

statutes refer to a general right for children to receive an education, but the power is vested in the school board to decide where to place children.

There is one notable exception to this general rule. Arguably the most progressive education legislative provisions to advance the interests of children with a disability are found in the *Schools Act* in New Brunswick. After defining exceptionalities in terms of behavioural, communication, intellectual, physical, perceptual, or multiple, the *Act* directs that a school board:

*shall place exceptional pupils such that they receive special education programs in circumstances where exceptional pupils can participate with pupils who are not exceptional pupils within regular classroom settings to the extent that is considered practicable by the school board having due regard for the educational needs of all pupils.*

Despite these amendments, children continued to be segregated in New Brunswick, particularly in francophone school districts. The Robichaud family of New Brunswick objected to the segregation of their teenage daughter in a special class for children with disabilities. The parents removed Nathalie from the segregated setting and were keeping her at home. They began proceedings by applying for a mandatory injunction which would require the school board to place Nathalie in a regular high school classroom. The court which heard their application interpreted the education legislation as specifically providing each child, regardless of disability, with the right to be educated in a regular classroom alongside his or her non-disabled peers. The court accepted the argument of the parents that the *Schools Act* was consistent with the equality requirement in the *Charter*.

The family argued and the court held that the *Act* was constitutional and enforceable in Nathalie's favour because it