



*The right to learn, the power to achieve | Le droit d'apprendre, la possibilité de réussir.*

## **The Supreme Court of Canada Makes Unanimous Milestone Ruling on Canadians with Learning Disabilities A Long-Awaited Victory for 1 in 10 Canadians with Learning Disabilities**

In November 2012, the Supreme Court of Canada handed down a monumental decision, supporting the rights of students living with learning disabilities to meaningful access to the same education that all other children in British Columbia can access.

In the unprecedented unanimous ruling, the Supreme Court of Canada ruled the North Vancouver School District was wrong in failing to provide sufficient accommodations for Jeffrey Moore, a student with the learning disability of dyslexia. Such accommodations would have given him meaningful access to an education that was otherwise out of reach to him. What he needed but did not get was intensive remediation. The District's cut backs had an unjustifiably disproportionate impact on him.

The Learning Disabilities Association of Canada (LDAC) has participated in the Moore case as an intervener at every level from the Tribunal to the Supreme Court of Canada—a period of 12 years. It was a long journey to justice, but the lives of many will be changed forever as a result of the Court's pronouncements in this case.

"We're ecstatic," said Yude Henteleff, a Winnipeg lawyer representing LDAC. "This is a profoundly important victory. Time and time, school districts say they can't afford the support needed by students like Jeffrey. Well, now they can't afford not to. The Court found there was no meaningful access in the circumstances, and the School District could not justify its failure to provide Jeffrey with the intensive remediation he needed. Meaningful access is the fundamental point LDAC argued at each level of court."

In Moore case, the Supreme Court of Canada directly addressed what constitutes meaningful access to education for students living with learning disabilities. Justice Rosalie Abella stated that "adequate special education 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".

Accommodation must be sufficient in order to make the core curriculum meaningfully accessible to students with learning disabilities. The Supreme Court of Canada has now clearly set a new floor of rights for students with learning disabilities across Canada. It is now up to governments and school boards to comply.

This case is now the foundation on which those students living with a learning disability can demand sufficient accommodations to achieve meaningful access to core educational programs that all students are entitled to. The Moore family's fight for their son is a victory for all children who aren't getting the help they need in public schools across the country.

LDAC and its network of 10 provincial and one territorial Learning Disabilities Associations and 50 community chapters across the country are proud to have been part of this momentous and most

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important human rights' case. We commend the Moore family for their patience, perseverance over their 15-year journey, and vision for the thousands of students with learning disabilities who will be able to thrive to their potential.

## Case History

- Jeffrey Moore has dyslexia, a reading disability. There are interventions available to support a person with dyslexia.
- Jeffrey received in-school support for his dyslexia, but it was not sufficient for him to be successful. Officials within the North Vancouver School Board recommended that Jeffrey would be better served by attending the District's Diagnostic Centre. However, before Jeffrey could receive those services, the Centre was closed because of budget cuts.
- The family remortgaged their home to put Jeff into a private school catering to learning disabilities.
- The Moore family initially complained to the British Columbia Human Rights Tribunal that their son, Jeffrey, had suffered discrimination because of the closure and the corresponding outcome of being unable to receive the intensive supports at the Diagnostic Centre. The Human Rights Tribunal agreed and ordered the District to pay for the costs that the family had incurred to place Jeffrey in a private school where he received the intensive supports he needed.
- The Tribunal judgment was appealed. The BC Supreme Court determined that the Human Rights Tribunal had erred by comparing Jeffrey to the general school population, indicating he should have been compared to other students with special needs. They concluded that there had been no discrimination. The Court of Appeal, in a split decision, upheld the judgment of the Supreme Court of BC. The Moore family appealed to the Supreme Court of Canada.
- The Supreme Court of Canada determined that Jeffrey had been the subject of discrimination, and reinstated the decision of the Human Rights Tribunal. In the decision, the Supreme Court of Canada indicated the issue was not access to special needs education, but to education generally and that latter point formed the basis for discrimination.
- The Supreme Court did not find systematic discrimination against the government, citing that it was not a Royal Commission.
- The Learning Disabilities Association of Canada, along with other organizations, was an intervener in this case.
- The original decision of the British Columbia Human Rights Tribunal was made in December 2005.
- The decision of the British Columbia Court of Appeal was made in 2010.
- Jeffrey Moore completed his secondary school at a private school for learning disabilities and went on to postsecondary education. He is now working, very successfully, as a plumber in British Columbia.

## **About Learning Disabilities**

A learning disability is a neurological condition that interferes with a person's ability to store, process, or produce information. Learning disabilities can affect one's ability to read, write, speak, spell, compute math, reason, and may affect a person's attention, memory, coordination, as well as perceived social skills and emotional maturity. Although people with learning disabilities have average or above-average IQs, their disabilities are evident in academic and social situations.

## **About The Learning Disabilities Association of Canada (LDAC)**

Since 1963, the Learning Disabilities Association of Canada has provided support to Canadians with learning disabilities, as well as their families, teachers and other professionals who help them. LDAC is a volunteer-led association representing a network of 10 provincial and 1 territorial Learning Disabilities Associations. From these extends a network of chapters in some 50 communities across the country with more than 4,500 members across Canada. LDAC has been involved in the Jeffrey Moore case since fall 2000 when the Association applied for and was granted intervener status for the BC Human Rights Tribunal hearing.

### **Link to Supreme Court of Canada decision:**

[Moore v. British Columbia \(Education\)](#) - 2012 SCC 61 - 2012-11-09 Appeals

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