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Recent developments in Special Education/Inclusion, January 2013

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Several recent documents and presentations, most but not all from the BC Ministry of Education, suggest that considerable changes are being floated as options for redesigning inclusive educational approaches in the BC K–12 public education system.

The documents include:

- The *BC Education Plan;* http://www.bcedplan.ca/actions/pl.php
- *Global Education Leaders' Program (GELP) Case Study: Developing an education system for the 21st century—British Columbia, Canada;* http://gelponline.org/sites/default/files/resource-files/case_study_bc.pdf
- *Considerations for the future of Special Education in BC* (BC Ministry of Education Powerpoint presentation to the Family Focus conference, October 2012); http://www.scribd.com/doc/117511377/Family-Focus-Conference-October-2012
- *Future directions for Support Services: Pilots and other projects that flow out of "The Plan."*[1] Bill Standeven, Director, Diversity, Equity and Early Years, BC Ministry of Education (2012).

In addition, one legal decision (the Jeffrey Moore case) may impact the provision of Special Education Services, and the disbursement of the Learning Improvement Fund (LIF) will impact staffing and, in some districts, professional development spending and provision.

This paper will look at each of the above documents in turn, while also considering the Moore case and the LIF funding.

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[1] Not currently available online.

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The *BC Education Plan*

The Special Education section on the Education Plan website states that the ministry is "working with district partners to develop a number of tools and resources" linked to early intervention and classroom practice, but fails to specify what they are. Similarly it reports work "with district partners and BC CASE" to "streamline processes", including IEPs, but sheds little further light on who is involved and any progress to date. However, it appears likely that the ten pilot projects identified in the conference Powerpoint presentation (below) reflect the work with district partners.

Global Education Leaders' Program (GELP) Case Study: Developing an Education System for the 21st Century— British Columbia, Canada[2]

With somewhat exaggerated statements, the credibility of this document is questionable. It states, for instance, that:

> An explicit programme of citizen and stakeholder engagement over two years has resulted in a broad consensus around the need to transform education in BC and the nature of the changes required.

This doubtless comes as news to some stakeholders who have not been engaged, and the claims of broad conceptual or implementation consensus are dubious at best. However, the ubiquitous Rod Allen added one more riddle but no clarification in the following section of the report:

> **Decategorization of special needs education**. In the words of Rod Allen, there will be "no labels and no medical model. In a 21st century personalized world, I'll tell you what a special education looks like if you can tell me what a 'normal' education is."

Rod Allen also makes an appearance in 'GELP: the movie'[3] in which CISCO and the Gates Foundation appear prominent. This 8-minute movie also features Valerie Hannon and Tony Mackay. Their visits to BC, including one at the International Conference for School Effectiveness and Improvement (ICSEI), were events that in part initiated BC government interest in personalized learning. GELP's home page states:

> The Global Education Leaders' Program is a community of key education system leaders, policy-makers, thought-leaders and world-class consultants collaborating to transform education at local, national and international levels. The aim of these transformations is to equip every learner with the skills, expertise and knowledge to survive and thrive in the 21st century. GELP is led and co-ordinated by Innovation Unit and sponsored and funded by Cisco, the Bill & Melinda Gates Foundation, the Ellen Koshland Family Fund, and Promethean.

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[2] http://gelponline.org/sites/default/files/resource-files/case_study_bc.pdf
[3] http://gelponline.org/http%3A//gelponline.org/resources/gelp-film

Considerations for the future of Special Education in BC (BC Ministry of Education Powerpoint presentation to the Family Focus conference, October, 2012)

The 16 slides in this Ministry of Education presentation, which surfaced in October, 2012, provide considerably more information pertaining to Special Education than does the Education Plan. Borrowing heavily from (but not acknowledging) Saskatchewan's "Actualizing a needs-based model to support student achievement"[4], this presentation signals an intent to shift away from designations to 'needs-based' approaches utilizing Universal Design for Learning (UDL) and Response to Intervention (RTI). One of the most positive features is a proposal to replace audits with reviews linked to improvement—addressing an issue identified as problematic by the BCTF in 2003 but until now ignored by government:

> Audits have become counter-productive, increasing paperwork and reducing services to students. The focus on audit and accountability requirements is diverting resources away from delivering services to students. (BCTF, 2003)[5]

While it may be standard practice for the BC governments to ignore BCTF proposals regardless of the weight of evidence, they also ignored a government-mandated (Siegel and Ladyman, 2000[6]) review of special education:

> The Ministry of Education should change its auditing system for special education funding from one that focuses on compliance with assessment and planning processes and procedures to one that focuses on the educational progress of students who have special educational needs. (p. 26)

Three priority areas are stated in the conference PowerPoint presentation:

- RTI/UDL
- Early intervention practices
- Transition years model

The RTI model, reviewed by McIntosh, MacKay, Andreou, Brown, Matthews, Gietz, and Bennett (2011)[7], 'is a system-level approach to school psychology service delivery that integrates instruction, the scientific model, formative assessment, and the psycho-educational assessment process' (p. 21). With a focus on boosting the quality of school-wide instruction, implementing school-wide screening, and a tiered model of service delivery, the goal is to enable 80% of students to be successful through classroom-based, school-wide interventions. A second tier of interventions is 'delivered to a wide range of students in the same way' (p. 24), with instructional decisions made by the school-based team. The third tier increases the intensity of support to a smaller number of individuals, with 'special education eligibility' considered. This model is shown graphically with a funnel, the wider end being Tier 1, all students, Tier 2, the interventions to a smaller group, and Tier 3 at the funnel's narrowest end, with the most intensive interventions for a small number of students.

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[4] http://www.education.gov.sk.ca/Actualizing-a-Needs-Based-Model-to-Support-Student-Achievement
[5] http://bctf.ca/publications/NewsmagArticle.aspx?id=10106
[6] Siegel, L., & Ladyman, S. (2000). *A Review of Special Education in British Columbia*. Victoria, BC: Ministry of Education. http://educ.queensu.ca/atep/special-ed/bibliography/BCspecEdreview.pdf
[7] McIntosh, K., MacKay, L.D., Andreou, T., Brown, J.A., Mathews, S., Gietz, C., & Bennett, J.L. (2011). Response to intervention in Canada: Definitions, implications, and future directions. *Canadian Journal of School Psychology*, 26, 18–43.

The British Columbia Association of School Psychologists (BCASP)[8] described RTI in the following way:

> Response to Intervention or RTI is a heterogeneous group of procedures that is currently being examined by some school districts in North America. Some aspects of RTI look promising in the currently published research. School psychologists may want to consider recommending aspects of the RTI process to their schools as procedures for implementing appropriate progressive intervention. At this time, the procedures of RTI cannot be used as the sole means of diagnosing LD. RTI is a process that emphasizes how well students respond to changes in instruction. The essential elements of an RTI approach are: the provision of scientific, research-based instruction and interventions in general education; monitoring and measurement of student progress in response to the instruction and interventions; and use of these measures of student progress to shape instruction and make educational decisions.

> The core features of an RTI process are as follows:

> - High quality, research-based instruction and behavioural support in general education;
> - Universal (school-wide or district-wide) screening of academics and behaviour in order to determine which students need closer monitoring or additional interventions;
> - Multiple tiers of increasingly intense scientific, research-based interventions that are matched to student need;
> - Use of a collaborative approach by school staff for development, implementation, and monitoring of the intervention process;
> - Continuous monitoring of student progress during the interventions, using objective information to determine if students are meeting goals;
> - Follow-up measures providing information that the intervention was implemented as intended and with appropriate consistency;
> - Documentation of parent involvement throughout the process.

The focus on Universal Design for Learning (UDL) is surprising given the province's cutting of the SET-BC UDL project in 2010 after only three years. While SET-BC has managed to maintain a low-level focus on UDL, the cuts to UDL in 2010 and now the resurrection of UDL reflect an apparent level of confusion in the Ministry of Education. In 2010, UDL was of such little worth that even a fledgling project exploring UDL was wiped out, but in 2012 UDL is now heralded as 'a key foundation for planning' (slide 3 in the presentation). This level of flip-flop, on/off approach is the last thing needed in terms of building capacity. Instead, what the BC K–12 public school system needs is longer-term commitments to develop, share, and extend UDL practices and resources across the province.

UDL has much to offer and might revolutionize teaching and learning. Jennifer Katz (2012)[9] has made a powerful case for the utilization of UDL, arguing that UDL is "the concept that can help make inclusive education work" (p. 13). She implicitly refers to one of the analogies used when

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[8] British Columbia Association of School Psychologists (BCASP). (2007). *Best Practice Guidelines for the Assessment, Diagnosis and Identification of Students with Learning Disabilities*.

[9] Katz, J. (2012). *Teaching to Diversity: The three-block model of Universal Design for Learning*. Winnipeg: Portage & Main.

describing UDL—the changing of sidewalk curbs to allow wheelchair access, a simple change that improved access for all, and not only for those in wheelchairs. She asks:

> How do we provide accessibility to the learning, the curriculum, and the social life of the classroom for diverse learners without taking away from the experience of those who can step up onto the curb? In other words, how do we diversify our curriculum, instruction and assessment in such a way that students who have previously not been able to participate can be actively involved—without dumbing down the curriculum? What are the ramps we can use in education? (pp. 13–14)

Katz outlines the history and principles of Universal Design, reviews its application in K–12 education, and outlines "seven ramps for brain-based instruction" to be utilized in conjunction with Gardner's Multiple Intelligences, which she considers as "eight different ways in which the brain processes a specific type of information and uses it to solve problems and demonstrate understandings" (p. 20). Her three-block model (Systems and Structures; Inclusive Educational Practice; Social and Emotional Learning—Developing Compassionate Learning Communities), is well-articulated conceptually, and, more importantly, is reflected in real-life classroom examples.

A national Social Sciences and Humanities Research Council (SSHRC) research project led by the University of Western Ontario has just received preliminary funding, with two key strands of considerable relevance to supporting inclusive education in Canadian public schools. The first is a UDL focus, using Katz's model of Universal Design to research implementation of the approach in both urban and rural school districts. A second strand looks at ways to support teachers teaching to diverse student populations in their first three years of teaching. This project includes partnerships with three BC universities (UBC, UVic, and TRU); seven BC school districts (Langley, Surrey, Maple Ridge-Pitt Meadows, Vancouver, North Vancouver, Saanich, Richmond); two Ministry of Education units (SET-BC, Provincial Integration Support Program); and the BC Teachers' Federation. Whether the project receives full funding to progress beyond the initial proposal will be known in 2013.

If the BC government can move away from start-stop ventures with short-term funding, and build on approaches like the SSHRC research, which creates partnerships and collaborations across organizations, then a stronger foundation for UDL and other promising approaches to inclusive education might be developed. But this requires longer-term funding and more concrete strategies to build capacity and to network, neither of which has featured in the ministry's approach in the last few years.

The conference Powerpoint presentation also identified some school districts[10], each receiving $30,000 for 'Special Education Innovation' projects.

Indeed, there may be three overt drivers for the impetus to 'reform' Special Education:

- Various educational jurisdictions are arguing that Special Education is not working to produce improved outcomes for students.
- Paperwork takes priority over service to students.

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[10] School districts 23 (Central Okanagan), 28 (Quesnel), 42 (Maple Ridge-Pitt Meadows), 44 (North Vancouver), 48 (Sea-to-Sky), 52 (Prince Rupert), 62 (Sooke), 64 (Gulf Islands), 68 (Nanaimo-Ladysmith), 79 (Cowichan Valley). In addition, two other districts are involved but have not received funding. One Independent school in Victoria (Discovery) is also involved.

- The increased prevalence of attaching of EAs to individual students appears to produce no improvement in outcomes.

These three 'drivers' are well referenced in a (2011) report entitled *Steps to Effective and Sustainable Public Education in Nova Scotia*[11], authored by Ben Levin, which states:

> In many education systems a major concern is the amount of effort that goes into the paperwork related to the special education system. Many days of staff time can go into preparing documentation for students, with much of it driven by administrative, legal or auditing requirements. Other systems have found that this documentation, including the content of many individual education plans, may have little impact on students' experiences or learning. While the pressures to comply with legal or audit mandates are very real, the overarching purpose for work in the system should be that it has real benefits for students' learning. A more serious problem is that it is not clear that special education programs, although expensive, actually result in improved outcomes for students diagnosed with learning disabilities or behavioural problems. While experts do not agree on these matters, in all systems students placed in these programs continue to lag behind other students and sometimes the gap gets bigger rather than smaller.... Third, much of the 'programming' for students in special education consists of attaching an education assistant or teacher aide to them on a full- or part-time basis. There are now some 2,000 staff in Nova Scotia schools doing this work. Although parents often value their presence as showing some effort to support students, the empirical evidence does not show that having aides results in improved student performance, and at least some evidence shows that they can have the opposite effect—for example by creating situations in which these students actually get less time and attention from trained teachers. (p. 12)

While the overt 'drivers' are explicit, what may in fact be implicit, covert, and possibly the real 'driver,' is cost. The Nova Scotia report remains neutral in terms of the cost of Special Education, but the title's inclusion of the word 'sustainable' perhaps indicates that cost is a key factor in deciding change. A more overt reference to costs formed part of the (2002) Manhattan Institute's study[12] of the effects of funding incentives on Special Education enrolment:

> State funding systems are having a dramatic effect on special education enrollment rates. In states where schools had a financial incentive to identify more students as disabled and place them in special education, the percentage of all students enrolled in special education grew significantly more rapidly over the past decade.... The ever-accelerating growth of special education enrollment is becoming an urgent problem for American education, drawing off more and more billions of dollars that could otherwise be spent on better education for all students. The finding that state funding systems are responsible for the bulk of the past decade's growth in special education enrollment suggests how this problem could be curtailed. The most obvious policy solution would be for bounty system states to adopt lump-sum funding systems, removing the perverse financial incentive to place students in special education. (pp. 8–9)

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[11] http://www.ednet.ns.ca/files/reports/StepstoEffectiveandSustainablePublicEducation.pdf
[12] http://www.manhattan-institute.org/html/cr_32.htm

Do economics drive reform in this area? Never overtly, yet the cost of Special Education, whether in terms of designated funding or increased numbers of Education Assistants, is steadily increasing, so any model with the potential to reduce costs while appearing to meet needs, is of obvious interest to governments.

Not a part of the ministry presentation, but interesting to note, is information regarding the allocation of Learning Improvement Funds (LIF) in British Columiba. At the time of writing, we have been able to access 52 (out of 60) district LIF reports. Some districts appear to be spending considerably more of the LIF funds on Educational Assistants than they are on teachers. As one example, North Vancouver is allocating close to five times the minimum allocation that was negotiated with CUPE. Their minimum allocation was $201,800, but the actual spending will be $998,441. Some districts are restricting the EA spending to the negotiated amount—Vancouver and Howe Sound are examples of this approach. Proposed spending on teachers' professional development ranges from zero to over $300,000 among districts.

Future directions for Support Services: Pilots and other projects that flow out of "The Plan". Bill Standeven, BC Ministry of Education (2012)

This 6-page document lists three key directions:

1. **Develop and articulate an Early Intervention Practice and Collaborative Partnership Model for districts.**

Stressing the utilization of UDL and RTI in early intervention while proposing suspending initial designations, this section appears to assume 'pull-out' Special Education services are standard practice and should be replaced with 'in-class' support. This is a curious assumption, unsupported by any evidence, and appears counter to what is common practice in many BC schools. With RTI and the stated need for a 'functional assessment model,' there also appears to be an increased focus on the role of school psychologists.

The (2000) *Review of Special Education* stated:

> The current funding system does not promote effective early identification and pre-referral intervention and encourages the system to spend resources on more expensive forms of assessment. (p. 25)

Twelve years later, little appears to have changed, with similar recommendations made in 2012 to those made in the 2000 *Review*. The question of how a recommendation can be ignored for twelve years, then regenerated, is worthy of consideration. It reflects a lack of awareness of the 2000 *Review*, thereby showing an alarming disregard for accessing prior research and reviews of areas of interest and concern. There also appears to be a lack of drive and cohesion for early intervention approaches in BC, while some early intervention services have been eliminated. As one example, the British Columbia Association for Community Living reported:

> On September 30, 2010, the provincial government eliminated the provincial advisory office of the Infant Development Program. The office promoted and provided best practices, research, training, leadership and vision in the area of early childhood development, connecting families with each other and providing them with the best information available. The loss of the provincial offices was a shocking blow to families, consultants and children with special needs. The infant

development program was linked provincially through the advisor's office to ensure that it is accessible to families no matter where they live in BC[13].

There is evidence of government-sponsored early intervention in a range of BC ministries, including Health[14] and MCFD[15], as well as full-day Kindergarten, so the report's bland reassertion of an old recommendation is curious. A comprehensive review of early intervention approaches across all ministries would be a better recommendation and direction, with some consideration of where public schools fit within the overall, and hopefully co-ordinated, approaches to early intervention.

2. **Develop an articulated provincial vision for a continuum of instructional support based on the Universal Design for Learning (UDL) Framework and Response to Intervention (RTI).**

This section calls for a review of the Saskatchewan RTI approach while also sharing examples of UDL practice, in spite of the cuts made in 2010 to a UDL program that did exactly that. The vague 'focus on teacher development' may be innocuous or dangerous, but there is no way of telling what is actually meant by the wording. The issue around teacher development may link to the recent attempt by BCPSEA to exert greater control over teachers' professional development, with a managerially-controlled approach which reduces or erases teacher autonomy. While few would deny the need for more supports for teachers linked to meeting the needs of diverse learners, any attempt to force or direct teachers' PD is likely to generate conflict. A better approach might be to provide in-service linked to UDL and RTI, where government might provide funds for teachers to attend in-service during regular school days. See also the section on professional development (below).

The conference Powerpoint presentation discussed above identified 'In Service Training' as one component of a proposed 'Needs Based Service Delivery Model'. Yet there has been minimal in-service for teachers in recent years, and there is no suggestion of increased funding to provide it. One explanation may be that the slide was copied from the Saskatchewan report reference above, though the BC version omitted the title from the original, which was 'Key principles of a needs-based delivery model'. If a key principle of building a new model of delivery is in-service, then this needs funding, but a more likely BC scenario based on the current government's record would be the imposition of the model without the necessary in-service.

3. **Develop a "transition years" model for school completion.**

The document alludes to but does not reference a ministry report from 2010–11. Other resources outlining transition planning which the document fails to mention include those from the MCFD (2001)[16], the BC Association for Community Living's (BCACL) innovative *On My Way* video series[17], and the Ministry of Education's *Career/Life Transitions Guide*[18]. The BCTF's *Teaching to Diversity* site[19] offers links to these and other resources on transition planning.

The focus on transitions, while worthy, has most-recently been better addressed by community organizations like BCACL and by other ministries than it has by the Ministry of Education.

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[13] http://www.bcacl.org/about-us/social-policy-positions/early-intervention
[14] http://www.viha.ca/cyf_rehab/therapy/eip/default.htm
[15] http://www.mcf.gov.bc.ca/spec_needs/pdf/ei_therapy_guidelines.pdf
[16] http://www.mcf.gov.bc.ca/spec_needs/pdf/support_guide.pdf
[17] http://transitionplanningbc.ca/
[18] http://www.bced.gov.bc.ca/specialed/docs/moe_clt_resource_rb0144.pdf
[19] http://bctf.ca/issues/resources.aspx?id=10844

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Announcing transitions as a new ministry priority, while having done little to address the same issue for years, generates some skepticism about the ministry's ability to respond to what many in the system have seen as an issue for some time.

Seven other 'things to consider' when addressing the three key areas are stated:

- **Provide appropriate and relevant support for resource/support teachers who work with students with special needs.**

In the last ten years, the BC government has overseen the removal of 769 FTE specialist support positions in Special Education[20]. In addition, Special Education has become an entry-level teaching position in many BC school districts, as many of those who were left after the cuts have quit the role and taken classroom assignments because of increased and unmanageable workloads. It is possible, but unlikely, that this priority reflects an admission of past failures. However, any ministry reflection on the disastrous funding policies negatively impacting inclusion has been consistently lacking to date, and any serious action to reverse policies and funding appears unlikely now.

The recommendation simply ignores recent history and current contexts, where inclusive education has been the prime target of cuts made at the district level but caused by provincial-government actions.

The continued emphasis and belief that Special Education services are universally 'pull-out' is curious and unsupported by any evidence.

- **Provide significant professional development to support the delivery of research-based targeted or intensive support interventions**

The 'research-based' approach is a new venture for the government and for the Ministry of Education, as their avoidance of educational research has been almost total in the last ten years. The whole Education Plan has no research basis articulated by the ministry, although some rich veins exist in areas such as constructivism, assessment, quality teaching, and a host of other areas. How credible is a 'research-based approach' from a ministry that has forgotten how to conduct or to access research? Why is there one initiative that is research-based when little else appears to utilize research?

The document also conveniently avoids the context of recent BCPSEA efforts to wrest control of teachers' professional development by stressing that teachers (in their view) are employees, not professionals, and should do the work and the PD that their employer tells them to do rather than act as autonomous professionals:

> Employers—of both professionals and others alike—have considerable authority to direct the workplace, including the authority to direct their employees on the manner of performing the work. The employee's right to exercise judgment about how he or she performs the work may be limited by an employer's directive or rule to the contrary.[21]

The ministry's failure to consistently support PD linked to inclusion has been significant in recent years. Sporadic attempts to provide PD include the ministry-funded BC CASE project, which has four units in its Professional Learning Series. This project developed some useful PD modules, including RTI, UDL, and IEP development—all areas of current focus in the new ministry document. Yet the utilization of these units has been minimal in recent years, and

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[20] http://www.bctf.ca/uploadedFiles/Public/Publications/2012EdFacts.pdf; see page 25.
[21] http://www.bcpsea.bc.ca/documents/publications/05-HJF-%20Professional%20Autonomy.pdf

reflects another inconsistent ministry approach to fund and develop PD, then to discontinue support and fail to build on a promising foundation. Stop-start, or rather, start-stop seems to be a pattern of some consistency for the Ministry of Education and the current government.

- **Develop a school-wide resource allocation model that supports the principal and school team in the allocation of teacher assistant time.**

This is arguably the flimsiest section of the report, although the general intent appears to be to remove the approach where an Education Assistant (EA) works exclusively with one student. In the last decade, there have been significant increases in EA numbers, while at the same time the employment of specialist teachers has been cut. The Levin Report referenced in this paper also addresses a number of concerns over the increased numbers of Education Assistants in Canadian jurisdictions. A new CUPE report (Malcolmson, 2012)[22], shows a 40% increase in Education Assistant staffing levels in BC in 2011–12 compared to 1997–98. Thus, 2,552 more Education Assistants are employed now than were in 1997–98, while BC Ministry of Education data show that 769 FTE Special Education teacher positions have been eliminated since 2001[23].

If specialist support teachers are being cut while more EAs are being employed, what is the educational rationale for this shift? None has ever been articulated, and the allocations of Learning Improvement Fund money in the 2012–13 school year (see below) suggests that in some districts, there will be disproportionate investment in expanding EA hours and employment rather than investing in greater specialist teacher support. The failure to articulate an educational rationale for increasing EA numbers, while at the same time cutting teacher numbers, implies an economic rather than an educational basis for the approach. Yet if future directions for Special Education are being considered, more than tinkering with resource allocation models is required. There is a need to examine levels of staffing resources, and to consider the case for improved specialist teacher support.

- **Transition the funding model for student support services from one based on designation criteria to a mixed funding model (targeted and block).**

The funding option outlined here is a major and likely the most controversial approach considered in the various documents. Targeted funding occurs when a district receives a set amount of funds linked to an identified student with special needs. The *BC Special Education Manual of Policies and Guidelines*[24] outlines the three levels of targeted funding, with Level 1 at $36,600 per FTE, Level 2 at $18,300, and Level 3 at $9,200[25]. A (1998) BCTF brief described the introduction and scope of block funding:

> In 1990–91, block funding was introduced, as recommended by the Sullivan Royal Commission on Education. Each year, the ministry responsible for education establishes a provincial per-pupil dollar amount that is then multiplied by the projected number of students to determine the Total Estimated Provincial Funding Allocation.[26]

The ministry describes another shift in funding in 2002:

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[22] CUPE BC Region K-12 Statistics Manual, Version 2. November 30, 2012.

[23] http://www.bctf.ca/uploadedFiles/Public/Publications/2012EdFacts.pdf ; see p. 25.

[24] http://www.bced.gov.bc.ca/specialed/special_ed_policy_manual.pdf

[25] http://www.bced.gov.bc.ca/specialed/special_ed_policy_manual.pdf#page=137 ; see appendix pp. 31–32.

[26] *Education funding: A Brief to the Government of British Columbia from the BCTF*, http://bctf.ca/uploadedFiles/Education/Education_funding/98brief.pdf

The current funding system, introduced on March 1, 2002, moved into the student base allocation a significant portion of those resources that, in the past, formed part of the special education supplement. This includes funds that were previously identified as part of the special education "core" allocation: funds for learning assistance, special health services, identification assessment/planning and hospital/homebound services and supplementary funds for students who are identified as having severe learning disabilities, mild intellectual disabilities, students requiring moderate behaviour supports and students who are gifted.[27]

This change resulted in the massive under-identification of many students previously identified in High-Incidence categories, especially Gifted students. The BCTF's *2012 Education Facts*[28] reported:

Much of the decrease in number of students with special needs is due to a reduction in Gifted programs in BC. There are 10,236 fewer students in the Gifted program in 2011–12 than in 2001–02.

Since the 2002 funding change, there has been growing concern in BC around the so-called 'grey area' students—those in need of support but without a designation. In the ministry's conference Powerpoint presentation, these students are alluded to on the second slide with the term 'sea of ineligibility'. This ineligibility was created by the shift into block funding at a time when districts were (and still are) under huge financial pressures because of consistent and pervasive underfunding by the provincial government. Thus the government constricted funds, but allowed districts greater discretion over the use and allocation of funds, which many districts used to reduce services and supports to a range of students, but especially to high-incidence students. The recent Supreme Court decision in the Moore case illustrates this well—while it was the North Vancouver School District that removed the services that could have supported Moore, the province had put them and other districts in the position where they had to choose what to cut. And though the message from government to districts was implicit, the shift into block funding gave districts permission to shift services from students with special needs into other areas of service. School districts at the time indicated that they wanted flexibility in the use of provincial funds. Unfortunately, as the Moore case showed, it also created an unforeseen level of responsibility for school districts which may come back to haunt them. The Supreme Court's decision in the Moore case acknowledged that North Vancouver's cuts resulted, in part, as a consequence of provincial funding decisions, yet full responsibility, and the ensuing settlement costs, were laid at the school district's door. Little wonder, perhaps, that the province now eyes reducing targeted funding even more, as they appear largely absolved of responsibility by the Moore decision.

- **Change ministry accountability requirements from compliance audits to quality review self-audits that are based on student achievement information and plans for improvement as part of the reporting-out process.**

Well-covered in other areas of this document, but perhaps worth restating, that approaches close to this concept have been promoted by both government Reviews of Special Education and by the BCTF, and likely many others, for the last decade, but have been consistently ignored by the government and the Ministry of Education, who were the bodies insisting on compliance audits in the first place.

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[27] http://www.bced.gov.bc.ca/specialed/special_ed_policy_manual.pdf#page=46 ; see p. 38.
[28] http://www.bctf.ca/uploadedFiles/Public/Publications/2012EdFacts.pdf ; see p. 13.

- **Develop a simplified IEP template.**

- **Support and promote self-directed IEPs for secondary students.**
There are many IEP-related resources that have been developed in BC.

The (2009) *IEP Planning Resource Guide for Teachers*[29] was developed by a cross-organizational group including BCTF PSA reps from the Special Education Association (SEA) and the Learning Assistance Teachers' Association (LATA). It's a comprehensive and useful guide to developing IEPs, with the bulk of the report documenting pragmatic tools for teachers' use in IEP development.

The Ministry of Education's *Special Education Manual of Policies, Procedures and Guidelines* includes a section on developing IEPs[30], and the (2002) BCSSA/Ministry of Education publication *Parents' Guide to IEP Planning*[31] discussed parental roles in the IEP process. The First Nations Education Steering Committee (FNESC) also produced a (2001) *A teacher's guide to Individual Education Plans (IEPs)*[32].

However, there are very different perspectives on the general utility of IEPs, and ways of improving accessibility and utilization may be facilitated by simplified or common formats.

The Moore case

In November 2012, the Supreme Court of Canada[33] found in a unanimous ruling that North Vancouver School District had discriminated against Jeffrey Moore, a student with a severe learning disability. They stated that the district had failed to provide a meaningful education and that their actions were discriminatory in nature. While the district argued that Moore's treatment was not different to that of other students with special needs, the Supreme Court did not accept this premise, saying that were this to be accepted, then any cuts to Special Education services would be "immune from a claim of discrimination". Damages were awarded to the Moore family to cover the costs of private schooling ($100,000), as well as $10,000 in damages for injury to Jeffrey Moore's dignity, feelings, and self-respect.

What impact this case may have on services to students with special needs remains to be seen, but judging by the initial reaction from the Minister of Education, they appear to be learning little from the ruling except that they successfully (and literally) passed the buck of responsibility for the discrimination to the school district while bizarrely claiming that improved supports now exist for students with special needs:

Don McRae, BC's education minister, said in a statement that the province is reviewing the ruling.

> "We are pleased the court did not find that the government or the Ministry of Education discriminated against Mr. Moore," he said.

McRae said the province is now providing record levels of funding for students with special needs and this year, it's estimated more than $860 million will go to support them.

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[29] http://www.bced.gov.bc.ca/specialed/docs/iepssn.pdf
[30] http://www.bced.gov.bc.ca/specialed/special_ed_policy_manual.pdf#page=20
[31] http://www.bcssa.org/PDFs/Resources/IEP.pdf
[32] http://www.fnesc.ca/publications/pdf/teachers_guide_IEP.pdf
[33] http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/12680/1/document.do

The province has also announced funding for school districts to hire additional teachers and special education assistants.

> "Overall, students with special needs today have a wider variety of supports, funding and services available to them," McRae said in the statement.[34]

There will likely be a number of national seminars examining and discussing the implications of the Moore case, one being considered by the Ontario Association for Community Living in February, 2013. Community Living, and other advocacy groups, will likely be looking to use Moore to seek improvements in services for students with special needs, while school districts may be revisiting the potential for their liability in future cases. Sadly, there appears to be no attempt to date by the BC government to address the issues arising from this decision. Surely it would be better to consider what we can learn from the case in terms of how to improve access to education for all learners, and how to avoid, in the future, the discrimination suffered by Jeffrey Moore. Instead, we are left only with banal statements from the education minister that neither the government nor its ministry were to blame, and problematic comments that imply students with special needs currently have improved support in BC's K–12 public schools than when the Moore case was launched.

Discussion

The following are some questions and possible areas to start an initial discussion:

- Designations/funding pivotal issue: are the changes driven by economic or education considerations? The explicit rationale is educational but is the implicit rationale economic?
- Some positive elements if focus is sustained: UDL, change in audits, collaboration across districts but should extend to include the BCTF and its PSAs.
- Contradictions between history of severe cuts to Special Education teachers/lack of systemic support, and proposals suggesting increased support for resource teachers.
- How realistic are proposals restating what was recommended in the 2000 *Review of Special Education*, when they have not been addressed in 12 years?
- Is there a changing role for school Psychologists with the RTI proposal?
- How might the Moore case impact future service-delivery? Might the decision cause concern to school districts as they may be seen as totally responsible for discrimination or inadequate service levels in any future legal cases using Moore as a precedent?

This paper has focused on providing information about several recent publications, data sets, and presentations that indicate some shifts in thinking about Special Education funding, delivery, and supports. In addition, the Moore case's implications and possible effects on K–12 provision are not yet clear. The report is an update of and commentary on recent events in a rapidly changing scene. Because of the uncertainty about these proposals, much may change in the coming year. However, rather than considering individual documents or contextual pieces, a more comprehensive review is required. What is needed, perhaps after the May election, is a much more detailed analysis and discussion about how BC's K–12 public education addresses diverse learner needs. Some consideration of this was attempted towards the end of an earlier BCTF Research Report[35]:

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[34] http://www.huffingtonpost.ca/2012/11/09/jeffrey-moore-dyslexic-discriminated-against-north-vancouver-school-district_n_2100681.html
[35] http://www.bctf.ca/uploadedFiles/Public/Publications/ResearchReports/2012-EI-03.pdf

…the lack of systemic support for inclusive education has been central to the dysfunction of public education in BC for some years. Many parents and teachers have expressed concerns over the lack of supports to make Inclusion work effectively. Teacher preparation is inadequate to address diverse learner needs and the massive cuts in specialist-support-teacher numbers since 2002 have reduced expertise. Special Education/Learning Assistance jobs have become entry-level positions for new teachers in many BC school districts, and are often less than full-time. The inertia at the ministry level in terms of support for inclusive approaches in recent years has been startling. Ministry UDL pilots—in many ways epitomizing personalized learning—were funded for several years, then dropped to cut costs. The issue discussed here is not Inclusion, which is a fundamental human right, but the mandating of a policy while stripping the system of the capacity to implement it effectively. Including all students in learning is necessary if we are to respect human rights and to maximize the potential of each and every learner. But teachers, Education Assistants, and school districts need much more support to make this happen.

In practical terms, there needs to be a significant consideration of Inclusion policy and implementation with the twin goals of maximizing the participation and success of all students in learning while also supporting the work of teachers and others so that the first goal can be realized. Pre-service teacher education needs to address the issue of diversity as central rather than peripheral to teaching. Areas such as UDL and differentiated instruction have promise but have minimal systemic support and no networks to connect innovative practitioners. Some educators have built highly successful approaches but have few avenues to connect or share their work. Teachers at Livingstone Elementary School in Vancouver (Livingstone Inquiry, 2011) have demonstrated highly inclusive approaches using SMARTboards. They have authored and self-published a book on their approaches, and have offered PD to hundreds of other teachers at their own school, at UBC Summer Institutes, and at conferences, yet their efforts have been unsupported by either district or province. Richmond School District, the Richmond Teachers' Association, and the BCTF have piloted an approach to sharing promising inclusionary practices using web-based video and documentary materials, but their work was curtailed in the recent contractual dispute.

There is much promise, considerable talent, and energy within the BC K–12 public education system in terms of inclusionary practices, yet there is also much systemic stasis and paralysis. The existing talent—the human capital of teachers—can be better engaged if the systemic stasis and paralysis are replaced by cohesive and collaborative capacity-building. (pp. 19–20)