

Top Court Enforces Student Rights

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The achievement of true inclusive education within our schools across Canada is predicated upon ensuring that support to each and every student is provided in a manner that is most appropriate and specific to their individual needs and circumstances. For students with disabilities, the appropriateness of the support can be the difference maker. The Supreme Court of Canada has recently ruled that school boards must take heed and ensure that their decision-making considers the individual needs of the student when assessing the supports and services available to that student.

The *Moore v. British Columbia (Education)* decision represents a high water mark for disability- accommodation rights. Although inclusive education was not a central issue before the Court, the decision nonetheless is significant and provides sufficient guidance to support stronger efforts to achieve inclusive education.

One of the central issues of this case was the meaning of “services” for students with disabilities in the education context. The lower court had determined that for students who access supports through special education services, the services in question were “special education” services rather than general education services. The Court rejected this determination stating, “Comparing Jeffrey only with other special needs students would mean that the District could cut *all* special needs programs and yet be immune from a claim of discrimination.” The Court accepted that the rubric of “special education” is not in and of itself an education service to students with disabilities but rather forms part of the accommodations that facilitate the participation to educational services which all children are entitled to.

This decision places a clear onus on schools to fully understand and adhere to their obligations pursuant to provincial and territorial human rights statutes. Human rights laws protect students from being short changed by “mere efficiency” and ensure that they are supported in a “meaningful” way. Anything less will be discriminatory.