



**Ontario School Board Compliance  
with  
Public Service Standards**

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## Table of Contents

Abstract .....	2
1. Ontario Public Service Standards .....	3
3. School Board Policy Findings Related to Public Standards .....	5
Policy Review Methodology: .....	7
4. Results of School Board Policy Analysis .....	8
Customer Service Standard Policies .....	8
Accessibility Policies: .....	9
Service Animal Policies: .....	9
Support Persons Policies: .....	11
Assistive Devices Policies: .....	13
5. Personnel Roles and Responsibilities in Public Service Compliance .....	15
6. Survey Methodology and Results .....	16
7. Survey Results & Implications for Service Standard Compliance .....	18
8. Recommendations to the Minister of Education and the Government of Ontario .....	19
9. Conclusion .....	20
Appendix A .....	21
Students with Special Needs and School Board Performance to Public Service Standards: A Legal Analysis .....	
Endnotes .....	24
References .....	26

## Abstract

School boards are publicly funded corporations under Ontario's *Education Act*. As an extension of government services, compliance with Ontario public sector standards is an expectation when dealing with the public, parents and students. Communication is a pivotal component of quality public services.

Field research conducted by Horizon Educational Consulting with parents and school boards since 2016 revealed a consistent trend with difficulty in communication and information disclosure permeating interactions between the public, parents and students and school board service providers.

School board policy, procedures and practices must comply with the Ontario Human Rights Code (the 'Code') and the Accessibility for Ontarians with Disabilities Act (AODA) in the provision of programs and services. Public service standards should guide school board practices which unfold from these policies and procedures.

In this report, school board policies were reviewed in relation to common public service standards and accessibility service standards. An online public survey was conducted to assess implementation and delivery of services.

A specific policy related to service dogs was examined among the policies of school boards in light of the 2017 Ontario Human Rights Tribunal *J.F. v. Waterloo District Catholic School Board* where a child with a disability sought to bring a therapy dog into the school in a personal support role.

The provision of assistive devices was another policy area examined, as it pertained to the ability of students to access and obtain assistive devices to enable them to perform to the same level as students without disabilities. The provision of a device rests with the Ministry of Education Special Equipment Allocation (SEA) funding to school boards.

A third policy area examined support persons which relate to educational assistants for students in schools. This area is known to be funding dependent and even more inconsistent in application and implementation since 1:1 personal support is often assigned only to the highest need students with medical, safety or behavioral issues.

Students with learning disabilities, often called invisible disabilities, are left with shared support between several students in several classes. Third party support persons external to school board staffing are not yet recognized or permitted by school board providers, citing reasons such as insurance and collective agreements.

This report outlines how school boards must focus on adopting a more client services approach for compliance with public service standards and accessibility standards in their role serving the public and clients who access educational programs and services.

## 1. Ontario Public Service Standards

The Ontario government service standards provides a common set of communication service standards.<sup>1</sup> These standards are identified in Table 1 below and offer a level of service when a member of the public visits an office in person, or contacts them online or by phone, email, fax or mail.

**Table 1: Ontario Government Common Service Standards**

<b>Contact method</b>	<b>Standards of response</b>
Visit an office	<ul style="list-style-type: none"> <li>• business hours are 8:30 a.m. – 5 p.m., Monday to Friday, except for statutory holidays and unless other times are posted</li> <li>• without an appointment, wait times are less than 20 minutes, unless told otherwise</li> </ul>
Contact by phone	<ul style="list-style-type: none"> <li>• calls are answered by the third ring or directed to voicemail during business hours (8:30 a.m. – 5 p.m.) unless they are received through a call centre</li> <li>• calls through a call centre are answered within two minutes, unless told otherwise</li> <li>• voice mail messages are returned within one business day (24 hours)</li> </ul>
Contact by email, online, fax or mail	<ul style="list-style-type: none"> <li>• emails and online messages are acknowledged within two business days and answered within 15 business days</li> <li>• faxes or mail are answered within 15 business days</li> <li>• if the question can't be answered right away, an estimated date of when it can be answered will be sent within 15 business days</li> </ul>
Contact by social media	<ul style="list-style-type: none"> <li>• Staff-assisted social media services will be available from 9:00 a.m. to 5:00 p.m., Monday to Friday (excluding holidays) unless otherwise indicated.</li> <li>• During these periods, all interactions which present a service opportunity will receive a response acknowledging or answering the request within 4 business hours.</li> <li>• For acknowledged requests, a conclusive response will be provided within 5 business days.</li> <li>• For complicated requests that require additional time, notification and/or an alternative communication channel will be provided.</li> </ul>

The Common Service Standards apply to ministries, agencies and Crown corporations. By virtue of being publicly funded, school boards are agencies of the Ministry of Education and therefore are obligated to respect these standards. School boards are already required to follow standards which are expected of other government entities. For example:

In 2004, school boards were required to adopt guidelines regarding financial accounting and reporting framework that had already been a requirement of the broader public sector.<sup>2</sup> Consequently, it would be an expectation to require school boards implement the Common Service Standards. However, there has been no Ministry of Education directive to do so.

**Interestingly, the Ministry of Education is the only Ministry not having a public service compliance statement on its website.**

In addition to the Common Service Standards, the Government of Ontario also has an Accessible Customer Service Policy.<sup>3</sup> This policy, which applies to Ministries and all consultants and contractors to Ministries, dictates mandatory requirements for the provision of information and services to individuals with disabilities.

**The Accessible Customer Service Policy requires staff to undergo appropriate training, and allows for the use of service animals, support persons, and assistive devices.**

One of the policy's general principles is that persons with disabilities should be given equal opportunity to obtain services.

This policy does not have specific communication service standards for individuals with disabilities, presumably since the Common Service Standards would also apply. However, it does require that communication allow persons with disabilities to access services with the same timeliness as others.

Unfortunately, in the context of the education system, it appears that some students with disabilities (and some of their parents) do not receive any information or communication, or limited amounts of either, and not in a timely manner. This situation is ultimately preventing them from having access to the same level of education that other students receive. Appendix A provides a legal analysis of this assertion.

An example of this lack of communication is when a student receives an assistive device, parents are not directly informed, nor provided information on the training the student is entitled to receive to learn its use, nor the teacher training required to properly support the student. There is no follow-up on the effectiveness of the device's implementation thereafter, with the teacher by school board staff<sup>4</sup>.

Although the Accessible Customer Service Policy dictates requirements with regards to the provision of services to persons with disabilities, it leaves the related policy making up to businesses and organizations, including school boards.

While policy making allowances for organizations offer customization of policies based on the goods and/or services they may provide, it also allows room for erosion in adherence and expands interpretation when it comes to policy implementation.

The government does require compliance reports to be submitted, however, as with the policy itself, the focus is more on ensuring physical accessibility requirements are met more so than standards for communication. Furthermore, service standard reviews are not systemically engaged by all Ministries in Ontario and are yet to become common practice in Ontario's school board operations framework.

Despite the fact that government-generated standards exist for effective and reasonable communication, in addition to the fact that extra care should be taken to ensure communication and service delivery in the context of individuals with disabilities, it appears that these guidelines are largely being ignored or the level of awareness of its requirement is absent in school board operations.

## **2. The Importance of Communication in the Education Sector**

Communication is the very essence of the teaching profession. In its most basic sense, this can involve the teacher communicating a new fact, process, or theory to a student, and the student then communicating their understanding back to the teacher or to peers.

However, the role of communication in the education system is far more complex, and involves many more players including parents and administrators. As a result, there is an obvious need to ensure that communication be clear and timely to ensure that student needs are being met.

As a public service, the education system is accountable for delivering and maintaining a standard for communication that is consistent and timely.

The need for more effective communication in the education system is especially relevant in the context of special education. A student who requires accommodations in order to be successful should not be subjected to delays in their provision simply due to the lack of effective communication. Not only does this result in set-backs in the child's education, it also raises human rights concerns.

In fact, the Ontario Human Rights Commission cites the accommodation process as one of the five main barriers to education for students with disabilities<sup>5</sup>. Although the Commission does not explicitly call out poor communication as the culprit, it is evident that communication has a role, given that some of the identified issues are delays at many stages in the accommodation process and lack of accessible information about services and supports.

Having greater accountability for communication may not solve these issues, but it will allow for greater transparency and improved access.

Issues with communication in the education system, and specifically with regards to special needs students, have been raised for some time. The 2017 Horizon report identified that almost 90% of surveyed parents who attempted to communicate with their child's classroom teacher about their child's needs in 2016 encountered challenges.<sup>6</sup>

**More recently, the survey results obtained for this report continue to identify that in 2019, school and school board personnel are still not communicating with parents in a timely and/or effective manner.**

This result has subsequent impact on the delivery of appropriate educational supports for students, especially those with special needs where survey results indicated that available supports are not being disclosed or communicated to parents in a timely manner (see section 6).

**One possible contributing factor to lack of effective communication in the education system could be unwillingness of some teachers and educational assistants to communicate via email with parents. Some teacher organizations and unions actively discourage email communication and still recommend face-to-face meetings or telephone conversations over email exchanges.<sup>7</sup>**

Despite the fact that there is no official policy or ban on communicating with parents via email, some teachers are instructed not to do so by school board administration or teacher union directives. An anonymous parent, attempting to seek clarification regarding their child's learning via email with the teacher, was informed that "*teachers are instructed not to communicate via email with parents.*"<sup>8</sup>

Professional teacher associations and teacher unions should be promoting the use of email communication to improve student success in the student's best interest, rather than preventing email communication citing risk of liability and potential litigation.

Although a shift in the stance of professional teacher organizations and unions to support email communication between parents and teachers would be welcomed, it would not solve the communication issues in the education system. These issues stem from a lack of communication service policies from the Ministry of Education and individual school boards.

**Research activity was undertaken to determine if the Ministry of Education provided any guidance regarding communication policies to school boards, but none was found.**

A review of school board policies to determine whether they had developed their own individual policies regarding communication standards was also undertaken. Relevant policies found were often vague or not specific to communication. Although the lack of communication policy is surprising given the fact that education is a public service, it substantiates the difficulties parents have faced when attempting to communicate with school officials.

The lack of communication policies or protocols is something that can be easily and quickly addressed by school boards and the Ministry, by putting into place an effective service policy which addresses communication standards as most other Ministries have undertaken.

To help understand what an effective communication policy should include, a review of federal and provincial legislation and policies was completed to seek exemplars. Similar to the results obtained when reviewing school board policies, many pieces of legislation made vague reference to effective and/or timely communication.

The most precise finding was the Ontario Government Common Service Standards, which provided precise guidelines regarding the level of service to be received when contacting a government office. Given that such standards are applicable to other public service offices, they must also be implemented by school boards.

### **3. School Board Policy Findings Related to Public Standards**

In order to analyze and assess the application and implementation of service standards provided to the public, parents and students, school board policies related to public service standards were reviewed.

**The aim in reviewing such policies was to find and highlight any gaps in school board policies concerning customer service and accessibility standards across Ontario school boards. Equally, the purpose was to highlight exemplary and inclusive policies that do exist across the province to promote as best practices.**

#### **Policy Review Methodology:**

To be able to compare the education sector's customer service policies to other sectors, it was necessary to research legislation regarding policies in other sectors. Numerous legislation and policies were studied in order to determine the customer service norm with respect to that sector. Some of the legislation and policies reviewed included the policy concerning *Children, Community and Social Services*, as well as the policies on *Community Safety and Correctional Services*. Other sector policies reviewed are found in the References section at the end of this report.

Once other sector research on service standards was concluded, a comparison review was undertaken with policies regarding Ontario Common Service Standards and Ontario's Accessible Customer Service Policy across 76 Ontario district school boards.

**The website of each school board was examined for these policies, and in instances where the policies were not visible, inquiries were made by phone. Despite these attempts, some school board policies could not be obtained.**

Information on the number of school board policies responding to Common Service Standards and Accessible Customer Service Policy was then compiled.



The quality and consistency of the language and wording within the policies as they aligned to government standards and policy, and any other information indicative of the service standard wording provided by each school board were analyzed. Policies regarding service animals, support persons, and assistive devices were specifically reviewed to narrow the focus of the research activity.

## **4. Results of School Board Policy Analysis**

### **Customer Service Standard Policies**

**Of the 76 school boards surveyed, only 23 had policies regarding common customer service standards. It should be noted that of those 23 school boards with policies, only 8 appear to be targeted specifically towards service standards and delivery.**

Such targeted language included titles such as: “Communications – Addressing Parent/Community Concerns”, “*Approche Service*” (Service Approach), “*Voies de Communication*” (Means of Communication), “Communications with the Community”, “Customer Service Operating Procedure”, and “Communication Policy”.

The remaining 15 school board policies were only vaguely connected to customer service, with titles such as “Notification of Disruption of Services”, “Public Concerns Complaints Process”, “Parent Community Relations”, and “Treatment of Students, Parents/Guardians and School Councils”.

**Furthermore, the policies examined often contained wording which was vague and would be meaningless for parents seeking to communicate with professionals regarding their child. For example, one board indicated that communication occurs “in a mutually agreeable time frame” while another claimed to answer issues within “a reasonable delay”.**

The apparent lack of customer service policies is disappointing given that education is a high priority public service involving a large portion of provincial tax payer funding and which must be held to standards associated with provision of a critical public service.

**However, the results are not surprising, as school boards only implement directives which are made mandatory by the Ministry of Education through Ministry releases of memorandums for policy and procedures. Given that this Ministry is the only Ministry in Ontario which does not have a public service standard statement on its website, reflects the lack of priority given to accountability and transparency in servicing students.**

## Accessibility Policies:

The *Accessibility for Ontarians with Disabilities Act* (AODA) specifies accessibility standards that apply to the public, private and not-for-profit sectors. All Ontario organizations with one or more employees are required to comply with the accessibility standards, which includes a Customer Service Standard. Despite this requirement, however, related policy-making is left up to individual organizations.

**In examining 76 Ontario school boards, only 27 had an accessibility customer service policy.** It should be noted, however, that the AODA customer service standards include requirements to accommodate when an individual uses a service animal or is accompanied by a support person<sup>9</sup>.

Consequently, although a school board may not have a policy specifically entitled “Accessibility Customer Service Standards” it may have corresponding policies for service animals and support persons. A further examination of school board policies in these areas was conducted to assess their articulation.

## Service Animal Policies:

The AODA website defines “service animal” as “an animal, typically, a dog, that helps someone with a disability maintain independence.”<sup>10</sup>

The terms “service dog” and “guide dog” are often used interchangeably by legislation, school boards, and the policies themselves. The 2017 Ontario Human Rights Tribunal case *J.F. v. Waterloo District Catholic School Board*<sup>11</sup> brought to light the difference in interpretation between a service dog and a therapy dog, terminology which has been used interchangeably in school board policies.

A service dog, however, should not be confused with a therapy dog. Service dogs help with physical disabilities like vision impairment or physical injury, but not invisible medical conditions like diabetes, autism, or epilepsy. As guides focused on their handler’s needs, service dogs are also very focused, well-behaved, and wear identifying harnesses, saddles and/or vests.

Therapy dogs are trained to provide emotional comfort and anxiety relief, and may also be specially trained to assist with the specific medical needs that service dogs provide.

**Of the 76 school boards surveyed, 59 have a service dog policy, while 17 do not. This distribution assumes general acceptance of service dogs in Ontario classrooms to facilitate special needs learning. However, the presence of such dogs is rare and begs further review of the policy’s realistic implementation.**

The overall tendency to have a service dog policy may reflect that school boards updated policies as a result of the 2017 Ontario Human Rights Tribunal decision which challenged a student's right to be accommodated by a service dog. Section 2 of the *AODA* and section 10 of the *Ontario Human Rights Code*, identify the "physical reliance on a guide dog or other animal" as part of the definition of "disability". The dependence on, and therefore, right to be accompanied by a guide dog, is also part of the definition of "blind person" in the *Blind Persons Rights Act*. Given these provisions, there is a need for school boards across Ontario to have a service dog policy that accepts service dogs in classrooms and recognizes the right of students to be accommodated.

At face value, the distribution cited above looks optimistic, but in addition to the need for all school boards to have a service dog policy, other shortcomings must be addressed.

**The definitions above may imply that students have an unfettered right to a service dog in the classroom under provincial legislation; but families are required to apply for service dog accommodation in schools. This requirement stands, because despite the *Integrated Accessibility Standards Regulation (IASR)*<sup>12</sup>, which declares the removal of barriers for people with disabilities in public spaces, schools are not consistently viewed as public spaces. It is therefore imperative that service dog policies clearly outline the steps families must take to request the accommodation of service dogs in schools.**

**The level of detail needed to communicate these steps would require stand-alone service dog policies that are distinct from more general ones: 43 of the 59 school boards had a distinct policy. These distinct policies used the word "service animal" or "service dog" in the policy title.**

The remaining 16 school boards, however, addressed service dogs under more general titles, such as "Accessibility Services for Clients". These general policies tend to acknowledge the role of service dogs in accommodating students but lack a detailed outline of the steps required for implementation.

Keewatin-Patricia District School Board, for example, addresses service animals under policy 332 ("Accessibility Standards for Customer Service")<sup>13</sup>. In so doing, the wording is limited to defining "service animal", stating the board's general responsibility to allow for service dogs to accommodate their students, and stating the board's general commitment to training their staff to interact with people who require service dogs. Details on how the board aims to achieve these commitments are not conveyed.

This generalized approach also lacks the more detailed outline of the application process for service animals in the classroom, which Lambton Kent District School Board

provides, on the other hand, under policy P-SE-314 (“Use of Service Dogs by Students, Staff and Community Members”)<sup>14</sup>. Having distinct service dog policies that clearly outline the application process would show a greater commitment by school boards to accommodate service dogs in their classrooms.

**Overall, while 59 school boards have a service animal policy, 16 of those are not distinct, but fall under more general accessibility standards that fail to provide a detailed outline of the required application process for service animals in schools. The superficiality of these generalized statements may render these 16 school boards more on the side of the remaining 17 school boards that simply lack a service animal policy. Viewed in this light, the distribution of school boards with, to school boards without, a service animal policy may more realistically be interpreted as 43 having a specific service dog policy to 33 school boards not having a service dog policy. These facts demonstrate the need for Ontario school boards to communicate stronger commitment to the service animal accommodation for their students.**

### **Support Persons Policies:**

This report uses the term “support persons” when referring to third party support workers who accompany either a student or a member of the public with a disability onto school property. Interestingly, school boards across Ontario use various titles for such people, including “third party professionals”, “educational assistants” or “speech pathologists” within schools.

**Of the 76 English and French language Ontario school boards examined, a total of 41 mentioned the use of “support persons” within schools. Notably, these 41 school boards are predominantly English speaking. Of these 41 policies, 16 policies were stand-alone policies concerning the access of support persons to school property, while the remaining 25 referenced a more general policy, such as “accessibility customer service standards”, multi-year accessibility plans, or special education plan guides for parents.**

**Much like the various titles for support persons, the definitions of ‘support person’ range from narrow to expansive between the various school boards.**

For instance, while one school board narrows “support persons” to speech pathologists or those assisting with speech services, other boards classify support persons as third-party paid professionals. The majority of school boards use the term “support persons” to mean:

*“an individual chosen by a person with a disability to provide services or assistance with communication, mobility, personal care, medical needs or with access to goods or services. The support person may be a paid professional, a volunteer, a friend, or a family member. He or she does not necessarily need to have special training or qualifications”.*

Which largely reflects the essence of the AODA Customer Service Guide:

Customer Service Standard: 4. (8) “support person” means, in relation to a person with a disability, another person who accompanies him or her in order to help with communication, mobility, personal care or medical needs or with access to goods or services.

A support person is an individual hired or chosen by a person with a disability to provide services or assistance with communication, mobility, personal care, medical needs or with access to goods or services. Personal care needs may include, but are not limited to, physically transferring an individual from one location to another or assisting an individual with eating or using the washroom. Medical needs may include, but are not limited to, monitoring an individual’s health or providing medical support by being available in the event of a seizure.

The support person could be a paid personal support worker, a volunteer, a friend or a family member. He or she does not necessarily need to have special training or qualifications.<sup>15</sup>

Typically, where support persons are mentioned, they are welcome onto various parts of school property, with procedures relating to school areas that are usually accessible to the public and those that are not.

**Ironically, locating school board policies relating to support persons, and accessibility policies more generally is challenging.**

**While school boards are mandated by the AODA Act to provide accessible and accommodating customer service to students and their parents, some boards’ accessibility policies had broken links, while others were only stored in special binders located on the school property. This reality is troubling and creates further challenges for those to whom the very policies were designed to accommodate.**

**In sum, work remains to be done with respect to accessibility policies within school boards, including those policies related to support persons. Online access and onsite location with visible title, definition, and perhaps even procedures for school boards’ approach to support persons would create more transparency and commitment to servicing those with special needs. It would facilitate access within those boards that do have a policy on support persons, and provide model policies**

**and best practice access for those 36 school boards across Ontario who omit any mention of them.**

### **Assistive Devices Policies:**

The term “assistive devices” refers to a wide variety of devices that help students with disabilities to learn. Examples include, specific software on assistive technology devices such as laptops or tablets, personal FM systems for enhanced hearing and acoustic reception in classrooms, sensory items and adaptive seating, standing or mobility equipment.

In the following analysis, some schools did not specifically use the term “assistive device”; however, they still included a brief policy on the funding of a Special Equipment Allocation (SEA) from the Ministry of Education which is intended for assistive devices to a student demonstrating such a need.

**Although it was found that most students could access such devices, this access often depended on teacher inclination, a teacher’s assessment of student need, availability of a device or maintenance issues with a student’s funded device. These factors resulted in inconsistent application and implementation of the accessibility policy, most often not meeting the student’s needs with regards to their disability<sup>16</sup>.**

**37 district school boards (nearly half of Ontario school boards) do not have a policy regarding assistive devices.**

**While 39 of the school boards do mention the use of assistive devices in their policies, only 12 of the 39 school boards actually have stand-alone policies; 27 of the remaining school boards list some form of a mention under an overarching policy (usually titled “Accessibility Standards for Customer Service”).**

For example, one of the 27 school boards with an overarching policy, the Simcoe Muskoka Catholic District School Board, contains a policy that does not mention the term “assistive device” directly. Instead, it aims to accommodate devices and technology for students who may require such services<sup>17</sup>.

Similarly, of the 12 school boards that had a stand-alone policy, the *Conseil scolaire de district du Nord-Est de l’Ontario* did have a policy (*Frais liés au matériel et aux activités d’apprentissage*)<sup>18</sup> regarding the funding of materials necessary for learning, but nothing on assistive devices is specifically mentioned.

The school boards that did provide individual policies on the use of assistive devices varied from one brief paragraph to more detailed paragraphs.

For example, the Brant Haldimand Norfolk Catholic District School Board provided a list of assistive devices, services and alternative service methods they offered as well as where to obtain information on where to acquire the device<sup>19</sup>.

Overall, assistive devices policies do touch on the training of the staff and, if necessary, volunteers to ensure that they meet the demands and needs of individual students but it is interesting to note the generic wording used in some of the policies.

For example, the Avon Maitland District School Boards aims to provide the aforementioned training “within a reasonable timeframe”<sup>20</sup> whereas the Keewatin-Patricia District School Board ensures that staff would receive training within 30 days of being hired on the procedures and measures to take when interacting with people who use assistive devices<sup>21</sup>. The ambiguity in timeframes is a reoccurring theme in school board policy, not exclusive to matters regarding assistive devices.

The Bluewater District School Board did provide a definition for assistive devices, describing it as “any device designed, made, or adapted to assist a person perform a particular task... which includes, but are not limited to, a range of products such as wheelchairs, walkers, white canes, oxygen tanks, electronic communication devices”<sup>22</sup>. Other school boards failed to do so.

Despite the lack of consistency in the structure of policies (i.e. definition, services provided, board’s responsibility, timeframe) there was consistent wording between the school boards. For example, they often cited the necessity to “respect the independence and dignity” of individuals with disabilities and their compliance with the *AODA*. Additionally, Moose Factory Island District School Area Board also provided a definition very similar to that of the Bluewater District by listing the same assistive devices.<sup>23</sup>

Brief mentions of assistive devices may be an effort on the part of the school board to recognize the importance of welcoming students with disabilities by providing assistive devices and service animals. However, not much else is said on the type of assistive devices provided nor the process by which to acquire one. This brevity is indicative of the lack of information available to parents and students alike.

**Overall, it is evident that school boards across Ontario need to create and implement policies on assistive devices. However, these policies should not just exist for the sake of doing so, but to actually compel school board personnel to take proactive measures in supporting students with special needs.**

**Having nearly half of the 76 school boards in Ontario without a clear policy on assistive devices means that there is insufficient commitment to accessibility.**

Assistive devices are important at helping the student overcome any learning difficulties and make the most of their time during the course of their education. These devices are shown to provide flexible learning experiences and support the student's engagement within the classroom which all leads to an improvement in their academic performance.<sup>24</sup>

Although school boards will state that all students now have access to assistive technology (as there are often class sets of laptops available to students on a rotating basis in a school), the reality is shared access with other students and inconsistent availability, particularly if there is a technical breakdown in the equipment.

For example, the Ottawa Catholic School Board will not provide students with an FM system to enhance hearing and acoustic quality in the classroom when a student presents with this need as recommended by an audiologist. When the parent presents this recommendation to make this request for assistive technology, the school board insists on requiring a diagnosis of hearing loss as criteria to order this assistive device, even though Ministry of Education SEA equipment criteria stipulates only a need as recommended by a professional. Should the device be provided, technical issues arising from use, or lack of maintenance, training for staff and students, leads to breakdown and sending the unit out for repair. The absence of the device for several weeks or months results in lack of accessibility to assistive devices for the student, as there is no replacement unit offered by the school board to the student<sup>25</sup>.

**Developing and implementing comprehensive, thorough policies on access to assistive devices by school boards will show alignment between Ministry of Education Special Equipment Allocation (SEA) funding for assistive devices and accessibility policies under AODA.**

**This priority would ensure parents and students that school boards are taking the proper measures to ensure a quality education and a commitment to accessibility.**

## **5. Personnel Roles and Responsibilities in Public Service Compliance**

All school board staff are paid through taxpayer funds provided to school boards through operating grants from the Ontario Ministry of Education. As such, all personnel employed by school boards, or contracted by school boards, are inherently tied to service provision.

Front line workers, for example school secretaries and administrative staff such as school principals and vice-principals have equal service obligations under the public service framework.



Public service standards apply to teachers who directly service parents and their children. Students are clients receiving public education services and have a right to accommodations in their learning space, programs and access services provided by school boards (speech language pathology, psychological assessments and social work). Students with special needs access additional support services, assistive devices and adaptive equipment to meet their needs.

Supervisory officers (superintendents of instruction) as senior administrative staff oversee school personnel and other school board staff (managers, coordinators, consultants and in-house professionals). From time to time, school board personnel also interact with parents, students and the public.

Publicly elected school board trustees oversee the use of public funds in educational services to communities and clients and review staff reporting requirements. They also interface with public constituents and are the public representatives of school board governance.

Equity of access to supports and programs that meet the needs of students rely on written communication protocols, reliable expertise, consistency in application of accommodation principles and unbiased judgement. Often, service provision is still subject to judgement exercised by a staff person without knowledge of accessible legislation and inadvertently assumed to be tied to availability of funding.

**There is limited evidence that all school board staff receive training in the Human Rights Code legislation, accessibility guidelines and public service standards when delivering programs and services.**

**Collective agreements and other human resources contracts still require alignment and language to respect a service approach to the work provided by all educational employees.**

The sample survey conducted as part of this report illustrates the gap which exists in meeting compliance with the standards.

## **6. Survey Methodology and Results**

Given the lack of policy documents specifically related to school board service standards, an online survey was undertaken to assess a public view of school board performance with respect to the Ontario Common Service Standards and Accessible Customer Service Policy.

The survey was web-based and consisted of ten questions to which participants responded on a scale of 'never' to 'often'. It was posted from February 15, 2019 to March 30, 2019 on social media platforms.

The survey was completed by 109 individuals at the time this report was drafted, although not all participants answered all questions. It should be noted that the total number of votes decreased as the survey progressed from questions 1 to 10. The data shows that respondents chose not to complete the survey either at some point in the session or did not feel that the latter questions geared towards special education and student accommodations applied to them, despite the N/A option available.

The survey questions and the responses received are posted on [www.horizoned.ca](http://www.horizoned.ca).

### **Questions 1, 2, 9 and 10 – The public’s general service experience when communicating with school boards**

**Result: Nearly half the overall responses indicated they did not meet this standard.**

Question 1 of the survey asked whether a school board’s response time mirrored those of the Ontario Common Service Standards. **42% of respondents chose ‘never’ or ‘rarely’**. Question 2 asked whether the schools or school boards took any initiative to elicit feedback when inquiries are made, and 42% of answers indicated that it ‘never’ or ‘rarely’ occurs. Question 9 queried whether a mechanism existed to provide feedback related to communication and responsiveness, to which 54% of respondents answered ‘never’ or ‘rarely’. Finally, 47% of respondents to question 10 indicated that boards ‘never’ or ‘rarely’ operate with a client services approach.

### **With respect to special needs students: Questions 3, 4, and 5 The provision of accommodations in a readily available and authentic manner**

**Result: Over half of the respondents indicated that services or programs were not disclosed by school board staff and over half indicated that in reality wait times existed ‘often’ or ‘always’.**

57% of survey respondents indicated that there is ‘always’ or ‘often’ a wait time to access and implement any accommodations. Additionally, 50% of answers felt that services which might be available to special needs students are ‘never’ or ‘rarely’ disclosed by school boards staff, despite the fact that 41% of respondents felt that there ‘always’ or ‘often’ appears to be an authentic intent to service special needs students.

### **Questions 6 and 7 - the use of assistive devices and other supportive equipment which might be available to a student.**

**Result: Almost half of the respondents indicated such equipment was ‘never’ or ‘rarely’ available**

47% of respondents indicated that such equipment was ‘never’ or ‘rarely’ available until a recommendation was made in a professional report. Furthermore, 36% of respondents indicate that requests for this equipment are ‘never’ or ‘rarely’ processed in a timely manner. Additionally, some school boards have practices qualifying the need based on

teacher input, despite a professional recommendation or, do not provide it for lack of specific diagnosis or lack of perceived need by the classroom teacher.

## 7. Survey Analysis and Implications for Service Standard Compliance

**Overall, the survey results reflect a theme of disparity between the school board's intentions and their practices toward students with disabilities. Only 43% of survey respondents believe that schools genuinely intend to service students with disabilities through inclusive language, a positive atmosphere or timely services.**

**Unfortunately, 60% of the survey responses reflected school boards' performance in a negative light with clusters around "never", "rarely", and "sometimes". These questions were: question 3 (wait time to implement accommodations), question 5 (disclosing school board services), question 6 (readily available assistive devices), question 8 (availability of complaint process or alternative dispute resolution), question 9 (evidence of a feedback mechanism), and question 10 (school boards operating with a client services approach).**

Although it is reassuring that the respondents feel that there is a genuine intent to service students with special needs, intention alone is insufficient. School boards are not disclosing to parents all the possible services available to students, and those that are disclosed have lengthy wait times (for example, psychoeducational assessment services).

This is also true with respect to assistive devices, which appear to require a professional recommendation before they will be ordered for the student through the SEA application process with the Ministry of Education, and even then, are not provided in a timely manner.

This result is not surprising, given the fact that nearly half of the school boards do not have policies regarding assistive devices, and those that do, mention assistive devices briefly. While policies are not a testament to whether these services are actually provided or not, they do show intent of the school board to make them as accessible as possible. Therefore, it is not a surprise that over one third of respondents felt that this equipment is "rarely" or 'never' processed in a timely manner.

Results for Common Service Standards were more promising with close to one quarter of respondents indicating the school board's response times were always in line with the Ontario Common Service Standards (21%). This shows that there is an effort and intent to meet the common public service standard but that this practice is not yet systemic.

**A large proportion of respondents indicated that school boards are not operating with a client services approach with respect to communication. Not only are members of the public not getting responses in a timely manner, they are also not offered a mechanism to provide feedback for the purpose of improving service. If school boards are not made aware that they are performing poorly in a particular standard, they cannot begin the process of change.**

## **8. Recommendations to the Minister of Education and the Government of Ontario**

- 1. The Ministry of Education must have a Client Services Statement reflective of the Common Service Standards on its website in order for school boards to have a client services approach.**

For example, Ministry staff must not recommend to parents to ‘lawyer up’ with a school board to obtain what a child is legally entitled to receive<sup>26</sup>.

- 2. School boards must implement a client services approach to delivery of their services, specifically with communication.**

School boards must model their communication response policy on the Ontario government's Common Customer Services Standards. Clarity and uniformity in the standards will ensure consistent and predictable customer service that parents can rely on. For example, monitoring practices need to be introduced such as quality assurance recordings of interactions between staff and the public, as many other public service providers do with the intent of training and improving services to clients.

- 3. Accessibility policies and procedures should always be accessible to the public online through active links, or in other formats when requested.**
- 4. Public feedback on policies should be solicited in a readily accessible manner, and responded to accordingly.** Simply providing a platform for feedback is insufficient. Not providing a platform altogether is not acceptable.
- 5. Mandate comprehensive staff training in client relations, Common Service Standards, Accessibility Policy implementation and the Ontario Human Rights Code.**
- 6. Perform service standard reviews and quality assurance reporting to generate data in order to ensure assistive devices that should be available to special needs students are provided and delivered within specific time frames.**
- 7. The Ministry of Education must adopt a uniform definition of a support person aligned with AODA for the educational sector and articulate a policy allowing third party support persons into schools to assist students with disabilities for greater AODA compliance.**

## 8. Conclusion

The prevalence of communication difficulties with school board and the public interface can be readily addressed with limited impact on costs. Implementation of public service standards must begin with the Ministry of Education website displaying a commitment to public service standards and accessibility policies and practice. Communication protocols at school boards must be uniform and applied in a systemic manner. Compliance with service standards must be monitored through quality assurance performance reviews as they currently exist in other sectors. Data collection and analysis is the first priority in addressing systemic change, improving service by implementing best practices to support public confidence and transparency and accountability in the education sector.

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*This document does not contain legal advice. Pro Bono Students Canada is a student organization. This document was prepared with the assistance of PBSC University of Ottawa Common Law Section law student volunteers. PBSC students are not lawyers and they are not authorized to provide legal advice. This document contains general discussion of certain legal and related issues only. If you require legal advice, please consult with a lawyer.*

## Appendix A

### Students with Special Needs and School Board Performance to Public Service Standards: A Legal Analysis

As discussed at section 2 of this report, the minimal mechanisms available for parents of special needs students to measure school board performance with respect to the overall accessibility of their child, or lack thereof, are ineffective and may have legal implications. The following appendix deals with the legal framework involved in this topic, the survey results and its legal implications.

#### 1. Education as a Service: The Legal Framework

“A strong public education system is the foundation of a prosperous, caring and civil society”;<sup>27</sup> this is the opening section of the *Education Act* of Ontario (hereinafter “the Act”). The purpose of the Act is to provide students with the “opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to their society”.<sup>28</sup> The Act further establishes that the Ministry of Education (hereinafter “the Ministry”) plays an active and important role in implementing the Act’s purpose and, most notably, preserving the “confidence in the province’s publicly funded education systems”.<sup>29</sup>

Following the Ministry, district school boards from all regions are the main bodies that supervise and effectively govern the functionality of the various educational institutions falling within their purview. Amongst their various duties, school boards have the duty to foster and promote “a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability”.<sup>30</sup>

As the overseeing governmental body, it is the Ministry’s legal obligation to ensure that district school boards comply with the Act and ensure the inclusivity and accommodation of students with physical and mental disabilities and special needs.

The Ministry’s mandate includes ensuring that the province’s educational institutions abide by their legal obligations under the *Integrated Accessibility Standards*<sup>31</sup>, a regulation under the *Accessibility for Ontarians with Disability Act, 2005, S.O. 2005, c.11*. The Regulation establishes the “accessibility standards” for information, communications, employment and transportation<sup>32</sup> and applies to the government of Ontario and every other organization that “provides goods, services or facilities to the public or other third parties and that has at least one employee in Ontario”.<sup>33</sup> This arguably includes education.

Education is considered as a service provided by the government of Ontario for its citizens. This definition is supported by section 1 of the *Ontario Human Rights Code*<sup>34</sup> (hereinafter “the Code”) as well as by the Ontario Human Rights Commission<sup>35</sup> (hereinafter “the Commission”). As is the case with other publically funded services, the government

measures its “customer service” performance through the *Ontario Public Service Common Service Standards* (hereinafter “the OPSS”). Through the OPSS, the government of Ontario establishes the standards for service delivery in order to provide a “quality experience” across ministries of Ontario, including the Ministry of Education, a publicly funded service as referred to in the Act.

As such, the Ontario government should measure school board performance as a service in order to ensure boards uphold their legal duties, specifically with respect to students with special needs. Failure of the government to measure school board performance can possibly lead to cases in which school boards are non-compliant with the law and violate the human rights of students with special needs.

The data compiled through the sample survey in this report is an indication that the Ministry lacks in measuring the performance of services rendered by school boards towards its students with special needs.

## **2. The Results: Lack of Transparency**

Some of the results retrieved from the survey reveal a clear legal infringement. For example, when asked whether there a wait time to access and implement requested accommodations for a student, the majority indicated “always”. The infringement lies in the fact that the Code provides for the duty to accommodate in the educational context in a timely manner.<sup>36</sup>

Other data confirms that school boards do not operate in a “client service” manner, which results in inadequate service for students with special needs. For instance, when asked whether school board services for students with special needs (programs, supports, assessments) were clearly disclosed by staff, with information provided for follow-up reference, the majority answered that this is “rarely” the case. Further, when asked whether there is evidence of a mechanism at the school or school board level to measure disclosure, responsiveness and accuracy of communication and information provision, the majority responded “never”. Finally, the majority opined that schools and school boards *never* operate with a client services approach to educating students and responding to parents or the public.

The results reveal that there is an inconsistency between *what* the law says and *how* it is being implemented and *measured* by education providers. This incongruence leads to important legal implications, particularly with regards to the Regulations.

## **3. The Legal Implications**

Failure to assess how school boards are performing when dealing with students with special needs can allow for ineffective and unfair treatment of these already very vulnerable students. The Act and its regulations were implemented in order for the provincial government to ensure that its sections are adhered to by all agencies of the education system. The assessment of school board performance, in essence, will allow for the equal opportunity to education for all students of different backgrounds and learning

stages, which, is a constitutional right enshrined in our *Canadian Charter of Rights and Freedoms*.

The *Charter* provision reads as follows:

**15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.**

**(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.**

The Act and its accessibility regulations are designed to protect children with special needs from being deprived of a rich and fruitful educational experience. Without full disclosure of the quality of school board performance when rendering its services to parents and students, it is unclear and even questionable whether the boards are meeting their legal obligations. It is also unclear whether students with special needs are granted equality under the law per section 15.

Furthermore, Canadian law is clear with respect to students with special needs and their rights to an accessible and equal education. In *Moore v. British Columbia (Education)*<sup>37</sup>, the Supreme Court of Canada states the following:

**The preamble to the *School Act*, the operative legislation when Jeffrey was in school, stated that “the purpose of the British Columbia school system is to enable all learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy”. This declaration of purpose is an acknowledgment by the government that the reason all children are entitled to an education, is because a healthy democracy and economy require their educated contribution. Adequate special education, therefore, is not a dispensable luxury. For those with severe learning disabilities, it is the ramp that provides access to the statutory commitment to education made to *all* children in British Columbia.**

Although the Canadian case law is unequivocal in this regard, the results of the Survey reveal that whether and how school boards adhere to the Act is questionable.

As a signatory to the United Nations’ *Convention on the Rights with Disabilities*, Canada effectively recognizes that education is a fundamental human right.<sup>38</sup> If school boards continuously fail to operate as an effective service provider, students with special needs risk continuing to be neglected, leading to potential legal violations. Ensuring that school board performance in client services is measured will, de facto, hold school boards accountable for their effective policies towards students with special needs.



Transparency between education providers and parents and students is essential to preserve the “confidence” that the province strives to preserve regarding publicly funded education. That is, first and foremost, the Act’s purpose.<sup>39</sup>

## Endnotes

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- <sup>1</sup> Ontario Government Service Standards (2019) at: <https://www.ontario.ca/page/ontario-government-service-standards>
- <sup>2</sup> Government of Ontario, Public Sector Accounting Board, (2006) at: <https://efis.fma.csc.gov.on.ca/faab/PSAB.htm>
- <sup>3</sup> Ontario Public Service Accessible Customer service policy (2017) at: <https://www.ontario.ca/page/ontario-public-service-ops-accessible-customer-service-policy>
- <sup>4</sup> Horizon Educational Consulting client experience statement (anonymized to respect confidentiality)
- <sup>5</sup> Ontario Human Rights Commission, “Main Barriers to Education for Students with Disabilities (fact sheet)” at: <http://www.ohrc.on.ca/en/main-barriers-education-students-disabilities-fact-sheet>
- <sup>6</sup> Horizon Educational Consulting, “Special Education Complaint and Appeal Processes in Ontario in a Social Justice Context” (2017) at: <https://www.horizoned.ca/wp-content/uploads/2017/07/Special-Education-Complaint-and-Appeal-Processes-in-Ontario-2017.pdf>
- <sup>7</sup> Elementary Teachers Federation of Ontario, “Practicing Caution: Guidelines for Electronic Communications” (2012) at: <http://www.etfo.ca/SupportingMembers/Employees/PRSMattersBulletin/pages/practicing%20caution%20-%20guidelines%20for%20electronic%20communications.aspx>
- <sup>8</sup> Horizon Educational Consulting client experience statement (anonymized to respect confidentiality)
- <sup>9</sup> <https://www.aoda.ca/>
- <sup>10</sup> <https://www.aoda.ca/customer-care-guide/#animals>
- <sup>11</sup> <https://aoda.ca/a-seriously-flawed-human-rights-tribunal-decision-rules-against-the-request-of-a-nine-year-old-boy-with-autism-spectrum-disorder-to-bring-his-autism-service-dog-to-school/>
- <sup>12</sup> Integrated Accessibility Standards Regulation (IASR <https://www.ontario.ca/laws/regulation/110191>)
- <sup>13</sup> Keewatin Patricia District School Board, “Accessibility Standards for Customer Service” (2018) at: <http://www.kpdsb.on.ca/assets/uploads/board%20information/Policy%20NEW/332%20Accessibility%20Standards%20for%20Customer%20Service.pdf>
- <sup>14</sup> <https://www.lkdsb.net/Board/PoliciesRegulations/Policies/Service%20Dogs%20-%20Policy.pdf>
- <sup>15</sup> <https://www.aoda.ca/>
- <sup>16</sup> Horizon Educational Consulting client experience statements (anonymized to respect confidentiality)
- <sup>17</sup> <https://www.smcdsb.on.ca/common/pages/DisplayFile.aspx?itemId=36519943>
- <sup>18</sup> <https://cspne.ca/sites/default/files/politiques/ele-adm-061p.pdf>
- <sup>19</sup> Brant Haldimand Norfolk Catholic District School Board, “Integrated Accessibility Standards Regulation” (2016) [http://www.bhncdsb.ca/sites/content/files/resources/integrated\\_accessibility\\_standards\\_regulation\\_-\\_customer\\_service\\_ap\\_200.34.pdf](http://www.bhncdsb.ca/sites/content/files/resources/integrated_accessibility_standards_regulation_-_customer_service_ap_200.34.pdf)
- <sup>20</sup> <https://yourschools.ca/school-board/accessibility-information/>
- <sup>21</sup> Keewatin Patricia District School Board, “Accessibility Standards for Customer Service” (2018) at: <http://www.kpdsb.on.ca/assets/uploads/board%20information/Policy%20NEW/332%20Accessibility%20Standards%20for%20Customer%20Service.pdf>
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- <sup>25</sup> Horizon Educational Consulting client experience statements (anonymized to respect confidentiality)
- <sup>26</sup> Horizon Educational Consulting client experience statement (anonymized to respect confidentiality)
- <sup>27</sup> [Education Act](#), R.S.O. 1990, c. E.2, Section 0.1(1).
- <sup>28</sup> [Education Act](#), R.S.O. 1990, c. E.2, Section 0.1(2).
- <sup>29</sup> [Education Act](#), R.S.O. 1990, c. E.2, Section 0.1(3).
- <sup>30</sup> [Education Act](#), R.S.O. 1990, c. E.2, Section 169.1(1)(a.1).
- <sup>31</sup> [O. Reg. 191/11](#): Integrated Accessibility Standards.
- <sup>32</sup> [O. Reg. 191/11](#): Integrated accessibility Standards, Section 1.(1).
- <sup>33</sup> [O. Reg. 191/11](#): Integrated accessibility Standards, Section 1.(3).
- <sup>34</sup> [Human Rights Code](#), R.S.O. 1990, c. H.19, Section 1.
- <sup>35</sup> [Ontario Human Rights Commission's Report](#): Accessible education for students with disabilities, Government of Ontario, March 2018, p. 16.
- <sup>36</sup> [Ontario Human Rights Commission's Report](#): Accessible education for students with disabilities, Government of Ontario, March 2018, p. 41 and 52.
- <sup>37</sup> [Moore v. British Columbia \(Education\)](#), 2012 SCC 61, para 5.
- <sup>38</sup> [Ontario Human Rights Commission's Report](#): Accessible education for students with disabilities, Government of Ontario, March 2018, p. 15.
- <sup>39</sup> [Education Act](#), R.S.O. 1990, c. E.2, Section 0.1(3).

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### **Federal Consumer Protection Legislation:**

[Canada Consumer Product Safety Act](#)

[Competition Act](#)

[Consumer Packaging and Labeling Act](#)

[Textile Labeling Act](#)

[Motor Vehicle Safety Act](#)

[Food Safety and Inspection Act](#)

[Food and Drugs Act](#)

[Financial Consumer Agency of Canada](#)

[Privacy Act](#)

[Personal Information Protection and Electronic Documents Act](#)

[Weights and Measure Act](#)

[Electricity and Gas Inspection Act](#)

[Canadian Environmental Protection Act](#)

[Precious Metals Marketing Act](#)

[Wireless Code](#)

[Deposit and Disconnection Code](#)

[TV Service Provider Code](#)

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**Provincial Accessibility Legislation:**  
[Accessibility for Ontarians with Disabilities Act](#)

**Provincial Consumer Protection Legislation:**  
[Consumer Protection Act](#)

**Provincial Service Standards:**  
[Ontario Public Service Standards](#) (general)

**Provincial Ministries websites:**  
[Agriculture, Food and Rural Affairs](#)  
[Attorney General](#)  
[Children, Community and Social Services](#)  
[Community Safety and Correctional Services](#)  
[Economic Development, Job Creation and Trade](#)  
[Education](#)  
[Energy, Northern Development and Mines](#)  
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[Transportation](#)  
[Treasury Board Secretariat](#)

**Other**

[Blind Persons Rights Act](#)  
[Integrated Accessibility Standards Regulation \(IASR\)](#)

**76 Ontario School Board Websites**

<http://www.edu.gov.on.ca/eng/sbinfo/boardList.html>