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Edu-Law Newsletter —

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Court of Appeal affirms decision in Kendal

The plaintiff, Kendal, appealed to the Saskatchewan Court of Appeal in *Kendal v. St. Paul's Roman Catholic Separate School Division No. 20*, [2004], S.J.N. 361, a decision of a trial judge dismissing her claim in negligence. The lower court decision in *Kendal* was reviewed in October, 2003, Volume 1, Issue 3., entitled "Teacher's claim for damages regarding injury from student with special needs denied".

Kendal was a special education teacher struck in the head by one of her students with ASD. She suffered injuries to her face as a result of the incident, and alleged that the school board was negligent in carrying out the duty of care owed to her.

The trial judge found that the school board did owe Kendal a duty of care, but held that having the student in the school was not an unreasonable risk.

The Court of Appeal confirmed that the respondent school board had a statutory obligation to provide all children, including those with special needs, with an educational program. It found that the trial judge, when determining whether there was an unreasonable risk to Kendal, did consider all of the necessary factors, including the probability of injury, the gravity of loss, the object of the activity and the cost of avoiding injury.

The Court of Appeal found that given the student's record, it should have been known to the school board that the student could cause injury to staff or another student, and that the next test was to determine whether the risk of injury in this case outweighed the social value of providing an educational program to the student. The Court of Appeal indicated that the trial judge clearly considered all of the factors necessary to conclude that the risk did not outweigh the social value. Further, the Court of Appeal recognized that the trial judge found that the school board recognized the risks and had taken steps to ameliorate those risks. For these reasons the Court of Appeal held that the trial judge did not err in his decision that the school board was not negligent.

While it is clear that school boards owe their employees a duty of care, the Court of Appeal has affirmed that school boards will not be found negligent for requiring staff to provide educational programs and services provided that the risk to staff is not unreasonable. —

School search by police contrary to Charter

In 2002, police officers conducted a search of a high school in Sarnia and found ten bags of marijuana and ten magic mushrooms (psilocybin). The school principal was not informed of the impending search until the day of the search, although he had previously issued a standing invitation to the police to search the school whenever the drug detection dogs were available. On November 7, 2002, the principal consented to the search and announced over the P.A. system that a search would be performed and instructed students to remain in their classes. The drugs were found in A.M.'s backpack and A.M. was charged with possession for purposes of trafficking regarding the marijuana and simple possession with respect to the psilocybin.

At issue in R v. A.M., [2004] O.J. No. 2716 was whether the search was conducted in a manner that violated the provisions of the *Charter* protecting against unreasonable search and seizure and whether, if the search was unreasonable, the evidence should be excluded under section 24(2) of the *Charter*. The court noted that there were two principles that must apply to the determination of the reasonableness of a search. The first principle is a requirement for prior authorization. The search conducted was without prior authorization. Such a search is, prima facie, unreasonable. The second requirement is that the search must be based on reasonable grounds. In a school setting there is flexibility afforded to school authorities with respect to reasonable grounds to allow authorities to act quickly to protect their students and provide the orderly atmosphere required for learning. Although some flexibility may be extended to schools with respect to the information that will constitute reasonable grounds, the flexibility does not extend so far as to allow a reasonably well educated guess to constitute reasonable grounds. In the absence of reasonable grounds, a search cannot be found reasonable, even in a school setting.

The issue of reasonableness in this case was compounded by the fact that the search was a police search, not a search by school authorities. While the search was done at the principal's request, there were no reasonable grounds to believe that drugs would be found. The fact that drugs were found after the fact could not be relied upon to support a finding of reasonable grounds. In addition, although there is a reduced expectation of privacy in a school setting and the offence of trafficking is a very serious offence in a school setting, this case cannot be viewed simply as a technical breach of the *Charter*. As the court states, this was "a police search in the guise of a search by school authorities and it was a search which even the school authorities had no right to undertake in the absence of reasonable grounds to believe that drugs could be found". The court held that the evidence of the search would be excluded pursuant to section 24(2).

Despite the reduced expectation of privacy in a school setting and the flexibility afforded to school administrators to maintain safety and an orderly atmosphere, administrators should nevertheless be aware that only in particular circumstances will they have reasonable grounds to search for the purposes of a criminal matter. Belief must be reasonable, and not merely an educated guess. The Court did not comment whether the search could be used by the Principal for the purpose of discipline. —

Working papers not required to be released

In *Order PO – 2306; Ontario (Ministry of Education)*, [2004] O.I.P.C. No. 178, a request was made to the Ontario Ministry of Education under the *Freedom of Information and Privacy Act* for copies of handwritten notes made during an investigation pursuant to section 257.30 (Supervision of Boards' Financial Affairs) of the *Education Act* of two school boards and their relationship with a business. The investigation was conducted by a chartered accountant appointed by the Ministry. At issue was whether the handwritten notes made by the accountant and used in the production of his report to the Ministry were under the custody or control of the Ministry. The Commission ultimately ruled that the Ministry did not have custody or control of the notes and denied access.

In the decision, the Commission set out a non-exhaustive list of factors to be considered in determining whether the Ministry has "control" over the notes. The relevant factors and the findings of the Commission are set out below.

The first factor considered was whether the record was created by an officer or employee of the Ministry.

The adjudicator found that the accountant was not an employee or officer of the Ministry has he did not enter into a contract for general employment but a contract to perform a described service within a specified period of time. The *Education Act* authorizes the Ministry to appoint individuals other than employees to conduct investigations. In addition, the accountant did not receive a salary or an hourly rate for his services, but was paid on the basis of an invoice submitted to the Ministry in accordance with the terms of his retainer. This conclusion weighed against a finding of control.

The second factor was the use the creator intended to make of the record, and the circumstances surrounding the creation, use and retention of the record. The handwritten notes were created as an aide mémoire to the final reports and the reports were written to be self-standing. The notes were not required to understand or support the reports. Accordingly, the Ministry did not use or rely on any handwritten notes, which were never provided to the Ministry, a finding that weighed against the Ministry having control over the notes.

The third factor analysed was whether the Ministry had the statutory power or duty to carry out the activity that resulted in the creation of the record. The Ministry has a clear statutory power or duty under the *Education Act* to carry out the activity that resulted in the creation of handwritten notes used to produce the report required. This finding weighed in favour of a conclusion that the Ministry did have control over the notes.

The fourth consideration was whether the activity in question is a "core", "central" or "basic" function of the Ministry, and whether the contents of the record relate to the Ministry's mandate and functions. The Commission found that the fact that the Ministry rarely decides to conduct investigations into the financial affairs of a school board is not determinative of whether it is properly considered as a core, central or basic function of the Ministry's mandate. The adjudicator held that the discretion provided to the Ministry under section 257.30 is part of the Ministry's basic role in ensuring that the financial affairs of school boards are in order and that provincial funds are not being mismanaged. This conclusion weighed in favour of the Ministry having control over the notes.

The fifth consideration was that of possession of the record. The adjudicator found that the Ministry clearly did not have possession of the notes, as they remained with the accountant at all times. There was no indication that records of this nature were intended to be shared with or used outside the context as an aide mémoire to the creation of the accountant's reports. Furthermore, it is a well established principle that the internal working papers of an accountant prepared for use as a tool to perform a work assignment remain the property of the accountant and the Ministry does not have a right of possession of the records. Moreover, the Ministry did not have a right to possess the records, nor did it have the authority to regulate the record's use and disposal.

The sixth factor was the extent to which the Ministry relied on the record. The accountant was the only party who used and relied upon the handwritten notes. The Ministry did not rely on the notes in making decisions and did not have any current or ongoing need to obtain them.

The seventh consideration was how closely the record is integrated with other records held by the Ministry. The notes remained with the accountant at all times and were never integrated with any other records held by the Ministry.

The eighth issue was the customary practices of the Ministry and institutions in similar circumstances. When an accountant is retained to prepare a report, the working papers customarily remain the property of the accountant and only the report is given to the client.

The Commission also noted that the *Act* could apply to information under the control of an institution, notwithstanding the fact that it was created by a third party. Additional factors which may be relevant to determining "control" include; ownership of the record, which in this case were owned by the accountant.

Whether there was payment for the creation of the record; in this case there was no evidence to indicate that the Ministry's retainer with the accountant extended to any records other than the reports themselves. As well as whether there were any provisions in the contract between the third party and the Ministry, which expressly or impliedly gave the Ministry the right to possess or otherwise control the record; in this case the answer was no.

The adjudicator also considered whether the party who created the record was an agent of the Ministry. In the present case, there was no evidence to suggest that an agency, if it existed between the

parties, carried with it the right of the Ministry to control the handwritten notes prepared by the accountant. Further, the customary practice of the individual who created the record was considered, and the adjudicator found that the generally accepted practice of the profession and jurisprudence was that working papers of a professional engagement are the sole property of the accountant. Finally, the Ministry was never given a copy of the notes as they remained in the accountant's control at all times.

On the balance of the factors considered, it was held that the Ministry did not have custody or control over the handwritten notes prepared by the accountant during the course of his investigation, a finding supported by the legal framework and the factual circumstances outlined.

While the determination of custody and control in most cases will come down to a case-by-case analysis, it is important to note that the Ministry had no expectation that it would receive, use or even see the working papers of the accountant. The contract between the parties was for a report based on the accountant's investigation. The working papers were never in the possession of the Ministry, nor did the Ministry even look at them. In fact, it is conceivable that in some instances the Ministry may not even be aware that working papers exist. While the accountant customarily uses and retains control over working papers, there is no obligation that the final report be based on or created from the working papers. By extension, it is only reasonable that the Ministry not have custody and control over working papers. —

Unconstitutional to prevent teachers from running as Trustees

In *Baier v. Alberta*, [2004] A.J. No. 1003, the Applicants brought an application in Alberta challenging the constitutionality of proposed amendments to the *Local Authorities Elections Act* (LAEA) on the grounds that they violate rights of school board employees protected under sections 2(b), 2 (d) and 15(1) of the *Charter of Rights and Freedoms*. The LAEA Amendments were to come into force on September 20, 2004 and the case was heard on September 2, 2004 by way of early application. As a result, the Alberta Court of the Queen's Bench focused its decision only on the section 2(b), freedom of expression rights.

The LAEA Amendments preclude the Applicants and all employees employed by school districts and divisions, charter school and private schools (collectively referred to as "school board employees") from seeking nominations as school trustees anywhere in Alberta unless they take an unpaid leave of absence from their employment and resign from their employment if elected. The Amendments expanded the existing provisions of the LAEA, which restricted school board employees from seeking nominations as school trustees only in the jurisdiction in which they were employed.

The Applicants, certified teachers in three different school boards in Alberta, also serving as school trustees, argued that the LAEA Amendments effectively denied school board employees, particularly teachers, the right to seek nomination for office of school trustee anywhere in Alberta which was an infringement of their freedom of expression rights. Teachers who resign their employment to hold the office of the school trustee and who wish to continue to practice their profession have virtually no other options for gainful employment as the LAEA Amendments prohibit teachers from working for their primary employers. The Respondent argued that school board employees remained free to express their views on topics relevant to school board operations in a number of different ways, and that the legislation merely excludes an employee from one particular means of expression.

There were three main issues before the Court, the first was whether running for office was protected by the right of freedom of expression. The scope of the freedom of expression right has been broadly interpreted by the Supreme Court of Canada and extends to as many activities as possible. Any activity that conveys or attempts to convey its meaning is prima facie covered by the s. 2(b) guarantee unless the expression is communicated in a manner that excludes protection. Running for office is a similar form of expression as the right of public servants to support a candidate in an election, which is protected by s. 2(b). The Court found that running for office is an avenue for members of the public to participate in political and social discussion and decision-making. It is an activity which is clearly meant to convey meaning and therefore falls within the ambit of s. 2(b). The Court also noted that while the government is not required to provide for province-wide school board elections as a platform of expression, once it has chosen to do so, it must do so in a manner that does not infringe upon the Applicants' *Charter* rights, including their freedom to express themselves by running for office.

The second issue before the Court was whether the LAEA Amendments infringed the Applicants' freedom of expression. Trustees are required to excuse themselves from discussing and voting on matters when conflicts of interest arise, the result being that, with respect to budget issues, the most important decisions were being made by less than a full complement of the board. The Court found that although the intent of the Amendments, to protect the democratic process by ensuring the business of school boards can be carried on without concerns about conflicts of interest, did not impair the Applicants' freedom of expression, the effect of the provisions might. In the long term, the economic consequences of the LAEA Amendments were so onerous that they "rendered illusory" the ability of the Applicants and other teachers to sit as school trustees. In order to teach in Alberta, teachers are limited to employment within a school district or division, a charter school or a private school. Only a small number of teachers may have the opportunity to seek employment with Alberta Learning or a university. As a result, teachers would be required to live on the remuneration paid to school trustees during their term of office. Given the significant disparity between a teacher's salary and a trustee's remuneration, forcing a teacher to resign his or her employment for the duration of their term as trustee renders illusory any opportunity for teachers to run for office as school trustees under the LAEA Amendments. The restrictions on school board employees were province-wide and affected the ability of teachers to practice their profession within Alberta. The Court found that the LAEA Amendments amounted to a total ban of the teachers' expressive rights.

The last issue before the Court was whether the LAEA Amendments, having been found to infringe the Applicants' freedom of expression rights, were demonstrably justified in a free and democratic society pursuant to section 1 of the *Charter*. The Amendments sought to protect members of the public from possible recusals by trustees from school board decisions. The affected members of the public, could not be considered a vulnerable or disadvantaged group. In addition, there was no evidence that the public perceived the current legislative scheme governing school trustees to be insufficient in addressing the problem of conflicts.

In this case, the Court accepted the argument that the

objective of the legislation, insofar as it related to avoiding conflicts of interest, recusals and under-stacked boards, was one of substantial importance in a democratic society. However, the Court held that while there is a rational connection between limiting the conflicts of interest and restricting the ability of school board employees to seek nominations as school trustees anywhere in Alberta, the LAEA Amendments were the most impairing measure of the freedom of expression rights that could have been legislated.

The Court found that the deleterious effects of depriving the Applicants and other school board employees of a form of political expression outweighed the beneficial effects of avoiding conflicts of interest, which could be addressed in a less impairing manner. As a result, the Court held that the LAEA Amendments were not reasonable nor justifiable in a free and democratic society and could not be saved under section 1 of the *Charter*.

The decision in *Baier* recognizes that while conflicts of interest are serious, the rights of individuals to express themselves by running for trustee cannot be eliminated to avoid conflicts. —

Educational issues to be heard in CAS status review hearing

In *Durham Children's Aid Society* v. *V.C.*, [2004] O.J. No.3849, the issue before the Court was whether the parents of two autistic boys, age 7 and 9, could have their claims against the Durham District School Board, the Minister of Education and the Minister of Children and Youth Services heard during a status review application brought by the Durham Children's Aid Society pursuant to the *Child and Family Services Act*.

In July 2003, the Durham CAS brought a protection application alleging that the children in this case required protection from their parents because they did not cooperate with their children's IEPs. The parents eventually consented to a finding that the children were in need of protection, and the issue before the Court in September 2004, was the result of a status review of the original finding. The position of the Durham CAS at the status review hearing was that the children continued to need protection from their parents as a result of their continuing resistance to their children's IEPs. The parents, in answer to the status review application, wanted to argue that the children required protection from the school board and the two Ministries. All of the relief claimed by the parents dealt with the educational and other services they considered necessary for their sons.

In the Durham Region child protection proceedings are heard in the Unified Family Court by Superior Court Judges. On the motion, the Court held that, in these proceedings, the Court has the jurisdiction to hear, not only child protection proceedings, but also all of the claims advanced by the parents. The Court further identified the reasons that such a process is desirable. Firstly, it is preferable to have all of the claims that relate to the same issues heard by one judge, because this minimizes legal costs and avoid contradictory or conflicting decisions. Secondly, it is preferable to have these issues heard pursuant to the Family Court Rules because they have very limited timelines, and children such as these require that their needs be addressed quickly. Thirdly, having the matters heard together reduces the stress on the parents, which the Court held is in the best interests of the children.

Thus, the Court held that, because the child protection hearings in Durham are heard in the Unified Family Court under the Family Law Rules, the parents' claims would be heard together with the status review application brought by the Durham CAS.

It appears that the Court has tried to combine all of the issues in order to have them addressed as quickly as possible, because having the issues resolved quickly is in the best interests of the children. Although certainly most people would agree that having such issues heard quickly is in the best interests of the children, a status review application is not the type of proceeding where the court hears weeks of testimony regarding complex funding issues and expert evidence regarding educational and social programming issues, which is the type of evidence that would be heard in claims against a school board and the Ministries. It may be for this reason that the Durham District School Board has apparently, as reported by the press, appealed this decision. —

Board did not breach Human Rights Code

In *B.C. v. New Brunswick (Department of Education)*, [2004] N.B.H.R.B.I.D. No. 2 the complainant filed a complaint to the Human Rights Commission under the New Brunswick *Human Rights Act* on behalf of her son N alleging that the Department of Education and School District 2 had discriminated against N on the basis of mental disability by not providing adequate resources to meet N's special needs. The complaint was referred to the Board of Inquiry.

As an infant, N had been diagnosed with a number of food allergies, which caused behavioural problems related to hyperactivity. N was also diagnosed with Attention Deficit Disorder (ADD) when he was four and a half years old and was prescribed medication. The complainant took N off his medication prior to his attending kindergarten. N attended school without medication throughout kindergarten, grade one and most of grade two, and during this period he experienced learning difficulties and exhibited excited behaviour. At no point did the complainant alert the school or the school board about N's diagnosis. Prior to his grade three year, Ritalin was prescribed for N and administered in the morning before he attended school. N experienced some improvement with respect to his school work throughout grades three and four, although he was still having difficulties with attentiveness, reading, writing and mathematics.

N had been receiving remedial help from the school since the second grade on an on-going basis and was identified as a child requiring special education programs and services. The school developed an Individual Education plan to accommodate N, and N continued to receive resource support through grades five and six. N continued to exhibit considerable behavioural problems at home, but school personnel were not informed. The school did not suggest counselling because there was no evidence of behavioural problems while N was in school, although he did see a school psychologist, guidance counsellor and social worker when the need arose. Periodic assessments by the school revealed that N was in the middle to low end of his class. He worked hard but continued to experience difficulties. When evaluated by an independent psychologist he was found of average intelligence, "closer to the lower end of average".

In 1999, in response to N's increasingly violent behavioural problems at home, and his refusal to attend school, the complainant wrote a letter to the Minister of Education for funding for N to attend a not-for-profit private school specializing in Attention Deficit Hyperactivity Disorder learning disabilities. The Minister advised the complainant that funding was no longer provided for students to attend such

schools and that additional funding was provided to school boards through the Excellence in Education initiatives for children with learning disabilities. Nevertheless, the complainant enrolled N in a specialized school. The complainant also advised the school, for the first time, that N was experiencing considerable difficulties at home. N began attending Landmark in grade 7. It should be noted that none of the expert witnesses at the hearing, including N's own doctors, suggested that N attend Landmark. The experts were all of the opinion that the public education system could offer the services required to accommodate N's special needs.

The Board of Inquiry found that N was indeed suffering from Attention-Deficit Hyperactivity Disorder (ADHD) and had been from an early age. The onus was on the complainant to establish discrimination. The Board found that the appropriate comparator group in this case was N's classmates, namely those who had similar intellectual abilities, but did not have a disability, as well as those who have had different disabilities.

The complainant alleged that N's academic performance was below what would be expected of these comparator groups. N's IEP, in and of itself, was found not to be conclusive evidence that the Respondents provided the necessary accommodations or that the resources and services the Respondents provided accommodated N's needs. The use of standardized testing and the use of grade equivalencies were also not accurate indicators of a student's performance. The Board found that the most accurate indicator of N's performance were the evaluations of his teachers, based primarily on their day-to-day observations. These evaluations indicated that N performed approximately in the middle of the class. The Board found that it had not been proven that N's academic performance was below what should be expected of N relative to his classmates.

The expert testimony also demonstrated that a student's academic achievement could be influenced by his/her home life and such information could be beneficial to school personnel in providing necessary accommodation. The Board noted that throughout N's time in the Respondent's programs, the complainant withheld information, including the difficulties N experienced at home. In addition, the complainant provided inaccurate or misleading information to the professionals treating N, rendering their opinions unreliable.

The Board dismissed the complaint, concluding that based on the evidence presented, the complainant did not establish that the Respondents violated the *New Brunswick Human Rights Act* by denying N a service available to the public because of a mental disability or that the Respondents discriminated against N with respect to any service to the public because of a mental disability.

It is important to note that, in this case, the complainant withheld from the school a significant amount of information pertinent to N's development and learning abilities. As a result, N's accommodations with respect to programs and services was unfortunately limited to the knowledge and observations of school board personnel. A school board cannot be expected to accommodate for circumstances it is not aware of, and it would be unreasonable to expect a school board to provide programs and services that are not necessary while the student is at school, but may in fact be beneficial based on the student's behaviour at home, if the school is not informed of such behaviour. —

Board conduct considered in appeal to IPC

In *Order MO-1810 Conseil scolaire de district du Centre-Sud-Ouest*, [2004] O.I.P.C. No. 161, a dispute had arisen between a contractor and the school Board about payment on a contract to build a school, and the Board refused to process the contractor's request for access to records because it determined that it was frivolous and vexatious.

The contractor made 15 information requests, between October 10, 2000 and April 26th 2002, in addition to modifications to and reiterations of requests. He had also been involved in six other appeals with the school board. The request that was the subject of this appeal, made in March 2002, asked for access to all correspondence referring to the appellant, in both English and French, including letters, notes, memos, e-mails, diary entries, and handwritten message receipts that were internal to the Board, exchanged with anyone externally, including other institutions, sent by solicitors acting for the Board, third party memos received or sent by the Board, and minutes of in camera meetings or other records from Board meetings in which the appellant was discussed. The only limit the appellant placed on his request was that the Board exclude any correspondence, copies of which, he had already received.

In determining if the appellant's request was in fact frivolous or vexatious, the Adjudicator examined section 5.1 of Regulation 823 which elaborates on the meanings of "frivolous" and "vexatious". It provides that a request is frivolous or vexatious, if the request is part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of the institution, or the request is made in bad faith, or for a purpose other than to obtain access. The Board took the position that the appellant's request satisfied all four grounds.

The IPC Adjudicator considered the number of requests the appellant made, the nature and scope of the requests, the timing of the requests, and the purpose of the requests. The Adjudicator also considered the conduct of the Board and the conduct of the appellant subsequent to the filing of the request under appeal. The Adjudicator commented that the cumulative nature and effect of a requester's behaviour should be considered when examining whether a pattern of inappropriate conduct exists.

Looking at the number of requests made by the appellant, the Adjudicator explained that in isolation the fact that the appellant made 15 requests to the same institution would not be sufficient to conclude that a pattern of conduct amounting to an abuse of access existed, but that this fact should be considered in light of all of the circumstances. The Adjudicator examined the nature and scope of the requests including previous requests, which included requests for copies of invoices rendered to the Board by legal counsel and the hiring, evaluation, and employment histories of Board employees. The Adjudicator concluded that, generally the nature of the appellant's requests were detailed and the scope of his requests were often broad,

spanning several years and prefaced with the words "all" and "each". Many of the requests were also found to be only tangentially related, if at all, to the interactions between the Board and the requester. These factors in isolation, the Adjudicator explained also would not amount to an abuse of the right of access; however, together the factors did point to abuse.

The Adjudicator determined that the timing of the requests, mainly occurring after the appellant had filed a law suit against the Board, would also in isolation not amount to abuse of the right of access. Here however, the timing shed light on the appellant's motivation and also weighed in favour of a finding of abuse. The conduct of the appellant in this case, including repeated requests for the same information spanning different periods of time and the fact that he had dropped a request when the search fee would have been costly, was found by the Adjudicator to suggest that the access was in fact a secondary objective to his desire to engage the process for its own sake and as a means to involve the Board in a continuing dispute. Moreover, the appellant's conduct had not facilitated access to the information that he requested. Facilitation would be expected from someone genuinely interested in accessing the information.

The Adjudicator concluded that regardless of how the appellant intended to use the information requested, his use of the process was abusive.

The Adjudicator then examined the conduct of the Board to determine if there was anything to justify the appellant's behaviour or to negate the finding of a pattern of conduct amounting to an abuse of the right of access. The Adjudicator found that, while there had been delay in responding to requests on the part of the Board, there was nothing that would negate the finding of frivolous or vexatious conduct by the appellant. Because the Adjudicator found the appellant's request to be part of a pattern of conduct that amounted to an abuse of process of the right of access, he did not feel the need to address the other possible grounds, and upheld the Board's decision denying access. The Adjudicator also restricted the appellant's ability to request information from the Board to one request per year and placed a two year time restriction on the appellant's ability to pursue appeals.

The IPC's examination of the Board's conduct highlights the importance of strictly complying with the Act and Regulations. Had the Board not met its duties, the IPC may not have found in its favour. —

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For any information with respect to Edu-Law or the services provided by KEEL COTTRELLE LLP, please contact **Bob Keel** at **905-501-4444**, or at **rkeel@keelcottrelle.on.ca**.

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Professional Development Corner

Edu-Law continues to provide "In-House" Negotiation & Mediation Training Programs. Anyone interested in such In-House Programs, or a Program together with a coterminous Board, should contact Edu-Law.

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March 4, 2005

Keel Cottrelle LLP

"**Special Education Issues**"

Capitol Banquet Centre, Mississauga, Ontario

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April 11, 2005

Osgoode Hall Professional Development Centre

"**Advanced Issues in Special Education**"

Toronto, Ontario

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May 1-3, 2005

Canadian Association for the Practical Study of Law in Education

"**CAPSLE Annual Conference**"

Regina Inn, Regina, Saskatchewan

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