

Manitoba Advocate for Children and Youth's Submission to the Manitoba Commission on Kindergarten to Grade 12 Education

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Introduction

The Manitoba Advocate for Children and Youth (Manitoba Advocate) is pleased to make this submission to the Manitoba Commission on Kindergarten to Grade 12 Education (the Commission) with the purpose of improving education services for all children in Manitoba.

This submission falls under the Manitoba Advocate's legal responsibility to conduct research on the provision of designated services for the purpose of making recommendations to improve the effectiveness and responsiveness of that service, as per section 11(1) (b) of *The Advocate for Children and Youth Act*.

The United Nations Convention on the Rights of the Child

This submission is guided by the *United Nations Convention on the Rights of the Child* (UNCRC). The UNCRC is a legally-binding international treaty that sets out the civil, political, economic, social, and cultural rights of all children, defined as any person under the age of 18.

Canada ratified the UNCRC in 1991, and, in so doing, committed to protecting the human rights of all children. The UNCRC contains 54 different articles. For the purpose of this submission, the Manitoba Advocate has focused primarily on Article 28, Article 2, Article 3, and Article 12.

Article 28 of the UNCRC states that children have the right to education. It details that states must take measures to encourage regular attendance at schools and reduce dropout rates.

Article 2 of the UNCRC states that all rights shall be provided to each child without discrimination of any kind.

Article 3 of the UNCRC states that in all actions concerning children, including those of public social welfare institutions, the best interests of the child shall be a primary consideration.

Article 12 of the UNCRC states that the child shall have the right to express their views freely in all matters affecting the child. The child should be provided with the opportunity to be heard in any administrative proceedings affecting the child.

Past Recommendations

Since October 2018, the Manitoba Advocate has published three special reports into the deaths of youth who were receiving provincially administered services at the time of their death.

Recommendations to the Minister of Education and Training were developed based on thorough reviews of Manitoba Cumulative Records and interviews with school employees. Two important themes were pervasive across all three special reports: (1) chronic and severe absenteeism and (2) the use of suspensions. The following section summarizes the findings and recommendations made on each theme for consideration by the Commission.

Theme 1: Chronic and Severe Absenteeism

School absenteeism is the legitimate or illegitimate absence of a student from school or class.

Chronic absenteeism is defined as missing 10% of the school year and when absenteeism exceeds 20%, it is designated as severe chronic absenteeism (Balfanz & Byrnes, 2018).

Chronic absenteeism has been recognized as a serious public health issue (Dube & Orpinas, 2009).

Absenteeism is an early warning sign that a student requires supports. The reasons for chronic absenteeism are varied but can include poor health, poor mental health, family and work responsibilities, transportation, bullying, homelessness, undiagnosed cognitive vulnerabilities, or in the case of Tina Fontaine, the death of a parent (Rafa, 2017).

School absenteeism can have serious consequences for the child. In the short-term, lack of attendance leads to challenges in learning and achievement (Carroll, 2010; Christle, Jolivette, & Nelson, 2007, cited in Maynard et al., 2018). Over time, school absenteeism is known to increase the risk of dropout by 35% (Cabus & De Witte, 2014). Absenteeism can also increase the risk for violence, injury, substance misuse, psychiatric disorders, and economic deprivation due to loss of earning potential (Dube & Orpinas, 2009; Attwood & Croll, 2006). Addressing chronic absenteeism is essential for the fulfillment of the right to education, which is enshrined by Article 28 of the UNCRC.

As mentioned, chronic and severe absenteeism were present in all special reports; however, the educational history of Tina Fontaine described in *A Place Where it Feels Like Home*, in particular, highlights opportunities for improvement in Manitoba (Manitoba Advocate for Children and Youth, 2019).

The Education History of Tina Fontaine

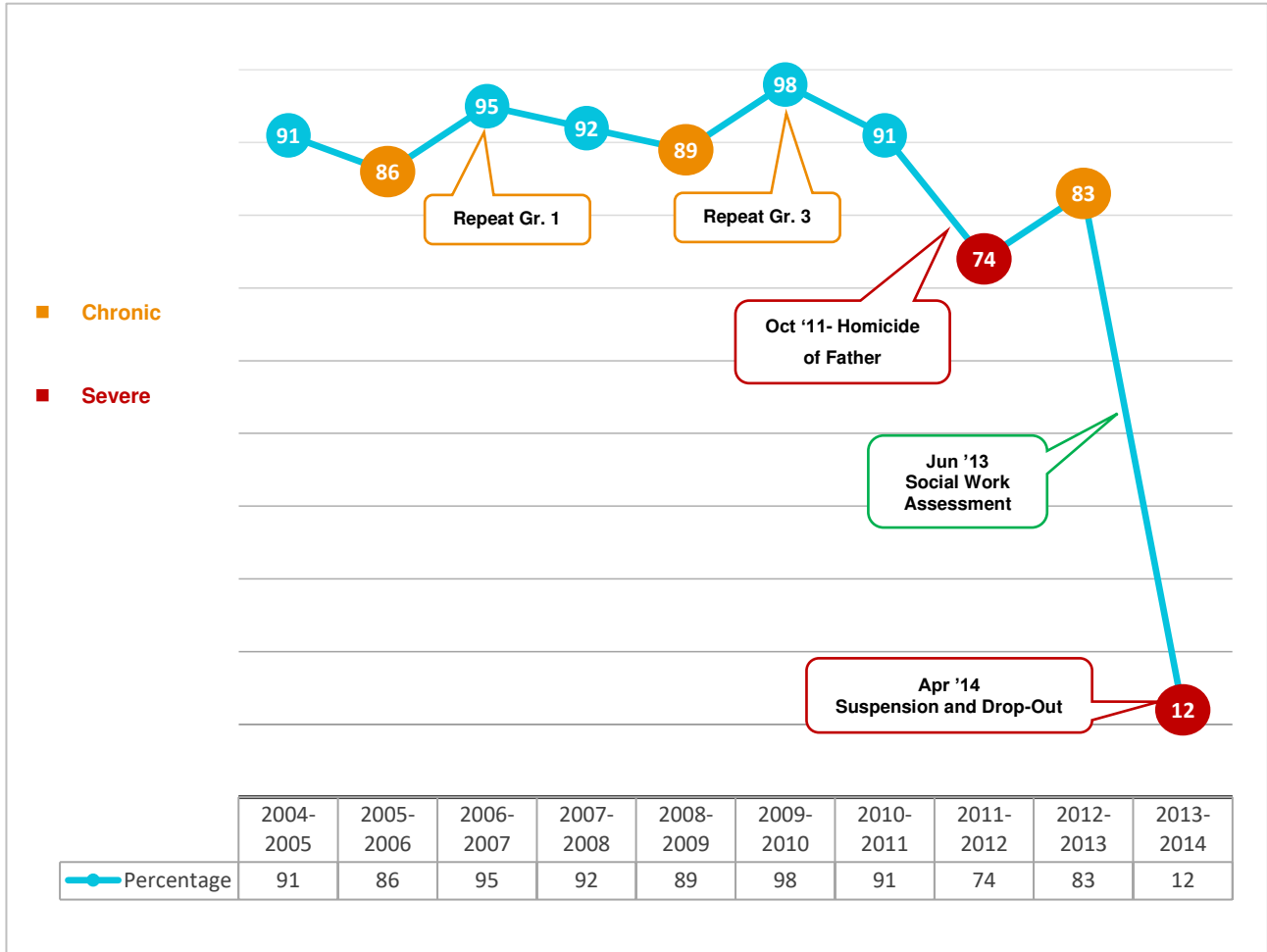
- Tina Fontaine's attendance record reveals that she was borderline chronically absent, with an average attendance of 91% from Kindergarten (2004-2005) until Grade 4 (2010-2011) (Table 1).
- Consistent with the research literature, following the school years where she was chronically absent, she was not promoted to the next grade. In 2005-2006, Tina Fontaine's absenteeism was 86%. The following year, she repeated Grade 1. Similarly in 2008-2009, Tina Fontaine's attendance was 89% and the following year she repeated Grade 3. This demonstrates the strong correlation between absenteeism and academic outcomes.
- In October 2011, one month after Tina began Grade 5, her father died by homicide. In the weeks and months following her father's death, Tina's absenteeism markedly increased: in November she attended school only once and there is no record of her attendance at all in December of 2011.
- The following January 2012, she transferred to another school. Overall, during the 2011-2012 academic year, she was *severely chronically absent*, missing 26% of school days.
- The next year, 2012-2013, she continued to be chronically absent, missing 17% of school days, or more than one out of every six days of school. A social work assessment was conducted at the end of the year in June, 2013.
- The following year, 2013-2014, she was no longer attending school on a regular basis, meeting the definition of *severely chronically absent*. During the first and second term of Grade 8, she missed 57 days of school.

Problematically, there are no documented responses to Tina Fontaine's chronic absenteeism in her Manitoba Cumulative Record, despite legislated requirements in *The Public Schools Act* (The Act). The educational system did not address the parental or legal guardian's responsibility to support school attendance (as per The Act), nor the state or educational institutions' responsibility to encourage regular attendance (as per the UNCRC) This lack of action allowed Tina Fontaine to become slowly disengaged from a system that could have acted as a protective factor in her life.

Importantly, the lack of digitalization and automation of attendance rates likely made early recognition of absenteeism difficult. A review of her Manitoba Cumulative Record reveals that:

- Attendance rates were gathered manually and on paper in an Attendance Summary sheet. The Attendance Summary sheet had significant errors, was incomplete, and often inaccurate. These errors overestimated Tina Fontaine's attendance.
- Attendance rates were measured and recorded differently across schools and divisions, making it very difficult to analyze attendance over time.
- There are no established minimums for attendance and no definitions of what constitutes problematic absenteeism.

Figure 1. Tina Fontaine’s Attendance Rates by Percentage of Total School Days (2004-2014)



School absenteeism is a key early warning sign that a student requires supports and presents a serious risk of future academic failure and dropout. As Table 1 shows, the pattern of absenteeism mirrors struggles in the life of Tina Fontaine and her family. Unfortunately, this trend was not immediately obvious to the school given the lack of digitalization and automation of school records. Although the school eventually responded in the form of a social work assessment – once Tina’s absenteeism and behaviour escalated – it was nearly two years after her attendance first began to falter. The lack of adequate measurement of attendance rates and lack of early responses presented a missed opportunity for early identification and intervention, allowing Tina Fontaine to fall through the cracks of the education system.

Tina Fontaine's case is not unique. During Circling Star's 11 years in school from Kindergarten to Grade 10, his average attendance rate was 86%; a rate which meets the definition of chronic absenteeism. There are no documented responses in his school file concerning his absenteeism. The only responses are disciplinary in nature. During the last two years of school, he was disciplined or suspended 6 times for being absent in school, which further increased his absenteeism rates (Manitoba Advocate for Children and Youth, 2018, p.99). Since April 2018, the Manitoba Advocate has intervened in five cases where severely chronic absenteeism was the primary concern.

What Manitoba Education and Training has Done

In June 2009, Manitoba Education (now Manitoba Education and Training) published *School Attendance in Manitoba Report* by Probe Research. Notably, this report was unable to provide a provincial attendance rates due to limitations on how information on attendance was collected. As a result, a number of recommendations were made to improve the tracking of enrollment and attendance. In response to this report, Manitoba Education developed *The Attendance Report Framework for Action* in 2012, which included the following objectives:

- (1) Improve the data collection on student attendance
- (2) Support school in the implementation of evidence-based practices that increase attendance, student engagement, and graduation rates
- (3) Increase awareness of parents, students, and the community on the importance of regular school attendance and graduation
- (4) Support schools as they work in partnership with parents, students, and the community to increase the use of school facilities and expand community-based programs

While there was a recognition that absenteeism is a social problem worthy of a response, there is no public information available on the implementation status of recommendations in this report.

Recommendation One

A recommendation to the Minister of Education and Training to improve the tracking of and responses to school attendance was made in *A Place Where it Feels Like Home: The Story of Tina Fontaine* (Manitoba Advocate for Children and Youth, 2019).

“The Manitoba Advocate for Children and Youth recommends that Manitoba Education and Training ensure its recently established Commission on Kindergarten to Grade 12 Education review the measurement of and response to absenteeism across Manitoba. It is further recommended that the Commission review the use of out of-school suspensions and expulsions, with the goal of

developing a province-wide strategy to limit, reduce, and phase-out exclusionary practices, except in situations of imminent safety risk to students and staff. This review and strategy should provide evidence-informed practices that are in line with the best interests of the child and respect the right to education for children and youth.

Details:

- The Commission to identify how school divisions can be resourced with the capacity to measure, assess, and respond to the underlying causes of school absenteeism. Building and sustaining relationships with students who are experiencing absenteeism and their families.
- Manitoba Education and Training continue efforts to improve student attendance by increasing public awareness of the right to education, identifying improvements to communication with parents and guardians around absenteeism, and to provide transparent information to the public about suspensions and expulsions” (Manitoba Advocate for Children and Youth, 2019, p.66).

The Manitoba Advocate has not received a response to this recommendation from Manitoba Education and Training. A response is expected by September 2019.

The Manitoba Advocate recommends that the Commission prioritize the development of a plan to address chronic absenteeism in Manitoba. This plan must be data-informed, strengthen data collection, and resource school divisions with the capacity to measure, identify, assess, and respond to school absenteeism. This plan must be guided by the UNCRC to ensure that the best interests of children are paramount and that actions respect the right to education for children and youth.

Theme 2: Suspensions and School Dropout Rates

The second theme observed in systemic special reports is the persistent relationship between suspensions and negative outcomes for children and youth. Out-of-school suspensions have a detrimental effect on academic achievement and school outcomes (Noltemeyer, Ward, & McLoughlin, 2015; Lcoe & Steinberg, 2018). Suspensions increase the risk that students will fail the curriculum and double the risk that students will repeat a grade (Hemphill et al., 2006; Fabelo et al., 2011). More suspensions are associated with worse achievement, even after controlling for differences between students (Hwang, 2018). Ultimately, suspensions are associated with an increased risk of dropping out of school; one study found that suspended

students are 68% more likely to drop out (Noltemeyer, Ward, & Mcloughlin, 2015; Suh, Suh & Houston, 2007).

The effects of suspensions extend beyond the classroom. Being suspended was found to increase the likelihood of criminal victimization, criminal involvement, and incarceration in adulthood (Wolf & Kupchik, 2016).

“Suspension is often the first step in a chain of events leading to short- and long-term consequences, including academic disengagement, academic failure, dropout, and delinquency.” (Skiba, Arredondo, & Rausch, 2014, p.2)

Researchers theorize that suspensions increase unsupervised time for students that are at high risk of further detrimental behaviour while simultaneously reducing access to supportive services (Valdebenito et al., 2018). There is some evidence to support this theory. A large study of adolescents found that being suspended from school increased the likelihood of arrest *in the same month that the suspension took place*; this effect is stronger for youth without a history of delinquent behaviours (Monahan, VanDerhei, Bechtold, & Cauffman, 2014, *emphasis added*).

Both Tina Fontaine and Circling Star were subject to multiple suspensions. Despite different life stories, the suspensions led both students to become disengaged from school and eventually to drop out of school. For Circling Star, suspensions were directly correlated with an introduction to the criminal justice system.

Tina Fontaine

- Tina Fontaine was suspended for being under the influence of cannabis while at school on April 16, 2014. The school states that this was the second offence. Details of the first offence were not documented in her Cumulative Student Record.
- There is no record of Tina Fontaine returning to school following the out-of-school suspension in April, 2014. During an interview, the principal was unable to recall the length of suspension and suggested that Tina may have stopped attending school at this time.

Circling Star

- During his first year of high-school, at the age of 14, he was disciplined 11 times and suspended for at least 20 days. Most incidents involved a single teacher.
- His first suspension was due to minor infractions listed as “disrespect and refusal to comply with the teacher.” That day, Circling Star set garbage cans by the community centre on fire. This fire engulfed the community centre, resulting in arson charges, a conviction, and probation conditions for Circling Star.
- In his second year of high-school, he was disciplined three times and suspended for at least 68 days.

- During his third year of high-school, he was suspended once at the beginning of school and never returned to school.

For Tina Fontaine and Circling Star suspensions were initially related to minor issues or behaviour indicative of an addiction, unaddressed trauma, and familial conflict. In both cases suspensions escalated problematic behaviour and pushed youth in need of supports away from services and adult supervision. The use of suspensions, given the overwhelming evidence of harm, is not in the best interest of the child and increases school dropout rates, which is inconsistent with Article 3 and Article 28 of the UNCRC.

What Manitoba Education and Training has Done

Manitoba Education and Training has recognized the limitations of exclusionary discipline. A quote on their website states: “Extensive research shows that excluding children from school for disciplinary problems is often ineffective, even counterproductive” (Dufresne, Hillman, Carson & Kramer, 2010 cited in Manitoba Education and Training). Manitoba Education and Training has listed on their website initiatives that show promise in addressing the issue:

- Manitoba Education and Training issued an overview and planning document *A Whole School Approach to Planning for Safety and Belonging* (2017) to assist school districts, boards, and school administrators to cultivate healthy school cultures, guided by Safe and Inclusive Schools legislation;
- Manitoba Education and Training issued its ministerial directive to the provincial education system in its *Safe and Caring Schools: Provincial Code of Conduct – Appropriate Interventions and Disciplinary Consequences* (2014, Revised September 2017); and
- The board of the Winnipeg School Division (WSD) reported in 2016 to CBC News that the WSD suspensions dropped by 40% over a period of six years due to the use of restorative justice approaches (CBC News, March 31, 2016).

While Manitoba Education and Training has acknowledged the negative impact of out-of-school suspensions, there is no province-wide strategy, central direction, or monitoring to guide evidence-informed decisions related to suspensions. At present, (1) there is no articulated commitment to reducing exclusionary discipline, (2) no quality assurance and evaluation mechanisms related to suspensions, and (3) there is little public accountability for the programs and initiatives that are being developed.

Recommendation Two

A recommendation was made in Circling Star's Report *Documenting the Decline* and later referenced in *A Place Where it feels like Home: The Story of Tina Fontaine* (Manitoba Advocate for Children and Youth, 2018a; Manitoba Advocate for Children and Youth, 2019). The Manitoba Advocate re-emphasizes this recommendation for consideration by the Commission.

“The Manitoba Advocate for Children and Youth recommends that the Department of Education and Training through Healthy Child Manitoba, and with participation from all school divisions, conduct an urgent review of the current use of out-of-school suspensions and expulsions, and develop a province-wide strategy to limit, reduce, and phase-out exclusionary practices, except in situations of imminent safety risk to students and staff. This review and strategy should provide evidence-informed disciplinary alternatives that are in line with the best interests of the child and respect the right of children and youth to education.

Details:

- The Department of Education and Training will develop quality assurance and information management processes to: (1) define “imminent safety risk to students and staff,” (2) assess the prevalence, duration, and nature of school suspensions and expulsions in Manitoba, (3) analyze and ensure compliance with standards and best practices, (4) provide school boards with the necessary information to develop strategies to reduce and end school suspensions and exclusionary practices, and evaluate initiatives. Changes should be data-informed and made considering the unique dynamics in Manitoba.
- The Department of Education and Training will implement province-wide and evidence-informed suspension and exclusion prevention policies and procedures for Manitoba schools. This is to then, in turn, inform: training for teachers, principals, and superintendents; mentorship programs, and; alternative approaches to suspension” (Manitoba Advocate for Children and Youth, 2018a, p.55).

The Manitoba Advocate received a response from the Manitoba Government on April 23, 2019. The response stated that:

“A school attendance task force is being established in April 2019. The deputy ministers of Education and Training and Justice will co-chair the task force will include superintendents of school divisions and community leaders [sic]. They will meet on a

monthly basis and address issues such as school suspensions, expulsions, and chronic absenteeism” (Manitoba Government, 2019).

The Manitoba Advocate applauds the Manitoba Government for recognizing the importance of addressing exclusionary discipline and for acknowledging the well-known pathway from suspensions to juvenile justice system involvement by including the Deputy Minister of Justice in the taskforce. The use of suspensions, however, continues to be an outstanding area of concern for the Manitoba Advocate. Indeed, even with action taken, (1) there is no articulated commitment to reducing exclusionary discipline by introducing evidence-based alternatives, (2) no mention on the development of quality assurance and evaluation mechanisms related to suspensions, and (3) there is little public accountability for the programs and initiatives that are being developed. The goals and role of the school attendance taskforce is unclear at this point.

The Manitoba Advocate recommends that the Commission on K-12 Education make a commitment to a data-informed strategy that limits, reduces, and phases-out exclusionary discipline in Manitoba schools and ensures that schools and teachers are provided with evidence-informed alternatives to these practices. This strategy should be subject to strong accountability structures such as public benchmarks and public reporting on suspension rates.

Additional Recommendations

Since its inception, the Manitoba Advocate has been asked to intervene in situations involving provincial education in cases of children involved with the child welfare system. Effective March 2018, educational services in Manitoba entered the scope of responsibility for the Manitoba Advocate, independent of child welfare involvement. Since then, the Manitoba Advocate receives an average of approximately three requests a week from educators regarding the well-being of children in school. The cases highlight service gaps and barriers to the fulfillment of Article 28 of the UNCRC, the right of children to education.

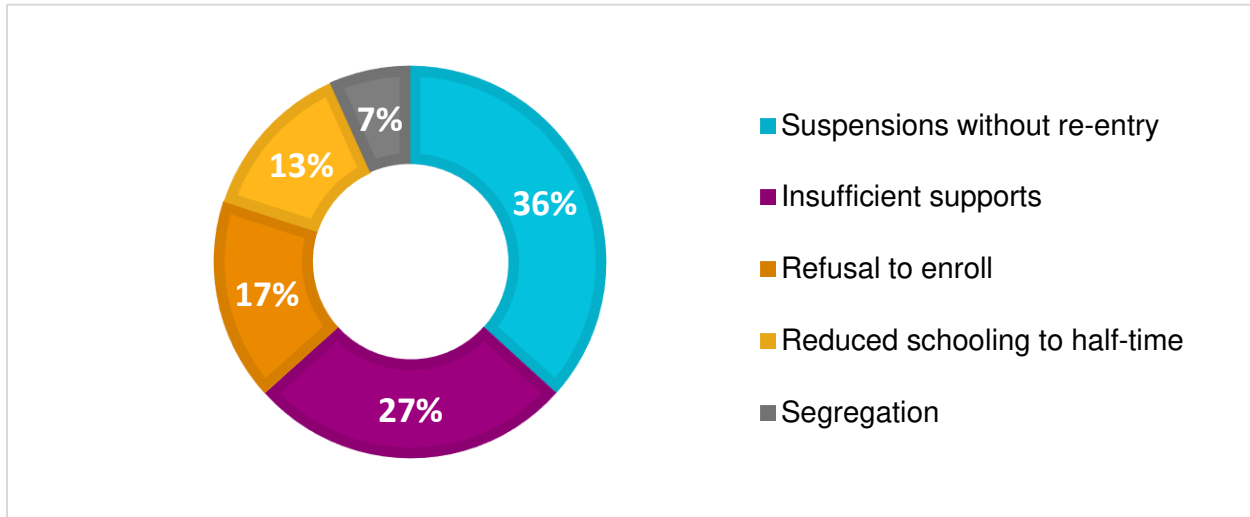
Theme 3: Education access for children with disabilities and behaviour concerns

Of the 44 cases¹ opened between March 2018 and June 2019 where education was deemed a primary concern, 30 cases involve children with disabilities and/or mental health issues whose behaviour, often violent and aggressive, triggered the school system to deny access to

¹ There were a total of 49 cases opened between March 2018 and June 2019 with education as a primary concern. However, 5 cases were excluded from analysis because complaints were either unrelated to educational services, out of the scope of the K-12 review, or unsubstantiated.

education, either in part or in full (68% of all education open cases). Actions by the school in order of frequency include: suspensions without re-entry plans (37%), denial of access to resources needed for participation in educational programming (27%), denial of access to enrollment (17%), reduction of educational access to half-time or less (13%), or use of segregated 'calming rooms' in two cases (7%).

Figure 2. Types of Denials to Access to Kindergarten to Grade 12 Education (2018-2019)



Of these cases, the most common response to behaviour concerns by the school were suspensions without foreseeable re-entry (37%), of which: four students had no re-entry plans, four students were refused re-entry to school, and for three students, the school made re-entry conditional on additional supports.

Case Example 1

A child in care exhibited violent behaviors and needed redirection and supervision. Following a suspension for being in school under the influence of cannabis, the school did not allow the child to return to school. Additional supervision was arranged through a systems meeting facilitated by the Manitoba Advocate. The child returned to school with additional resources.

The second most common response was a denial of access due to lack of necessary resources, including Educational Assistants or Individual Education Plans. The most common reason given by schools was a lack of funding (26%).

Case Example 2

Child had FASD, global developmentally delays, and ADHD, which translates to impulsive behaviour requiring constant supervision. The child had a full-time EA the previous year, but the guardian was told that they will have to share an EA with at least six other students in the school. The school requested funding for additional EAs but was denied by the school board. After advocacy, an EA was provided full-time.

The third most common response, seen in five cases, involved situations where students were simply not allowed to enroll due to past behaviour (17%). In one case, a child was denied enrollment from every school in the community following a violent incident. In another case, the child was allowed to enroll following advocacy which ensured additional resources for the school.

The final response to children with behavioural concerns was a reduction of school access to half-time or less (15%). Concerns were received that children were not obtaining the important education and socialization from school due to their disability and/or behaviour challenges.

Case Example 3

Six year old child with delayed speech and behavioural issues had their school days shortened to half-days due to attendance issues, tardiness, and needing more one-on-one supports in school. The source of referral was concerned that half-days prevented the child from an opportunity to play, connect with peers, and be exposed to language.

Schools in Manitoba face significant challenges when providing educational supports to children who have difficult behaviours rooted in childhood trauma, cognitive disabilities, mental health issues, and addictions. Some children pose safety concerns for their peers and educational staff. Schools sometimes respond by denying or reducing access to education to the child.

This is indicative of a need for all schools to be better resourced to respond to the needs of children with underlying issues that affect their behaviour so as to ensure that all children have access to education and that this access is not conditional on their behaviour, disability, or mental health status, as per Article 28 and Article 2 of the UNCRC.

The Manitoba Advocate acknowledges that many schools, principals, and teachers are working to provide the best care and education for their students. In Case Example 4, the commitment of a single school to provide Angel with the opportunities and successes to which she was entitled, presents an example worthy of recognition and replication.

Case Example 4

In *In Need of Protection: Angel's Story*, the Manitoba Advocate acknowledged the excellent work of one middle school (Manitoba Advocate for Children and Youth, 2018b). From a young age Angel missed school and struggled academically and socially at school. When Angel arrived at middle school, however, the staff quickly identified that she required immediate, ongoing, and continual support. Committed to helping Angel reach her individual learning potential, a school team was formed, assessments were completed, and appropriate and achievable Individualized Educational Plans were developed. The staff also recognized Angel's gifts and abilities, and identified her as a natural athlete, a gifted artist, and a writer. They respected Angel's diverse background, recognized her individual abilities and needs, and worked hard to create a sense of belonging for Angel within the school. Recognizing that Angel required treatment that went beyond the scope of the school support system, staff advocated numerous times for Angel to get the services that she needed. The care that she received while at this middle school has been described as the best service she received from this province in her life.

Recommendation Three

The Manitoba Advocate recommends that the Commission actively seek the expertise and advice of teachers on best practices already in place in our province in order to ensure that no child in Manitoba, regardless of disability, mental health status, or behaviour is denied the right to an education, as per Article 2 and Article 28 of the UNCRC.

Theme 4: Barriers to school enrollment

Fifteen percent of education calls received are concerns in regards barriers to school enrollment. While barriers to school enrollment affect all children, 67% of the calls received concerned children in care. These barriers fall into two categories: (1) delays in enrollment due to lack of certainty over legal guardianship, and (2) prevented enrollment due to changes in placements and residence 'out of catchment area'. Disruptions in enrollment result in the child missing school, inconsistent with Article 28 of the UNCRC.

Case Example 5

A child was in the care of their grandmother under a private arrangement for their whole life. The birth parent, the child's legal guardian, was unwilling to complete paperwork for

school registration. This meant that the child was unable to register for school. Despite the family having no contact with child welfare, a letter had to be sought from a child welfare agency to confirm the private arrangement and register the child in school. While awaiting for the appropriate paperwork, the child missed over a month of school.

In two cases, the children were taken into care; however, the school refused to enroll the students until legal guardianship was determined. In five cases, re-location either within the province or outside the province led to refusal of enrollment due to the child being 'out of catchment area'.

Case Example 6

A child in care had a placement breakdown which required re-location in the middle of the school year. The school indicated that the child resided out of the catchment area and must be transferred immediately. Because the child was undergoing multiple transitions and was doing well in the school, this was not deemed to be in the best interest of the child. With advocacy support, a plan was developed to keep the child in the same school until the end of the year.

Administrative barriers to enrollment at times present an obstacle to the fulfillment of Article 28 of the UNCRC. In particular, barriers to enrollment due to the child being out of catchment area often concern Article 3 of the UNCRC, which states that decisions must be made in the best interest of the child.

Enrollment Protocols and Regulations in Manitoba

(1) Delays in enrollment due to administrative requirements

Both children in care and not in care experience significant delays in accessing education due to administrative requirements in enrollment, including confirmation of legal guardianship.

Manitoba Regulation 155/05 (*Appropriate Education Programming*) states:

Educational programming not to be unduly delayed

7(1) A school board must ensure that a pupil is not denied educational programming in the following circumstances:

- (a) for more than 14 days after the pupil seeks to be enrolled in a school within the division or district, regardless of whether that school has received the pupil's pupil file
- (b) pending (i) the conduct of any assessment, or (ii) the preparation of an individual education plan for the pupil.

According to senior officials in the Department of Education, the purpose of this legislation is to ensure that schools share a pupil's file in a timely manner. This section does not encompass all other possible administrative delays to education such as confirmation of legal guardianship.

(2) Prevented enrollment due to changes in residence

In May 2013, the Healthy Child Committee of Cabinet published the *Education and Child and Family Services Protocol for Children and Youth in Care* (the Protocol). The Protocol outlines principles, including the best interest of the child, which detail the child's sense of continuity and need for permanency with the least possible disruption. It specifically states that "whenever possible, continuity of school placement is a priority" (Healthy Child Committee of Cabinet, 2013, p.9).

This principle is consistent with Articles 3 and 28 of the UNCRC. Despite the guidance of the Protocol, the Manitoba Advocate continues to see examples of delays of services and access to education for children in care. Further, the Protocol does not address delays in enrollment due to administrative requirements for children in care, such as legal guardianship determinations.

Recommendation Four and Five

The Manitoba Advocate holds that all children's right to education and best interests, such as continuity of school placement, should be prioritized over any administrative conditions surrounding enrollment or registration, in support of Articles 3 and 28 of the UNCRC. Children should be able to begin school while administrative conditions are being arranged as continuity of education is in their best interest.

The Manitoba Advocate recommends that the Commission on K-12 Education consider recommending *The Public Schools Act* and relevant regulations be amended to provide explicit direction ensuring that education is not unduly delayed due to any administrative requirements of enrollment, such as determinations of legal guardianship, residency status, etc.

The Manitoba Advocate furthers recommends that the Commission on K-12 Education consider recommending *The Public Schools Act* and relevant regulations be amended to ensure that continuity of education is prioritized over catchment area determinations for all children, including children in care and, in the meantime, that the Protocol be better promoted among school administrators.

Theme 5: Youth consultation

The Manitoba Advocate appreciates the Commission's focus on public consultation and the varied tools used to include the voice of Manitoba's citizens. The types of consultation strategies currently in place, however, do not lend themselves well to ensuring that the voices of children and youth are heard, particularly vulnerable children and youth.

According to Article 12 of the UNCRC, children who are capable of forming their own views have the right to express those views in all matters affecting them. Children shall be provided with the opportunity to be heard in any administrative proceedings affecting them.

Recommendation Six

Given that the recommendations from the review of Kindergarten to Grade 12 will profoundly impact the lives and prospects of children and youth in Manitoba, and that children in Manitoba are the population most affected by findings and recommendations from this review,

The Manitoba Advocate recommends that the Commission on Kindergarten to Grade 12 Education ensures that young Manitobans be provided with opportunities to be heard by designing specific outreach strategies for children and youth across the province and by considering their voices and perspectives when developing recommendations.

In support of this recommendation, the Manitoba Advocate offers its expertise to organize and facilitate focus groups for senior members of the Commission to hear directly from children and youth in Manitoba.

Conclusion

As Manitoba Education and Training works towards improving the education of children in our province, the Manitoba Advocate offers the following recommendations to the Commission in the interest of protecting and advancing the rights of young Manitobans:

1. That the Commission ensure that Manitoba Education and Training develop a plan to reduce chronic absenteeism by improving measurement, assessment, and early responses to school absenteeism²

² Summary of Recommendation 1 found on p.7 based on findings from *A Place Where it Feels Like Home: the Story of Tina Fontaine*.

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2. That the Commission ensure that Manitoba Education and Training review the use of out-of-school suspensions and develop a strategy to reduce and phase-out exclusionary practices³
3. That the Commission seek the advice and expertise of teachers to promote system-wide best practices to work with children who exhibit violent and challenging behaviours in schools with the purpose of ensuring that no child in Manitoba, regardless of disability, mental health status, or behaviour is denied the right to an education, as per Article 2 and Article 28 of the UNCRC⁴
4. That the Commission recommend that *The Public Schools Act* and relevant regulations are amended to explicitly provide direction ensuring that education is not unduly delayed due to any administrative requirements of enrollment⁵
5. That the Commission ensure that *The Public Schools Act* and relevant regulations be amended to ensure that continuity of education is prioritized over catchment area determinations for all children, including children in care and, in the meantime, that the Protocol be better promoted among school administrators⁶
6. That the Commission develop a meaningful consultation strategy to ensure the voices of children and youth in Manitoba are considered as part of their review of Kindergarten to Grade 12 Education⁷

These recommendations are made in support of the review of Kindergarten to Grade 12 Education, based on the UNCRC, and in the spirit of collaboration with the Minister of Education and Training. The Manitoba Advocate believes that the recommendations provided respond to the following areas of focus for the Commission:

- How to achieve excellence in student outcomes
- Equipping teachers and school leaders with the tools they need to be successful
- Introducing stronger accountability structures to ensure students are succeeding

Respectfully submitted,

[Signature]

Daphne Penrose, MSW, RSW

³ Summary of Recommendation 2 in *Documenting the Decline, the Dangerous Space between Good Intentions and Meaningful Interventions*]

⁴ Full recommendation found on p.14

⁵ Full recommendation found on p.16

⁶ Full recommendation found on p.16

⁷ Full recommendation found on p.17

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Manitoba Advocate

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References

- Attwood, G., & Croll, P. (2006). Truancy in secondary school pupils: prevalence, trajectories and pupil perspectives. *Research papers in education, 21*(4), 467-484.
- Balfanz, R., & Byrnes, V. (2018). Using data and the human touch: Evaluating the NYC inter-agency campaign to reduce chronic absenteeism. *Journal of Education for Students Placed at Risk (JESPAR), 23*(1-2), 107-121.
- Cabus, S. J., & De Witte, K. (2015). The effectiveness of active school attendance interventions to tackle dropout in secondary schools: a Dutch pilot case. *Empirical Economics, 49*(1), 65-80.
- Carroll, H. C. M. (2010). The effect of pupil absenteeism on literacy and numeracy in the primary school. *School Psychology International, 31*(2), 115-130.
- No author. (2016, March 31). Winnipeg School Division suspensions drop 40% in 6 years. *CBC News*. Retrieved from <https://www.cbc.ca/news/canada/manitoba/winnipeg-school-division-suspensions-drop-1.3513982>
- Christle, C. A., Jolivette, K., & Nelson, C. M. (2007). School characteristics related to high school dropout rates. *Remedial and Special education, 28*(6), 325-339.
- Dube, S. R., & Orpinas, P. (2009). Understanding excessive school absenteeism as school refusal behaviour. *Children & Schools, 31*(2), 87-95.
- Fabelo, T., Thompson, M. D., Plotkin, M., Carmichael, D., Marchbanks, M. P., & Booth, E. A. (2011). Breaking schools' rules: A statewide study of how school discipline relates to students' success and juvenile justice involvement. *New York: Council of State Governments Justice Center*.
- Government of Manitoba (2012) The attendance report framework for action. Retrieved from: <https://www.edu.gov.mb.ca/k12/attendance/framework.pdf>
- The Advocate for Children and Youth Act. (S.M 2017, c.8) Retrieved from <http://web2.gov.mb.ca/laws/statutes/2017/pdf/c00817.pdf>
- The Public Schools Act. (1987, C.C.S.M. c.P250). Retrieved from <https://web2.gov.mb.ca/laws/statutes/ccsm/p250e.php>
- Hemphill, S. A., Toumbourou, J. W., Herrenkohl, T. I., McMorris, B. J., & Catalano, R. F. (2006). The effect of school suspensions and arrests on subsequent adolescent antisocial behavior in Australia and the United States. *Journal of Adolescent Health, 39*(5), 736-744.
- Hwang, N. (2018). Suspensions and achievement: varying links by type, frequency, and subgroup. *Educational Researcher, 10*(10), 1-12.
- Manitoba Advocate for Children and Youth. (2018a). *Documenting the decline: the dangerous space between good*

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- intentions and meaningful interventions*. Retrieved from <https://manitobaadvocate.ca/wp-content/uploads/Final-Circling-Star-2018.pdf>
- Manitoba Advocate for Children and Youth. (2018b). *In Need of Protection: Angel's Story*. Retrieved from <https://manitobaadvocate.ca/wp-content/uploads/In-Need-Of-Protection-Angels-Story-Dec-2018.pdf>
- Manitoba Advocate for Children and Youth. (2019). *A place where it feels like home: the story of Tina Fontaine*. Retrieved from <https://manitobaadvocate.ca/wp-content/uploads/MACY-Special-Report-March-2019-Tina-Fontaine-FINAL1.pdf>
- Manitoba Education and Training. (2017). *Safe and caring schools, provincial code of conduct, appropriate interventions and disciplinary consequences*. Retrieved from https://www.edu.gov.mb.ca/k12/safe_schools/pdf/code_conduct.pdf
- Manitoba Education and Training. (2018, June 18). School Attendance. [web page]. Retrieved from https://www.edu.gov.mb.ca/k12/attendance/educators_info.html
- Manitoba Education and Training. (2017). *A Whole School Approach to Planning for Safety and Belonging*. Retrieved from https://www.edu.gov.mb.ca/k12/docs/support/whole_school/document.pdf
- Manitoba Government. (2019). *Deputy Ministers' Manitoba Advocate for Children and Youth Recommendations Action Planning (MACY-RAP) Committee Report, Circling Star- April 23, 2019*. Retrieved from https://gov.mb.ca/asset_library/en/proactive/macy_report_april2019.pdf
- Maynard, B. R., McCrea, K. T., Pigott, T. D., & Kelly, M. S. (2013). Indicated truancy interventions for chronic truant students: A Campbell systematic review. *Research on Social Work Practice, 23*(1), 5-21.
- Monahan, K. C., VanDerhei, S., Bechtold, J., & Cauffman, E. (2014). From the school yard to the squad car: school discipline, truancy, and arrest. *Journal of Youth and Adolescence, 43*(7), 1110-1122. doi: <http://dx.doi.org/10.1007/s10964-014-0103-1>
- Noltmeyer, A. L., Ward, R. M., & Mcloughlin, C. (2015). Relationship between school suspension and student outcomes: A meta-analysis. *School Psychology Review, 44*(2), 224-240.
- Probe Research. (2009). *School attendance in Manitoba*. Retrieved from https://www.edu.gov.mb.ca/k12/docs/reports/attendance/school_attendance_final.pdf
- Rafa, A. (2017). Chronic Absenteeism: A Key Indicator of Student Success. Policy Analysis. *Education Commission of the States*.
- Skiba, R. J., Arredondo, M. I., & Rausch, M. K. (2014). New and developing research on disparities in discipline. Bloomington, IN: The Equity Project at Indiana University.
- Steinberg, M. P., & Lacoë, J. (2018). Reforming school discipline: school-level policy implementation and the

Submission to the Manitoba Commission on Kindergarten to Grade 12 Education

consequences for suspended students and their peers. *American Journal of Education*, 125(1), 29-77.

Suh, S., Suh, J., & Houston, I. (2007). Predictors of categorical at-risk high school dropouts. *Journal of Counseling & Development*, 85(2), 196-203.

Unicef. (1989). Convention on the Rights of the Child.

Valdebenito, S., Eisner, M., Farrington, D., Ttofi, M., & Sutherland, A. (2015). School-based interventions for reducing disciplinary school exclusion: a systematic review. *Campbell Systematic Reviews*, 14(1).

Wolf, K. C., & Kupchik, A. (2017). School suspensions and adverse experiences in adulthood. *Justice Quarterly*, 34(3), 407-430.