expected to cope with the challenges of daily life in an age appropriate manner. Age level tasks involving talking and other forms of expression were rated as extremely difficult for the child. Money and time concepts, gross motor skills, and community living skills were other areas of pronounced weakness. The child, at that time, was described as a high needs student who requires continual support and supervision.

Dr. Baumal, the coordinator of psychology with the TDSB, was affirmed as an expert witness for the Respondent. She indicated that she has experience assessing children who have Down syndrome. She stated that further testing of the child at this time would be helpful for educational programming. She had no concerns about testing a child who has Down syndrome, and she indicated that the similarities of students who have Down syndrome far outweigh their differences from other children who do not have Down syndrome. She said that children who have Down syndrome do not all function at the same intellectual level. Dr. Baumal stated that Developmental Disability is the most appropriate identification for the child, based on the most recent adaptive behaviour assessment that showed the child to be below the first percentile in day-to-day functioning. She also stated that in a meeting at D Public School in February 2004, there was an indication that the child didn't always tell people when [the child] had to go to the bathroom, so it is possible that there were some problems with toileting. The Appellant disputed this finding indicating that she did not have these kinds of difficulties with her child. Dr. Baumal indicated to the Advocate that the numbers resulting from Ms. S's assessment in 1997 indicated that the child was in "the bottom end of the mild range of developmental disability". She reiterated that it might be useful to have some reassessment to clarify the exact level of the child's disability.

The advocate, in her final submission, indicated that the parts of the Developmental Disability identification that she did not agree with are the notions that "there is an inability to profit from a special education program" and that "there's a limited potential for academic learning".

She further stated that the only rationale for the Developmental Disability identification is one offered by the Appellant, which was to satisfy the ISA funding application process. The Advocate suggested that the child would profit from a special education program. The Advocate's view was that the testing results have focused on intellectual quotients instead of looking at the child's needs and how they could be met. She also suggested that the Appellant would not agree to further psychological testing but at best the Appellant would agree to having an observational assessment completed by someone competent in Down syndrome.

The four EAs and the one SNA who were witnesses for the Appellant did not provide evidence concerning the formal identification of the child. The teachers, who were witnesses for the Appellant, did not give evidence on the identification of the child. Ms. Sinclair's testimony and Ms. B's testimony did not assist in determining the identification of the child.

b) Placement

With respect to placement, the principle issue in the Appeal is whether the child's needs are best met in a regular class setting or in a special class placement. The Appellant requested a regular class placement at the age appropriate grade. The board recommended placement in a special class combined with integration into a regular class.

The IPRC of May 11, 2004 placed the child in a Home School Comprehensive class. However, the Appellant wanted the placement to be a regular classroom with a full-time EA. The Appellant did not feel that the Grade 7 curriculum would be taught in the Home School program. It is very important to the Appellant that the child follow the same academic curriculum as the child's classmates, with accommodations for the child's learning style. The TDSB complied with the Appellant's request and placed the child in a regular Grade 7 class.

The following evidence regarding the type of placement, educational support, teaching strategies, and appropriate instructional level was heard.

• Type of Placement – Regular Class, Special Class or Combined

The Tribunal heard from Ms. A, a representative from Community Living Toronto who has helped the Appellant for the past two years. She stated that because the child has been integrated throughout [the child's] life, the child's familiar with typically developing peers. She stated that the child is not used to being in an environment with other individuals who have disabilities, either at home or in a classroom situation, and that the child would have difficulty adapting to such an environment. However, in response to Ms. Bowlby's cross-examination, Ms. A stated that she had never visited the child's classroom at the child's present school and that she had visited the child's home no more than four times in the past two years. Ms. A indicated that when she was at the May 11, 2004 IPRC, Ms. S said that a regular class placement could not be recommended because the TDSB would not be able to obtain a full-time assistant for the child.

Ms. J, the child's Grade 6 teacher, noted that at the time of the May 11, 2004 IPRC, she thought that a regular Grade 7 class was the best placement because the child is a teen, is a big child, has no siblings and needs the experiences of functioning with other teenagers. However, without an SNA, she said that the child would not be able to function academically.

Dr. Baomal stated that a high functioning student who has Down syndrome could have some success in a regular class placement. She said that for a low functioning student, a regular class could be an option for the early years, but as the child gets older, a small class should be considered. She said that for a child who has the same condition and assessment as the child, she would prefer a mix of a regular class and a small class setting. She reiterated this when the Advocate asked her whether integration in a regular classroom was possible for the child. Dr. Baomal stated that given the child's test results, the child might do better in a smaller class for part of the day.

Ms. L-W, an SNA with I Public School, indicated that socializing and interacting with other children is needed.

Dr. Jordan, an expert witness for the Appellant, said that children who are withdrawn miss fundamental parts of the curriculum when they are taken from the class. She said that if resource teachers and special education teachers collaborated closely with regular classroom teachers to design curriculum through the Individual Education Plan (IEP), then placement becomes less important and more can be done in the regular classroom. Dr. Jordan said there are slight advantages overall for inclusion. She said that it really depends on how the teacher handles situations of withdrawal versus having an assistant in the class.

Ms. S, the special education coordinator with the board, refuted Dr. Jordan's testimony that children who are withdrawn miss important class work. She stated that a child could be withdrawn for literacy and numeracy at the same time as the rest of the class was doing that work.

The Tribunal received further information about the special education program from Mr. K, the teacher of the Home School program. He said that other junior and intermediate classes in the school were programmed to teach language and mathematics at the same time he would be teaching those subjects. This coordination ensures that the students in the Home School program are not missing other subjects. He also indicated that the program for each individual student was based on his or her grade level curriculum identified on the IEP, in consultation with the classroom teacher. He felt that the child would benefit from more one to one attention from the assistants and the teacher.

Ms. S the psychologist, conveyed her conclusion after testing the child in Kindergarten to the Appellant that the child would benefit substantially from small group instruction, with a teacher specially trained in programming for students who have global developmental delays. She also stated that the benefits of learning through modeling in a regular class setting would be outweighed by the advantages resulting from more direct instruction in a small class setting. The Appellant did not accept the small class setting and requested a regular class placement with an educational assistant.

Ms. S, a Grade 7 teacher at I Public School, also stated that the child would benefit from the Home School program. She indicated that the class size is much smaller, and there are two assistants assigned to the class, which would benefit the child.

The Appellant said that she visited special education classes in the Don Mills Middle School, where the child was for the first seven months of Grade 6, and she found it disturbing. She concluded that this was not for her child, as her child had always been in a regular classroom setting.

The Appellant indicated that she was told that the only reason for a special class placement was because there was a lack of funding to support an educational assistant in a regular class. However, Ms. Lowe, in her testimony, said that a placement other than a full-time regular class is recommended based on a student's strengths and weaknesses, whether she or he has an exceptionality and the student's level of functioning in relation to grade level. Generally, she said, if a student were one or two years behind grade level, resource support or the Home School program would be recommended. However, if the gap was greater than two years, placement in a special education program would be a possibility.

Ms. D, the vice-principal of I Public School, said the decision to recommend that the child be placed in the Home School program was based on information from the child's teacher and the low achievement results of the testing she had completed in the fall of 2004 with the child. She stated that the gap between Grade 7 and the grade levels that the child was working at was too great for a teacher to teach effectively in a regular classroom.

• Educational Support

The Appellant stated that because the child has Down syndrome, the child needs a full-time assistant to help [the child] with the child's work and modify the child's work in order for the child to achieve and continue to progress. Ms. J confirmed that the child never started [the child's] work on [the child's] own and that the child needed explanations and prompting as the child worked. She indicated that the child never took notes [independently].

Ms. L-W indicated that the child needed help with classroom tests. She said that she helped the child by explaining things in many different ways so that the child could understand the questions. She said the child's tests are shorter and at a lower level than those for the other students.

Ms. J testified that the child could not work independently and that the child needed far more help than a classroom teacher could provide. She said the child could be in a regular class in Grade 7 if the child had a full-time SNA.

While the child attended I Public School in Grade 6 and Grade 7, the Appellant assisted the child on a full-time basis. She said that she functioned as the child's special needs assistant for the majority of time that the child attended that school. She testified that she did not feel that anyone at any of the schools knew how to work with children who have Down syndrome. She always felt that she was being forced to help out at the schools because they did not place an assistant with the child full-time.

Ms. D stated that the Appellant was asked to stop working with the child at school as the school personnel wanted the child to be independent from [the child's] mother, and they also wanted to know what the child could do on [the child's] own. She indicated that there has been a dramatic change in the child since the mother has stopped coming to the school every day. She said that the child is participating in class, playing with peers and speaking to teachers in the halls. She described the child as having blossomed and said the change is incredible.

Dr. Baumal stated that having full-time one to one support for a child who has a cognitive disability often separates a child from regular interaction with his or her peers. She had never seen the practice of having an adult working one to one with a child to guarantee learning. She also stated that she had seen this practice separate a child from regular interaction with peers. She said there are risks to the self-esteem of the student and this in turn would affect learning.

She indicated that her preference for placement is a mix of a regular class and a small-class setting. When asked about integration in a regular classroom for the child, Dr. Baumal answered that given the child's test results, the child might be better in a smaller class for part of the day.

Ms. S said that one to one teaching creates dependency and robs the student of initiative and independence.

Ms. S, the teacher, in response to the Advocate, indicated that the child needed an assistant to function academically while completing Grade 7 work. She said that she did not have time to work with the child one to one. However, during cross-examination, she stated that the child was only capable of functioning at a Grade 3 level, as indicated on the IEP. Ms. S, the teacher also indicated that she had difficulty responding to questions about the child's needs because she didn't know what the child could do independently.

Ms. Lowe expressed concern about the presence of the child's mother in the class as it limited the child's social interactions with the child's peers.

Ms. P, principal of I Public School, said there was a dramatic change in the child after the mother stopped coming to school. She said the child initiates conversations with teachers other than those the child has contact with and the child seems happy.

Ms. S the teacher, in cross-examination, indicated that on the day that the Appellant was not in the classroom, the child seemed happy. She had assigned a student to assist the child with the child's work, and later the child participated in a game. She indicated that usually the child would go to the gym at recess with the child's mother, but on this occasion, the child went outside with the other students and seemed to have a good time.

The Appellant, however, reported that her child was very unhappy. The child told her that [the child] was receiving some help from only one other student, and that [the child] was having difficulty doing work.

- Adaptive Strategies

The Appellant testified that she did not do her child's work, but employed adaptive strategies to assist the child to function academically to the best of the child's ability. She explained the different strategies in great detail, including blocking, prompting, colour-coding and explaining steps along the way. When Ms. Bowlby questioned the Appellant about her education and experience with children who have Down syndrome, the Appellant indicated that she is a parent of a child with Down syndrome; and, she is a pilot parent with Community Living Toronto and helps other families; and, she has attended workshops on Down syndrome.

The Appellant indicated that many times she had to teach the teacher or assistant about Down syndrome and strategies to use to help these children learn. She also said that on more than one occasion she was asked to work with other children within the school, using these strategies to help them learn. The Appellant was concerned, as she felt that no one had experience with students who have Down syndrome and stated that none of them tried to learn. Ms. Bowlby said that the testimony of Ms. P indicated that the Appellant did not receive requests from staff for advice on adaptive strategies for teaching her child.

The Appellant's testimony indicated that the Advocate met with Ms. J, the child's Grade 6 teacher, and discussed strategies for working with a child who has Down syndrome. The Appellant agreed that the Advocate mentioned specific approaches for teaching that would help a student who has Down syndrome do the same academic work that the Grade 6 students were doing.

Ms. L-W indicated that she worked differently with the child from the way the Appellant did. She said that the Appellant gave the child the answers to everything and that the child didn't need to think.

There was additional testimony given that some staff members at I Public School who were working with the child in some capacity had limited or no knowledge about Down syndrome:

- Ms. J, an EA for seven years, indicated that she did not know anything about the specific needs of a child who has Down syndrome.
- Ms. S, also an EA, indicated that she had not worked with children who have Down syndrome in an academic environment but had worked in a group home with several children who had Down syndrome.
- Ms. J indicated that she had no knowledge about teaching children who have Down syndrome. She indicated that she sat with the Appellant to observe the strategies that she used with her child. She said she didn't know whether they were effective, because she never saw the child working independently.
- Ms. D, vice-principal of I Public School, is a MART qualified in special education. She said that she had no special training in Down syndrome but through her experience and her qualifications she has learned a repertoire of strategies to use with a variety of students.
- Ms. S, the Grade 7 teacher, indicated that although this was the first time she had taught a child who has Down syndrome she was familiar with the needs of these children through a presentation she attended at York University. She also had a master's degree in special education from Ukraine and she holds certification in special education part one in Ontario.

The Advocate claimed that the board's unfamiliarity with adaptive instructional techniques led it to wrongly conclude that the child could not handle abstract concepts and that the marks the child achieved in the presence of the child's mother were unattainable without her.

Ms. S, an expert witness for the Respondent, said that although one has to understand the characteristics of Down syndrome, there is no specific program for a student who has Down syndrome. A student's specific educational profile and specific strengths and weaknesses are more important. She said that there are similarities in the way children who have Down syndrome and children who have other disabilities learn. She stated that the literature identifies cognitive limitations as the primary issue with respect to educating children who have Down syndrome.

Ms. S indicated that an appropriate program for students who have developmental delays is one in which the activities are functional in terms of academics, life skills, independence, social skills and communication skills. She added that the adaptive strategies used by the Appellant were teaching strategies that all teachers learned. She said the strategies should be used to teach but not to evaluate.

The evidence did describe some of the ways that the Appellant assisted her child in the classroom. She helped the child get organized, ensured the child had heard the correct instructions, gave ongoing prompting and provided step by step instruction to complete tasks.

Ms. J, the Grade 6 teacher, told the Tribunal that the Appellant came to school with the child every day and assisted the child; she organized the child's books and explained the lessons.

Ms. S, the teacher, stated that the Appellant was in the classroom everyday except for one or two periods in the afternoon. Ms. Lowe said that although some of the strategies used by the Appellant were quite appropriate, the Appellant provided too much prompting.

• Instructional Grade Level

When questioned by Ms. Bowlby, the Appellant stated that her desire was to have her child receive the identical curriculum as the child's peers for all courses and for all subjects, with appropriate accommodations for the child's learning style.

The Tribunal heard from Ms. B. She is a parent of a child who has Down syndrome and she indicated she has had involvement advocating for children who have disabilities. Ms. B stated that she did not believe in an alternative curriculum and that the regular curriculum should be taught with additional help in the classroom. Although she was a teacher, she has not taught for many years, and she indicated that she also has not visited any developmental disability classes in the past five years. The Tribunal did not put a lot of weight on this evidence, as the information was not current and therefore didn't necessarily reflect the present classroom situations.

The evidence given by the educational assistants regarding grade level was not helpful in determining the appropriate grade level for the child. Ms. J indicated that she was asked to do some mathematics work with the child to determine the child's grade level, but the Appellant told her not to do it.

Ms. D completed testing with the child in the fall of 2004. She indicated that the child would not benefit from the Grade 7 program in mathematics because the child's skill level was so much lower. In some strands the child was working at a Grade 4 or Grade 5 level, and in others, such as the Measurement strand, the child was working at a Grade 1 level in the skill of telling time. Similarly in the language strands, the child was working between Grade 2 and Grade 4 levels. She responded to the Advocate's questions and said that the gap between the Grade 7 and Grade 1 and Grade 2 levels was too great for a teacher to teach effectively. Ms. D said that the child was not capable of doing Grade 7 work. Ms. D also indicated that she gave the child a lot of prompts throughout the testing and that the strict administration of the tests was not adhered to.

Ms. Lowe said that programs could be modified to a certain extent, but to modify six grade levels was inappropriate.

Ms. B, a SERT at I Public School, conducted a reading assessment with the child to determine the child's reading ability. In this testing, she said she looked for meaning, structure, and visual cues. She said it was significant that the child did not self-correct as the child was reading; this indicated that the child didn't recognize [the child's] errors as the child read aloud. She said that the child has developed a sight vocabulary and she thought that the child was able to decode by using a lot of visual cueing. She indicated that her concern for the child would be with meaning and structural cueing of the material the child was reading. The test results for the child indicated an instructional level of Grade 4. She said she would expect that the child would have considerable difficulty with the meaning of language at the Grade 7 curriculum level.

Ms. B also stated that by Grade 4 a child is beginning to learn to go beyond words to make inferences. She said the child was still looking at pictures to determine meaning. She indicated that this test measured decoding skills only and did not measure comprehension.

The IEP for the child when the child was in Grade 6 at D Public School indicated the child was working at Grade 2 and Grade 3 levels and every expectation and evaluation was prefaced with the words "with intense support from the classroom assistant". The Grade 6 IEP from I Public School shows similar results, with the same comment about intense support. The Grade 7 IEP showed levels from Grade 2 to Grade 5, but there was no reported evaluation.

Dr. Jordan, an expert witness for the Appellant, said that the regular curriculum should be adapted for the student's level of learning and developmental stage, and that there should be support for the teacher in the classroom when needed. She also said that a Grade 7 student who has numeracy at the Grade 2 level should not be taught the Grade 7 mathematics curriculum. She went on to say the child would need support through collaborative work between the teacher and an assistant but shouldn't be denied other aspects of the curriculum. Dr. Baumal indicated that as the material becomes increasingly complex and abstract, and as students go through the grades, it becomes harder for students to integrate what they hear and what is going on around them, with what they need to learn.

Ms. S and EA indicated that she had never worked one to one with the child because the mother was always with her child. Ms. L-W stated that she was not sure what the child knew or whether the child was learning, as the Appellant was helping her child with [the child's] work. She said she had not heard the child read but the Appellant had told her that the child reads a lot at home. She does not know what the child can do independently.

Ms. J testified that the child did not respond verbally to her, so she didn't know whether the child's work was [the child's] own. During lessons she said the child would sit and listen but would not participate. She also said that she did not have confidence that the child was learning from the Grade 6 curriculum.

Ms. S said that the Grade 7 curriculum was very difficult with a lot of abstract concepts, and that the pace of learning was very fast. She said that it was not realistic to expect a student who needed a lot of repetition to receive and process information and be able to learn in a regular Grade 7 program.

Ms. Lowe said she was concerned about the child working at a Grade 7 level, as it was beyond the child's capability, and that the child was learning by rote with little conceptual understanding of what [the child] was doing.

Ms. L-W indicated that she was not sure what the child knew, as the Appellant helped her child with the child's work. She did not know what the child could do independently.

Mr. K indicated that in the junior-intermediate Home School program, he was following curricula from Grades 3 to 8. He taught to small groups as well as individuals depending on the needs of the student and the subject matter.

Ms. Sinclair's testimony did not contribute to the finding of placement.

Ms. M provided testimony that when the child was in Grade 5 she thought the child had made a vast improvement between Grade 2 and Grade 5. She indicated that the child was working with the Grade 3 curriculum. Ms. M, an EA for the child in 2001, said that when the child was in Grade 4, the child was working at a Grade 2 level.

Reasons

a) Identification

With respect to identification, the Appellant had requested that the Tribunal identify the child as Exceptional, with no category of exceptionality named. At one point, the Tribunal also heard from the Appellant that an identification of Multiple Exceptionality would be acceptable to her. The Respondent, however, stated that the identification of Developmental Disability is the appropriate exceptionality.

The Tribunal first considered the identification of Multiple Exceptionality. According to the Ministry of Education Categories of Exceptionalities and Definitions, in the *Special Education Guide: A Guide for Educators* (2001), the Ministry definition of Multiple Exceptionality states that it is ‘a combination of learning or other disorders, impairments, or physical disabilities, that is of such nature as to require, for educational achievement, the services of one or more teachers holding qualifications in special education and the provision of support services appropriate for such disorders, impairments or disabilities’ (p. A 20). The TDSB *Special Education Plan*, September 2003, p. V11–7, indicates that the identification of Multiple Exceptionality is to be determined by “classroom documentation, educational assessment, and a professional assessment. The documentation and assessments must clearly confirm a level and diversity of student needs that would be most effectively addressed in an intensive support setting”.

There was a lack of evidence to show that the child has physical disabilities, as described above. The Appellant did speak in length about the child’s medical history, but no documentation was received regarding the child’s current medical situation. No other disability was identified. The Appellant did not produce evidence of any other disability, and if she thought that Multiple Exceptionality was more appropriate, she had a responsibility to have it properly documented in the school. The identification of Multiple Exceptionality therefore cannot be applied to the child.

The Tribunal then considered the Appellant’s request for an identification of Exceptional with no category of exceptionality named. The Tribunal determined that an exceptionality must be defined in accordance with subsection 8(3)(b) of the Education Act. The Ministry of Education has identified categories of exceptionalities to be used by an IPRC which include the category of Intellectual and specific exceptionalities of Mild Intellectual Disability and Developmental Disability.

The definitions found in the *Special Education: A Guide for Educators*, (2001, p. 20), which were discussed at the hearing by both parties were as follows:

Mild Intellectual Disability

A learning disorder characterized by:

- a) an ability to profit educationally within a regular class with the aid of considerable curriculum modification and supportive services;
- b) an ability to profit educationally within a regular class because of slow intellectual development; and
- c) a potential for academic learning, independent social adjustment, and economic self-support.

Developmental Disability

A severe learning disorder characterized by:

- a) an inability to profit from a special education program for students with mild intellectual disabilities because of slow intellectual development;
- b) an ability to profit from a special education program that is designed to accommodate slow intellectual development;
- c) a limited potential for academic learning, independent social adjustment, and economic self-support.

The Tribunal did not find the results of the assessments given by Ms. S in 1997, and by the classroom teacher in 2002, convincing. First, the Tribunal considered the issue of the child's ability to understand the English language because the Appellant's testimony was that she only spoke in Gujarati to her child until the child was five years old and therefore, English was a second language for the child at the time of the first testing. Ms. S noted that the assessment results showed that the child displayed major language delays in the child's development of language. Ms. S indicated that she used a non-verbal cluster of tests that was least sensitive to the language factor, so any skewing of the results would be minimal. Ms. S stated that the test was done in less than standardized testing conditions and provided only a snapshot of what the child was like at this particular time. She was uncertain whether it would have had a great deal of immediate use when the child was older. The Tribunal concludes that the 1997 test results are outdated and do not reflect information that would be helpful to determine the appropriate identification.

Second, Dr. Baumal stated that Developmental Disability is the most appropriate identification based on the Scales of Independent Behavior Revised, which was conducted by the classroom teacher in 2002. The assessment report included information that the child required assistance for toileting. The Advocate contended that the assessment was not accurate, as the Appellant reported that she never had a toileting problem with her child. The Advocate also disagreed with other results reported by the teacher on specific behaviours, and she contended that the results were used only to ensure ISA funding. No further information was provided to dispute the findings. The Tribunal does not feel confident in these results and therefore they do not help in determining the identification.

The Tribunal agrees that Dr. Baumal's recommendation "to pursue further testing of the child to assist with the child's educational programming is a reasonable recommendation." She stated that it might be useful to have some reassessment to determine the exact level of the child's disability. The Tribunal finds that this is important information to be gathered.

To determine the identification of Developmental Disability, as recommended by the board based on the tests given would be inappropriate. The decisions for the child's future education should not hinge on the results of these assessments. To determine the most appropriate identification, new tests must be completed. The results of these tests would assist in settling the differences between the Appellant and the Respondent on the issue of identification and, more importantly, would help to determine the child's capacity to learn. They would also provide the Appellant and school personnel with current reliable results better suited for making decisions about the child's schooling.

The Tribunal notes that the Advocate suggested in her final submission that the Appellant would not agree to further psychological testing. It is the Tribunal's opinion that it would be in the child's best interests to have such testing completed, since the previous test results are in question. The Tribunal is hopeful that both the parent and the board will work together to ensure this is accomplished. It will only be through the gathering of accurate, current information that the most appropriate identification for the child can be made, in accordance

with section 8(3) (b) of the Education Act.

b) Placement

The issue in question is this: What is the best placement for the child in order to meet the child's current needs? The Tribunal considered the child's needs to determine if they would be best met in a regular classroom, a special education classroom or a combined setting where both classroom types are available to the child.

The Appellant wants a regular class placement with a full-time EA, and she also wants age-appropriate grade curriculum to be taught to her child. The Advocate, in her final submission, stated, that "in consideration of the child's needs, the child has the right to be integrated if it meets the child's needs". The Advocate also indicated in her final submission that in order for the child to access mainstream education, the child requires accommodation.

The board's witnesses stated that placement in a Home School program was more beneficial to the child and that placing the child in a regular class with an educational assistant would not be in the child's best interests, because the child doesn't have the ability to conceptualize or to generalize. The child learns by rote, and some school personnel indicated that specific instruction provided in the Home School program would be of more benefit to the child.

The Tribunal considered the evidence regarding the most appropriate placement. First, testimony given by the Appellant and other witnesses demonstrated that the child had been in a regular class setting for most of the child's schooling. Ms. A indicated that the child had been integrated throughout the child's life, so the child is used to dealing with typically developing peers. The child is also at a critical age where the child should have the opportunity to participate and be with age mates.

The Tribunal agrees with Dr. Jordan's testimony that a special education program does not always meet the needs of students in terms of communication and social skills. It is the Tribunal's opinion that the child will benefit from having a large block of time with age-appropriate peers. Daily opportunities to mix with typically developing peers provide models for typical and age appropriate behaviour. This is a critical year of schooling, and since the child has been in a regular classroom for most of the child's schooling, the Tribunal would not want the child removed from the peer group that the child is accustomed to being with, especially during the child's final year in elementary school.

The Tribunal noted that there was a significant discrepancy between the Appellant and the board in regards to the grade level at which the child can work. The Appellant indicated that with accommodations and a one to one assistant, the child could work at grade level. The school's assessment of the child's abilities indicates that the child could not complete work at grade level and is in fact working significantly below grade level by approximately four to six grades.

The evidence showed that while the child was working with [the child's] mother, she was giving the child one to one assistance with ongoing prompting and very little opportunity to work independently. This did not allow the child to demonstrate reasoning, reflection or a working knowledge of the concepts being taught. The Appellant acknowledged that she used prompts, and in one mathematics example, at least thirty-two prompts were used. Ms. Bowlby questioned the need to use that many individual prompts and said that it raises the question of whether the child understands what [the child's] doing, given the complexity of the problem and the prompts that were needed.

Ms. S, the classroom teacher's testimony indicated that she did not feel that the child was capable of doing the work that was being submitted on the child's behalf. Ms. Bowlby, in her final submission, stated that the child is no longer able to work with peers in groups, and the child will be increasingly unable to participate with them because the child's at a much different level than they are.

Dr. Jordan's testimony stated that a child who is assessed at a Grade 2 or Grade 3 level in mathematics should not be taught Grade 7 mathematics. Conversely, in terms of language, she said that a child working at a Grade 2 or Grade 3 level could learn a lot in a Grade 7 classroom. Learning would require adaptation to lower language comprehension and production levels. She responded to further questioning by the Advocate by stating that children who are functioning at a Grade 2 or Grade 3 level in core skills can participate very well in other areas of regular classroom activity.

The results of the assessments reported to the Tribunal through the testimony of Ms. B, Ms. D, and Ms. S, indicated a very wide range of functioning levels, with some gaps being as wide as five to six grades. Ms. D indicated that the assessment she administered allowed for assistance and accommodation that would not normally be part of an accurate assessment process; this suggests that the results may not be entirely accurate or reflective of the child's functioning levels. Ms. S indicated that the testing done in her classroom was only done with the Appellant present with her child; therefore the Tribunal cannot rely on those results either. Ms. B's results seemed to be more reliable, as she reported that the child was at a Grade 4 instructional level for decoding words, but she also reported her concerns about the child's inability to understand what [the child] was reading. She said the child would have considerable difficulty with the meaning of language at the Grade 7 curriculum level.

It will be difficult to determine the most appropriate levels at which to teach the child considering the above results, but one can obviously conclude that there is a wide gap in the levels at which the child is able to work. This gap leads the Tribunal to think that doing the same program as peers would only serve to isolate the child. The Tribunal believes that the child should be completing work at the curriculum level where the child can build on the child's skills. Activities need to be modified and adapted where possible to suit the child's particular level of learning and development. This will mean that the child will need to work at [the child's] level, as determined on the IEP (Grade 3-4) in the regular classroom in some areas, but the actual topic or subject could be the same in many cases.

Although the Appellant wants her child to be in a regular classroom, the board has a responsibility to do everything that it can to ensure that the child continues to progress and learn skills and knowledge that will help the child to be independent now and in the future.

There is an urgent need to conduct assessments to determine appropriate teaching levels. The Tribunal was concerned that there was not a complete assessment conducted with the child in the critical learning areas of language and mathematics. Assessment needs to occur on a regular basis in the classroom. Teachers need to determine how well the child communicates, organizes ideas, and applies language conventions. The testimony indicated that many of the staff members had no idea about the level at which the child was working in key areas of language and mathematics. The Appellant's ongoing presence in the classroom has interfered with teachers gaining this knowledge through observation and regular ongoing classroom testing. The Tribunal agrees with the Advocate, when she pointed out in her summation that "assessment needs to be continuous". For that to happen psychological staff and teaching staff must be given the opportunity to conduct assessments in an appropriate manner to produce reliable results. These results will enable teachers, along with the parent and the child, to make appropriate plans for the child and ensure that the gaps in the child's learning are addressed.

Dr. Jordan, in her testimony, agreed that there should be an appropriate assessment of the needs of a student in order to provide an appropriate program in the regular setting.

The Tribunal considered the following Ministry of Education documents relating to language and mathematics. These documents provide important considerations when planning the most appropriate program:

- The Ontario Curriculum, Grades 1 to 8, Language says, “An effective reader is one who not only grasps the essential idea communicated in a piece of writing, but who is able to use and apply these ideas later in new contexts. Students must therefore, develop the skills needed to process, analyse, and absorb information and to think clearly, creatively and critically” (p. 27).
- In relation to mathematics, the Ontario Curriculum, Grades 1 to 8, Mathematics (Revised 2005) states, “the development of mathematical knowledge is a gradual process. A continuous, cohesive program throughout the grades is necessary to help students develop an understanding of the ‘big ideas’ of mathematics – that is, the interrelated concepts that form a framework for learning mathematics in a coherent way” (p. 4). It goes on to say that “teachers are responsible for developing appropriate instructional strategies to help students achieve the curriculum expectations, and for developing appropriate methods for assessing and evaluating student learning.” (p. 5). Finally, “students must problem solve, communicate, reason, reflect, and so on, as they develop the knowledge, the understanding of concepts, and the skills required in all the strands in every grade” (p. 11).

In light of these documents and in consideration of the extent of the child’s needs as identified in the testimony of many school personnel, the Tribunal concludes that the child will benefit from withdrawal to the Home School program for part of the day to address language and mathematics. This will enable the child to build the skills necessary to fill in the gaps in [the child’s] learning so that the child can move forward in [the child’s] education and participate in the community. This class will also provide access to a specialized support, such as a special education teacher, a special needs assistant or an educational assistant on a daily basis. It is a smaller class that will provide the child with more direct assistance in a small group or as an individual, as required.

The Tribunal heard that there is coordination between the Home School program and the regular class to ensure that the child would not miss other subject areas. This coordination is imperative and requires ongoing collaboration and communication among staff members that are working with the child.

The Tribunal is of the belief that, although most students who have intellectual disabilities benefit from, and may learn best from being with age appropriate peers, they generally also require additional intervention. The learning expectations for students who have intellectual disabilities are substantially different from those in the regular curriculum, and evaluation is based on the degree to which the individualized outcomes are achieved. The Tribunal agrees with Dr. Jordan’s opinion that placement is only beneficial when we look at a child’s learning needs first and the placement is decided once the needs are determined.

The Tribunal is concerned that a child who has been in regular classes for ten years continues to have difficulty with the meaning of what [the child] is reading. This, combined with the large gaps in the child’s learning, as reported by Ms. B, SERT for I Public School, causes the Tribunal to question what kind of real progress the child has made in these ten years. Also, given that the child has had the mother with [the child] for a large percentage of the child’s

schooling, it is difficult to know what the child actually can and cannot do. The gap has widened academically by at least five years in some areas.

The child, at fourteen years old, is at a stage where preparation for [the child's] future education is necessary. Remaining in a regular class full-time is not in the child's best interests. Full integration without the opportunity to learn specific skills may come at a cost of learning the basic skills that lead to independence. The Tribunal believes that without direct intervention, the child will fall further and further behind. Confidence and motivation may decrease accordingly.

The Tribunal agrees with the Supreme Court of Canada's observation in *E v. Brant County Board of Education*, which noted, that "the Tribunal observed at the outset that it is the extent of one's special needs which provokes consideration of a special placement, and not the fact that the child's needs are different from the mainstream". In the child's case, the evidence has shown that the child's needs are significant, and that having an opportunity to work on specific skills in the Home School program in both the language and mathematics areas will be of great benefit to the child. This, balanced with the regular classroom, will better prepare the child for the child's future education.

c) Educational Assistant Support

The board, quite rightly, has not considered assigning an educational assistant to the child for the purposes of assisting the child throughout the entire day. The Tribunal agrees, and believes, that too much one to one support can result in a child failing to benefit from the stimulation and models provided by the peer group. Instead, the child needs to learn to work cooperatively and independently, and to develop social relationships with peers.

The evidence showed that maintaining the child in a regular class with the child's mother or an educational assistant all the time did not provide the child with the opportunity to experience independence. A one to one relationship with an educational assistant creates over-dependence. The Tribunal notes that the child has not had the opportunity to benefit from a regular class because the child has had somebody with [the child] all the time. The Appellant also kept her child inside during recess, which denied the child the benefits of socializing with other children.

School personnel reported that when the Appellant was not in the classroom, they saw significant positive changes with the child. The Appellant, conversely, reported that the child came home from school upset that the child had been left alone rather than receiving help with [the child's] work. The Tribunal suggests that a fourteen-year-old does not need to be isolated by having one to one support from mother or an educational assistant throughout the school day, but that the child should receive one to one when it is necessary to accomplish the tasks at hand.

Since the educational assistants and the special needs assistants who provided testimony indicated that they had worked very little with the child, it is difficult to determine how much help the child really needs. It will only be through placing a special needs assistant in the regular classroom to work with the child, that the appropriate amount of time will be determined. Clearly, the child will need some direct assistance in order to experience success in the regular Grade 8 classroom.

Although it is well known that parent collaboration and involvement can create great benefits and have a positive impact on a child's achievement, the Tribunal believes that the ongoing presence of a parent working one to one with his or her child is not appropriate, especially with a student who is fourteen years old.

d) Adaptive Strategies

The Advocate contended that school personnel were unfamiliar with adaptive instructional techniques, and that this led to the conclusion that the child could not handle abstract concepts.

The Tribunal accepted Ms. S as an expert witness and agrees that adaptive strategies used by the Appellant were teaching strategies that all teachers learn and use in the classroom. Ms. S also indicated that there are similarities in the learning styles of children who have Down syndrome and children who have other disabilities. Dr. Jordan stated that all teachers use adaptive strategies, if they are skilled in a variety of teaching skills that maximize instructional time in the classroom. There was no evidence to conclude that the adaptive strategies that the Appellant was using with her child were uniquely different from teaching strategies used by teachers to address the different learning styles of children.

Most of the EA staff and some teachers indicated that they did not have prior experience working with students who have Down syndrome. Staff members would benefit from in-service to assist them in understanding the needs and the characteristics of students who have Down syndrome, and in learning that many of the strategies that they are using with other students who have exceptional needs are very appropriate for students who have Down syndrome.

The Ontario Curriculum, Grades 1 to 8, Language (1997), under Curriculum Expectations and Achievement Levels states, – “Teachers will use their professional judgment in deciding which instructional methods will best foster the learning described in the expectations” (p. 4). The Ontario Curriculum, Grades 1 to 8, Mathematics (Revised 2005) states that, “Teachers are responsible for developing appropriate instructional strategies to help students achieve the curriculum expectations, and for developing appropriate methods for assessing and evaluating student learning” (p.5).

Staff need to meet regularly to plan, communicate and monitor progress. Many of the strategies used will be recognizable as basic good teaching practices and will be suitable for all children. This will help the child as the child transfers this knowledge into the regular program for that part of [the child's] day.

The Tribunal does not agree with the methodology argument that the Appellant has raised. Although some staff members indicated their lack of experience in working with students who have Down syndrome, it is imperative to recognize that teachers have had formal training and certification in education; it is up to school staff members, and not the parent, to determine what techniques and materials are to be used to teach the child. The parent's role is to share information about her child in a collaborative manner, in order to enable teachers to plan appropriate strategies to assist her son with learning. There is considerable expertise in the school, as demonstrated by the testimony of Ms. S, Ms. D, Ms. B, and Ms. S (teacher). This expertise has been quashed by the presence of the Appellant in the classroom.

Decision

The decision for placement has been made in accordance with Regulation 181/98 subsection 17(1) which requires that an IPRC, when making a placement decision, shall, before considering a special education class, consider whether placement in a regular class with appropriate special education services, (a) would meet the pupil's needs; and (b) is consistent with parental preferences.

It is the view of the Tribunal that appropriate programs and services are interconnected with the issue of placement. Inclusion of students who have special needs into the regular classroom requires that appropriate programming and services be put in place to ensure those needs are met. This is contrasted with a special education placement where the services and programs are built into the placement itself. A regular class placement can only be considered appropriate when the services and the program are identified.

1. The Tribunal orders the Toronto District School Board to identify the child as Exceptional Intellectual. This identification will stand until an appropriate psychological assessment is completed to determine the most appropriate exceptionality. The Tribunal strongly encourages the Appellant and school personnel to reach an agreement concerning this testing as soon as possible.

2. The Tribunal orders the Toronto District School Board to place the child in a regular Grade 8 class with resource withdrawal assistance in mathematics and language in the Home School (Comprehensive) program.

- The program in the regular Grade 8 class for the child will be delivered by the classroom teacher, and assisted by a special needs assistant as necessary for a minimum of 50 percent of the time that child is in the regular classroom. The instructional level will be identified by the classroom teacher in the IEP for the school year until further assessment is completed.

- The Toronto School Board is ordered to provide the child with a coordinated, intensive mathematics and language program, planned, implemented and evaluated by a teacher with special education qualifications. This program is to be delivered by withdrawal support and should be timetabled in the Home School class. Attention should be given to the co-ordination of these programs so that the child does not miss other subjects while absent from the regular class. This is consistent with the testimony given regarding the organization of programs with the Home School class.

This combination of placements will meet the child's social and emotional needs by allowing the child to be in a class of age-mates for at least most of the day, while receiving Resource Withdrawal assistance for the rest of the day. The Resource Withdrawal assistance should help the child to gain confidence and knowledge in language and mathematics. Improvement in these basic areas is essential for progress in other areas of the curriculum.

The above placement will be implemented immediately to provide the staff an opportunity to work with the child with the educational supports in place. This will assist staff to determine the appropriateness and the effectiveness of this combination placement for the child. This placement will provide additional information for the staff to make appropriate recommendations for secondary education for the child.

3. The Tribunal orders the Toronto District School Board to set up a meeting with the parent to arrange for an appropriate occupational assessment of life skills to assist in planning the most appropriate program for the child in the near future. We applaud the Appellant for the work she has done with the child, in ensuring that the child knows good personal hygiene and a number of other skills one would consider life skills. But life skills are broad, and should not be construed to only mean personal hygiene and cooking. This assessment is an important factor in determining the most appropriate placement for the child in secondary school.

4. The Tribunal will remain seized of this matter for the school year 2005-2006 to determine the specific exceptionality and the programming level once the required assessments have been completed, and to decide any dispute that might arise in respect to the implementation of any aspect of it.

Recommendations

1. School personnel, the Appellant, and the child should be cooperatively planning for the child's transition from elementary to secondary school. This transition can be difficult, and many issues affect children, whether or not they have special needs. A well-prepared, realistic plan needs to be set in place so that this transition will be as smooth and trouble free as possible for the child, the staff, and the Appellant. The Appellant should be made aware of the full range of options available. The discussions need to be candid and realistic if they are going to be of any support to the child. The child's best interest must be the centerpiece of these discussions. The new assessment information will contribute to making these discussions realistic, practical and useful.

2. The Tribunal strongly recommends that ongoing assessment of the child's strengths and needs be conducted in order to ensure appropriate placements for the child, now and in the future. Assessments should include information about the child's level of functioning regarding academic skills, communication skills, social-emotional development and specific aptitudes.

3. The Tribunal encourages the TDSB to review its present practices to ensure that the IEP and the report card are clear and specific and demonstrate the realistic results of the child's program. Report cards should accurately reflect the grade and the student's achievement levels, so there is no confusion about the progress the child is making.

4. If there are substantial medical issues that inherently interfere with the child's participation in the regular school-day activities, it is the responsibility of the Appellant and of benefit to the child, to make sure school staff members are aware, and that these medical conditions are correctly documented. The Appellant should immediately ensure that the school has access to this information in so that appropriate expectations of the child can be put in place.

5. In-service training opportunities and a collaborative team approach are recommended to support and encourage the development of necessary skills and understandings that the classroom teachers and assistants may require. Staff members working with the child should have sufficient skills and training for the duties they are assigned including: the social, emotional and educational implications of intellectual disabilities; functional life skills and career development knowledge; and knowledge of technological support.

Creating effective communication and working collaboratively can only benefit the child. The child must remain in the forefront of all discussions and communications. School personnel and the Appellant should be encouraged to engage in ongoing productive discussions about the program for the child.

Ms. Marilyn Thain, Chair _____

Ms. Donna Gracey, Member _____

Ms. Deborah Moskal, Member _____

November 17, 2005