

A POLICY FRAMEWORK FOR INCLUSIVE EDUCATION:

Twelve Critical Elements
for compliance with Article 24 of the Convention
on the Rights of Persons with Disabilities

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INTRODUCTION



When Canada ratified the United Nations [Convention on the Rights of Persons with Disabilities](#) (CRPD) in 2010, the country became committed through international law to “ensure an inclusive education system at all levels”. The normative content for Canada’s treaty obligations as they relate to inclusive education is further elaborated in [General Comment 4](#), published in 2016 by the UN Committee on the Rights of Persons with Disabilities which is the committee responsible for reviewing compliance by countries that ratified the Convention.

As part of the duties and obligations of a ratifying country to the CRPD, Canada must submit to regular reviews of its compliance with the treaty. The Committee on the Rights of Persons with Disabilities reviewed Canada’s implementation and issued its Concluding Observations in 2017, the Committee expressed concern about the persistence of segregation, the gap in access to education, educational achievements and programming to enhance quality of life for persons with disabilities, the lower levels of educational achievement among women and girls with disabilities and isolation of hard-of-hearing and deaf children in education due to the lack of peer groups. The Committee recommended that policies on inclusive and quality education be adopted, implemented, and monitored throughout the country “guided by article 24 of the Convention and by the Committee’s general comment No. 4 (2016) on the right to inclusive education.”

In 2019, the UN Special Rapporteur on the Rights of Persons with Disabilities issued a [statement](#) on her visit to Canada. She noted “significant disparities in the areas of accessibility and access to education” and expressed concern that “most provincial and territorial policies are yet to implement fully inclusive education systems.”



PURPOSE OF THIS DOCUMENT

While **Article 24** of the CRPD and **General Comment 4** spell out *what* countries need to do to comply with the Convention, they do not spell out *how*. In this document, Inclusive Education Canada provides a framework for law and policy to ensure compliance with the CRPD for a fully inclusive education system in Canada. It can assist the effort to make inclusive education a reality. Inclusive Education Canada also asserts that Article 24 is to be interpreted and read alongside the other articles and obligations set out in the Convention.

This proposed framework articulates the implications of the CRPD provisions for education law and policy at the provincial/territorial levels, as well as at the district and community level. It can be used by legislators, Ministries of Education, and district leaders to design law and policy. It can also be used by advocates for inclusive education as a monitoring and advocacy tool. The framework provides guidance on criteria that can be utilized to monitor provincial/territorial legislation and ensure accountability from all levels of the education system – from the ministry itself, school districts, and individual schools.

The proposed elements have been drafted based on a review of existing Canadian legal provisions and case law conducted by Jody Carr and ARCH Disability Law Centre and published by Inclusive Education Canada. While this framework has been developed for the Canadian context, it may be applied in other jurisdictions.



INCLUSIVE EDUCATION: TWELVE ESSENTIAL ELEMENTS

1. Every child has the right to education that is mandatory and free for all at their neighborhood school. ¹
2. There is general protection of human rights and guarantee of anti-discrimination.
 - 2.1 Clear and explicit articulation of a rights-based approach to education service delivery in legislation, regulation, policy and practice.
 - 2.2 Adoption of an intersectional analysis in the development of rights-based practices and frameworks.
 - 2.3 Data collection based on protected human rights grounds.
3. The Education Ministry is responsible for the education of all students. ²
4. There is an anti-violence / anti-bullying statement or policy. ³
5. There is an integrated and coordinated approach to the delivery of essential support services to individual students and their teachers by health, social services, and education agencies.
6. The school and learning environment are inclusive:
 - 6.1 All students are presumptively placed in the common learning environment.
 - 6.2 The “duty to accommodate” is clearly mandated. ⁴

INCLUSIVE EDUCATION: TWELVE ESSENTIAL ELEMENTS

6.3 Physical and educational accessibility are mandated.

6.4 The classroom teacher has responsibility for the implementation of planning, instruction, and assessment. These duties may be assisted by, but not delegated to educational/teaching assistants.

7. Teachers prepare and use “individual” or “personalized” learning plans to guide their work with students with unique and additional needs with the focus on establishing and sustaining participation in learning activities with peers.

8. A thorough and well documented process is used for any “variation to the common learning environment”.⁵ (That is when a student is not in a learning environment with same age peers).

9. Public education funding does not support: 1) special schools, 2) residential schools; or, 3) segregation in special support classes based on (dis)ability.

10. There is on-going funding to support collaboration by school staff as well as the provision of training and support for teachers, administrators, and other education personnel including:

10.1 Professional learning, both pre-service and in-service.

10.2 Support from school and district support teams.

10.3 Support from “Support Teachers” and “Educational Assistants” and other specialists as required.

10.4 Human rights training.

INCLUSIVE EDUCATION: TWELVE ESSENTIAL ELEMENTS

11.

There are standards for procedural fairness, delivered in language accessible to families, which require:

11.1

Parental participation and involvement in determining general education policy.

11.2

Parental participation and involvement in establishing and monitoring individual or personal education plans for their child.

11.3

Partnership with relevant community agencies and service providers for both individuals and systemic purposes.

11.4

Student participation and involvement.

11.5

There is a clearly defined “*Dispute Resolution Process*” as well as internal and external “*Appeal Processes*”.

12.

There is a defined process for ensuring accountability to stakeholders:

12.1

Monitoring of specific outcomes for students both systemic and individual are defined, including disaggregation, where constructive and appropriate.

12.2

There is oversight and public reporting on key metrics of practice.

12.3

A report on accountability and quality assurance is made publicly on a designated schedule established in consultation with stakeholders.

FINALLY: Making Canadian schools inclusive is a complex and challenging task. Monitoring progress by considering critical indicators is an important part of the process. We trust this document will be useful in achieving this goal.

FOOTNOTES

[1] Based on legal research by Jody R. Carr - May 31, 2018 from CRPD article 24 and general comment 4, OHCHR, UNICEF, UNESCO, jurisprudence, and a review of best practice.

[2] **a.** Access to inclusive education for all children, including those with disabilities, is the responsibility of education ministry within one, holistic and integrated system.

b. This element will seek to merge 2 parallel systems of education, where they exist, (mainstream and special) into one, holistic, and integrated system of inclusive education under the responsibility of the Ministry of Education. Responsibility for inclusive education begins at the highest levels, including Minister, superintendents, principals. Definitions of terminology will be inclusive with no reference to 'special' needs students.

[3] Children are protected from all forms of violence in schools (but there is no punishment due to disability related behavior. Partial day schooling.)

[4] Accommodations are provided to the point of undue hardship; and, curriculum is adapted using strategies such as adaptations to the common learning environment are pursued (process and substance) and are justified as constituting undue hardship universal design for learning.

[5] Variations to the common learning environment are justified and documented after all reasonable strategies have been used.

THIS INCLUSIVE EDUCATION POLICY GUIDE WAS DEVELOPED BY AN INCLUSIVE EDUCATION CANADA WORKING GROUP:

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