

11TH ANNUAL

# ADVANCED ISSUES IN SPECIAL EDUCATION LAW



This **must attend** program will provide you with a practical and up-to-date understanding of the complex legal issues in this area and how to manage them, including:

- The use of the *Ontario Human Rights Code* to challenge identification, placement and discipline of special needs students
- Strategies for dealing with violent behaviour at the school level
- Risk assessments under *OHSA*: what do they involve?
- Avoiding, preparing and managing appeals to the Special Education Appeal Board
- Unique challenges and considerations for special needs students when child protection services are involved
- What information can/should a school board share with police when a special needs student is involved in an incident reported to police? What about with CAS?
- The goals, criteria and challenges for Section 23 classes
- The Ombudsman - when do they become involved and what to expect

**Plus!** Don't miss the Optional Workshop: **Conflict Resolution Skills for Educators** on October 18<sup>th</sup>.

**Keynote Address** by **Ted Byers**,  
Superintendent of Special Education,  
Peel District School Board, on

**"Best Practices for Managing  
Lockdowns including  
Special Needs Students"**

**"WOW! VERY INSIGHTFUL.  
VERY VALUABLE LEARNING  
FOR ALL EDUCATORS."**

**Chris Samis**, Superintendent of  
Education, Simcoe County District  
School Board (2014)

REGISTER NOW AT  
[OSGOODEPD.CA/SPECED](http://OSGOODEPD.CA/SPECED)



Course Webcast Available

### Chair

**Robert G. Keel**, Keel Cottrelle LLP

### Workshop Leaders

**D. Paul Emond**, Professor, Osgoode  
Hall Law School

**Robert G. Keel**, Keel Cottrelle LLP

### Dates and Times

**October 17, 2016**

8:30 a.m. - 3:30 p.m. EDT

**Optional Workshop:** October 18, 2016

**Online Replay:** November 30, 2016

### Location

Osgoode Professional Development  
1 Dundas St. W., 26th Floor  
Toronto, ON

Endorsed By:



## 11TH ANNUAL

### ADVANCED ISSUES IN SPECIAL EDUCATION LAW

With fewer resources, it's increasingly difficult for educators and administrators to meet the needs of the growing number of students who require exceptional support. Maintaining the delicate balance between meeting special needs and ensuring that the learning rights and safety of all students and staff is not compromised is also a complex challenge. Knowing what you can, must and should do is critical: missteps can have serious and potentially costly ramifications both personally and for school boards, students and staff.

This 11<sup>th</sup> Annual *OsgoodePD* program, designed and delivered by leading education law experts, will provide you with a practical, up-to-date understanding of the most critical current legal challenges in special education law today. Key issues include understanding the impact of the *Charter* and *Ontario Human Rights Code* on special education, the challenges and considerations of CAS involvement with special needs students, and understanding strategies for responding to flashpoints in special education.

**Plus! Don't miss the Optional Workshop: Conflict Resolution Skills for Educators** on **Tuesday, October 18, 2016**. Working with your peers and workshop leaders you will learn:

- How to prevent and handle conflict
- Collaborative approaches to resolving conflicts
- The key skills of an effective negotiator
- The rules and responsibilities with special education

**REGISTER NOW** by visiting  
[osgoodepd.ca/speced](http://osgoodepd.ca/speced)



#### Chair

**Robert G. Keel**, *Keel Cottrelle LLP*

#### Workshop Leaders

**D. Paul Emond**, *Professor, Osgoode Hall Law School*

**Robert G. Keel**, *Keel Cottrelle LLP*

#### Keynote Speaker

**Ted Byers**, *Superintendent of Special Education, Peel District School Board*

#### Faculty

**Collette Dowhaniuk**, *Protective Services Consultant, Ontario Principals' Council*

**Simon Fisch**, *Counsel, Children's Aid Society of Toronto*

**Joseph Geiser**, *Protective Services Coordinator, Catholic Principals' Council Ontario*

**Wayne Hobbs**, *Senior Manager, Student Services, Waterloo Catholic District School Board*

**Jessica Koper**, *Shibley Righton LLP*

**Sheila M. MacKinnon**, *Shibley Righton LLP*

**Dr. Sharon Pyke**, *Superintendent of Education, Greater Essex County District School Board*

**Nicola Simmons**, *Keel Cottrelle LLP*

**Sheilagh Turkington**, *Cavalluzzo Shilton McIntyre Cornish LLP*

Do you know your legal obligations and risks well enough to make efficient, sound and confident decisions?



## AGENDA

**8:00**

### Continental Breakfast

**8:30**

### Welcome from the Chair

ROBERT G. KEEL, *Keel Cottrelle LLP*

**8:45**

### Managing Human Rights Issues in Special Education

JESSICA KOPER, *Shibley Righton LLP*

DR. SHARON PYKE, *Superintendent of Education, Greater Essex County District School Board*

- Impact of the *Charter* and *Ontario Human Rights Code* on special education
- Understanding the anatomy of the IPRC process
- The use of the *Code* to challenge decisions with respect to student identification and placement and/or discipline of special needs children
- The positive duty to address allegations of discrimination in the school
- Procedural component of the duty to accommodate under the *Code*
- Update on the latest case law on human rights issues in schools
- Strategies for complying with your obligations under legislation as well as board and tribunal rulings

**10:00**

### Managing Violent Behaviour

SHEILA M. MACKINNON, *Shibley Righton LLP*

DR. SHARON PYKE, *Superintendent of Education, Greater Essex County District School Board*

SHEILAGH TURKINGTON, *Cavalluzzo Shilton McIntyre Cornish LLP*

- The *Occupational Health and Safety Act* - its impact on students with special needs; their teachers and other educational workers
- Risk Assessment under *OHS Act*: what does it involve?
- Who "needs to know" about risks of violence from students?
  - how should you inform about these risks?
  - Bill 157 violent incident forms: how do these fit with the *OHS Act* requirements?
- What training and assistance are boards obliged to provide educational workers?

- Strategies for dealing with violent behavior at the school level
  - Discipline under the *Education Act*: "mitigating and other factors"
  - Update on the Ministry of Labour's latest policies and rulings
  - Can a school board refuse to admit a student under the *Education Act*? - Why and how?
  - Proceedings under the *Ontario Human Rights Code* relating to violent behavior in schools
- (NOTE: A 15 minute refreshment break will be taken during this session)

**11:30**

### Special Education Appeal Board: Trials and Tribulations

DR. SHARON PYKE, *Superintendent of Education, Greater Essex County District School Board*

WAYNE HOBBS, *Senior Manager, Student Services, Waterloo Catholic District School Board*

- Practical tips for avoiding and preparing for appeals to the SEAB
- Procedural fairness issues to understand
- How does a school board select its member to a SEAB?
- Complying with time requirements in s. 27(2) and (3) of O. Reg. 181/98?
- Can school boards pay a fee and disbursements to its member?
- Can or should school boards pay a fee or disbursements to a member of the SEAB selected by the parent?
- Updated placement options
- Communication with Board officials
- Who reviews the Written Statement of the SEAB including reasons and recommendations? Board of Trustees? Staff?
- Does the parent have the right to attend if the Written Statement is presented to the Board of Trustees?

**12:30**

### Luncheon and Keynote Address

TED BYERS, *Superintendent of Special Education, Peel District School Board*

*"Best Practices for Managing Lockdowns Including Special Needs Students"*

**1:30**

### **Child Protection Services and School Boards: Challenges and Opportunities**

NICOLA SIMMONS, *Keel Cottrelle LLP*

SIMON FISCH, *Counsel, Children's Aid Society of Toronto*

- Understanding the unique challenges, considerations and opportunities for children with special education needs who are involved with CAS
- Different types of CAS involvement and distinctions between various custodial arrangements for children - implications for school boards
- Applying the various protocols: the Joint Protocol for Student Achievement; Police/School Board Protocol; Police/CAS Protocol
- Information sharing between child protection services and school boards
- Duty to report - recent issues and decisions to guide your actions

**2:15**

### **Break**

**2:30**

### **Strategies For Responding to Flashpoints in Special Education**

#### **Moderator:**

ROBERT G. KEEL, *Keel Cottrelle LLP*

#### **Panellists:**

COLLETTE DOWHANIUK, *Protective Services Consultant, Ontario Principals' Council*

JOSEPH GEISER, *Protective Services Coordinator, Catholic Principals' Council Ontario*

Educators have a clear obligation to accommodate students with special needs. That obligation requires a clear understanding of the challenges they face, the potential areas of conflict and inevitably includes a balancing of obligations. This session will review the obligations of boards and their staff and provide guidance on how best to manage these complex legal issues including:

- Understanding the potential legal liabilities in special education: individual and corporate
- Protections and supports including indemnification for those on the front-lines
- Board policies and procedures guiding your actions
- Understanding the various police and CAS protocols
- When should "mitigating or other factors" be considered in relation to school discipline?
- Recognizing issues of documentation produced in the course of professional duties: who owns what? Can those documents be used as evidence in tribunal proceedings?
- Who is considered a parent/guardian for the purpose of making decisions for the special needs student?
- The goals, criteria and challenges for Section 23 classes
- The role and obligations of the College of Teachers
- The Ombudsman - when do they become involved? What can you expect?

**3:30**

### **Program Concludes**

## **WHAT PAST PROGRAM PARTICIPANTS HAVE SAID:**

**"AN EXCELLENT, RELEVANT DAY.  
POSITIVE, PROFESSIONAL APPROACH  
PROVIDING PROACTIVE STRATEGIES  
FOCUSING ON WHAT IS BEST FOR  
STUDENTS WHILE AVOIDING LEGAL  
PITFALLS OF OUR LITIGIOUS SOCIETY."**

**Susan Wilson**

*Near North District School Board*

(2013)

**"THANKS FOR A VERY INFORMATIVE DAY  
WITH A VARIETY OF TOPICS WITH THE  
COMMON THEME OF WORKING TOWARDS  
THE BEST INTERESTS OF THE CHILD."**

**Joanne Grolla, Principal**

*Bishop Scalabrini Separate School,*

*Dufferin-Peel Catholic District School Board*

(2015)

**"RESPONSIVE. I ASKED FOR A SESSION ON  
MENTAL HEALTH AND SPEC ED A  
YEAR AGO AND THE ORGANIZERS  
MADE IT HAPPEN. THANK YOU."**

**Christine Kessler**

*System Vice-Principal of Special Education,*

*Ottawa Carleton District School Board*

(2015)

## **WHO SHOULD ATTEND**

- School Administrators (Principals, Vice-principals, Superintendents of Education)
- Teachers
- Supervisory Officers
- Equity/inclusion officers
- School trustees
- Directors of Education
- School board staff
- Representatives from Federations, the Ministry of Education, and Ontario College of Teachers
- Advocates for students and parents
- Legal practitioners - education law practitioners

## OPTIONAL WORKSHOP

**TUESDAY OCTOBER 18, 2016**

**8:30 a.m. - 3:30 p.m.**

**Conflict Resolution Skills for Educators**

### Workshop Leaders

D. PAUL EMOND, *Professor, Osgoode Hall Law School*

ROBERT G. KEEL, *Keel Cottrelle LLP*

Recent Human Rights Tribunal Decisions involving special education students add to the pressures educators face in such situations. It is essential to ensure that you have the necessary skills to address conflict. No matter what your role in front-line education, much of your time is spent dealing with difficult situations, some of which will be headed to the Tribunal if not handled well and sensitively. Now more than ever, educators need to acquire skills to prevent and manage conflict, resolve disputes quickly, and allow students to develop their full potential and succeed in school.

In this interactive workshop, *custom designed for educators*, you will work with peers and top practitioners to learn the skills you need to succeed. You will:

- Understand the sources of conflict and the factors that escalate conflict
- Learn how to prevent conflict and how to de-escalate conflict
- Understand how to resolve the disputes that arise from poorly-managed conflict
- Discover collaborative approaches to dealing with conflicts
- Understand the principles of Interest-Based Negotiation and Facilitative Mediation
- Learn the key skills of an effective negotiator
- Create a conflict-positive working and learning environment

You will come away from this workshop with the skills and techniques that are necessary for conflict prevention and resolution, along with materials that will be an invaluable resource long after the workshop is over.

**Don't miss the opportunity to learn valuable skills that you can readily apply to improve your effectiveness and increase your confidence.**

GIVEN THE INTERACTIVE NATURE OF THE WORKSHOP - SPACE IS STRICTLY LIMITED.

**REGISTER NOW** AT **OSGOODEPD.CA/SPECED**

## WHAT PAST WORKSHOP PARTICIPANTS HAVE SAID:

**"EXCELLENT WORKSHOP. THE STRATEGIES TAUGHT TODAY WILL BE VERY USEFUL."**

**Carole Seguin**

*Conseil des écoles publiques de l'Est de l'Ontario*  
(2013)

**"VERY ENGAGING SPEAKERS. PRACTICAL APPLICATIONS. POWER EXERCISES."**

**Jennifer Wyatt**

*The York School*  
(2013)

**"I WOULDN'T CHANGE A THING."**

**Elizabeth Mitchell**

*Big Grassy River First Nation Education Authority*  
(2013)



# REGISTRATION

## 11<sup>th</sup> Annual Advanced Issues in Special Education Law

I will attend the:

Conference:  On site  Webcast  Online Replay

Workshop:  On site

Unable to attend? Please contact us to order the Materials/Program Archive.

### Fee Per Delegate

Conference Only: \$525 plus HST

Conference plus Workshop: \$895 plus HST

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca](http://www.osgoodepd.ca) for details. Please inquire about financial assistance.



### Eligible CPD/MCLE hours:

Program:

LSUC (ON): 6.5 Substantive CPD Hours

### Optional Workshop:

LSUC (ON): 6.5 Substantive CPD Hours

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca).

### Registrant Information

Please complete all registrant information.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm/Company: \_\_\_\_\_

Practice Area: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Prov: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

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### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.

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Online Replay: November 30, 2016

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

### Location

Osgoode Professional Development  
Downtown Toronto Conference Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON M5G 1Z3



## 4 Convenient Ways to Register

1. **MAIL** your registration form to:  
Osgoode Professional Development  
Downtown Toronto Conference Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON M5G 1Z3
2. **ONLINE** at  
[www.osgoodepd.ca/speced](http://www.osgoodepd.ca/speced)
3. **FAX** your registration  
to 416.597.9736
4. **CALL US** at 416.597.9724  
or 1.888.923.3394