

Submission
No 154

INQUIRY INTO HOME SCHOOLING

Name: Name suppressed

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Partially Confidential

Confidential Submission
to
NSW Legislative Council Select Committee Inquiry into
Home Schooling

Prepared by

8 August 2014

1. Background

This submission is made to the NSW Legislative Council Select Committee Inquiry into Home Schooling in response to your 5 June 2014 call for submissions.

This submission will focus on why some parents in NSW form the view that they have no choice but to home school their child - especially in the case of children with disability.

I am _____ of **GLD Australia**, a national online learning community and support group responding to the needs of gifted children and gifted adults with specific learning disability and other learning challenges ('**GLD**'), and the needs of those who care for, teach and advocate for them, through the sharing of information, research and personal experiences.

GLD Australia is a not-for-profit independent community with a member-owned and member-operated Yahoo Group list. It is affiliated with the Australian Association for the Education of the Gifted and Talented ('**AAEGT**'): <http://www.aegt.net.au>, which is the Australian national umbrella association for State and Territory gifted associations.

GLD Australia has no political or commercial affiliations. It has no income, no membership fees, no property, no employees and no premises. It sells nothing, is run entirely by non-paid volunteers, and is not an incorporated association.

Accordingly I make this submission in my personal capacity, and not on behalf of GLD Australia.

I have never home schooled my own children, and as a general rule do not recommend home schooling to others, though I am sympathetic to parents whose children's school experiences prompt them to make this choice. I believe that the factors which motivate some parents to decide to remove their children from school could be, and should be, addressed from within the school system in all three educational sectors in NSW.

I am a parent advocate but I do not run a business. All my work in this area is done as a volunteer and all my speaking fees are donated to voluntary associations.

Despite my extensive work in this area, I am not a psychologist, a disabilities expert or an educator. I am in fact a lawyer. My knowledge in the GLD field stems from my advocacy over approximately 12 years, initially with respect to my own GLD children and then more recently with respect to others' GLD children.

In the course of my volunteer work for a variety of gifted and learning disabilities associations and groups, I have over the last decade spoken to, and communicated via email with, literally hundreds of parents whose gifted children with disability are not having their needs met at school.

I include the biographical information above to explain the genesis of my familiarity with this population – not as an assertion that my views reflect those of any of the voluntary associations with whom I work, or that I in any way have authority to speak on their behalf.

The children of the parents who contact GLD Australia are generally extremely behaviourally compliant. As non-squeaky wheels, they attract little attention – **until they begin to fail at school**. Often this occurs in late primary or early secondary school when academic work demands more hours of sustained effort, and when students are presented with ever increasing organisational and time management challenges.

Overwhelmingly in my experience, parents begin to consider home schooling for their children once a disability is diagnosed and documented, but a school summarily refuses to implement professionally recommended disability adjustments to address it.

Such a refusal is arguably in contravention of the federal *Disability Discrimination Act 1992* ('**Legislation**') and the *Disability Standards for Education 2005* ('**Standards**') which is the subordinate legislation operating under it.

Because the Legislation and the Standards are so generally misunderstood and unenforced by educators, I spend a great deal of my time interceding with schools on behalf of parents of GLD children, and ghost-writing emails for parents to send to schools in response to the rejections which parents regularly receive when they apply for their GLD children to receive disability adjustments for classroom activities and for tests and exams.

I find myself day after day making the same points and providing the same explanations – different school, different child, but same arguments.

The vast majority of parents for whom I advocate present with fact situations which in my view could justify filing a complaint under the Legislation – indeed I have seen many less worthy cases proceed to conciliation and eventually succeed.

Yet I am usually reluctant to advise that parents take that action as it is both stressful for the parents, and time-consuming and thus costly for the employees of the Human Rights Commission ('HRC'), for the staff of schools and of the State testing authorities, and for the solicitors and barristers who end up acting for both sides.

For some families, it is just easier to simply take the child out of school altogether.

2. Chief concerns of the parents of GLD children

2.1 Schools and teachers rarely know enough (or anything at all...) about the Legislation or the Standards

With very few exceptions, both primary and secondary schools allege to parents, and to me as the parent's advocate, that they have never heard of the Legislation or the Standards. When the Legislation (or its various state counterparts) is brought to the school's attention (eg, parent takes in something printed off the internet), the school's response is invariably, "Oh no, we don't bother with that here. We are too small or big or busy or crowded or rural or inner-city or poor or understaffed, etc. etc....."

Very few schools seem to understand their obligations under the Legislation and the Standards to make reasonable adjustments for students with disability so that students with disability can access and participate in their education on the same basis as students without disability.

Similarly, few schools seem to understand that the provisions of the Legislation and Standards are enforceable and provide certain **entitlements** to the child – they are **law**, not mere policy, and thus cannot be ignored or explained away.

In the face of a request for disability adjustments, the vast majority of teachers:

- dispute professionals' documented diagnoses of disability, without reference to legislative definitions of 'disability'
- don't understand the difference between 'disability' as defined for purposes of public **funding**, and 'disability' as defined for purposes of disability discrimination legislation and disability adjustments
- cannot imagine what a classroom disability adjustment would even look like

Further, many schools seem to still regard disability adjustments as conferring some kind of 'advantage' on the child with disability. They do not understand that equity does not mean always treating all children exactly the same, but rather treating each child according to what that child needs.

2.2 Schools and teachers rarely know enough (or anything at all...) about the possibility that a child can BOTH be gifted AND have a learning disability

The vast majority of school personnel do not generally understand that all gifted children can, and some do, suffer from any one or more of the disabilities, disorders, dysfunctions, deficits, deficiencies, difficulties, disadvantages, detriments, impairments, impediments and ailments which may befall non-gifted children – except of course intellectual impairment.

A high IQ is protective against nothing but a low one.

Similarly, approximately 10% of students diagnosed with learning disabilities or other special needs may be assumed to be gifted (albeit as yet unidentified as gifted). Overseas researchers assert that somewhere between 9 and 16 per cent of gifted children are struggling with a (sometimes undetected) disability.

Giftedness does not preclude disability – and vice-versa.

The fact that a child may be enrolled in a selective school or a selective class or a 'gifted program', or the fact that a child may have previously been accelerated, in no way implies that the child could not also have a disability or will not need disability adjustments.

The fact that a child may BOTH be gifted AND have a learning disability is expressly acknowledged by the Australian Curriculum Assessment and Reporting Authority ('ACARA'):

<http://www.australiancurriculum.edu.au/StudentDiversity/Who-are-students-with-disability> and

<http://www.australiancurriculum.edu.au/StudentDiversity/Gifted-and-talented-students> and

<http://www.australiancurriculum.edu.au/StudentDiversity/Who-are-gifted-and-talented-students>

2.3 When parents request disability adjustments for GLD children

When a parent submits to a school a report from a specialist or professional (eg paediatrician, occupational therapist, speech and language pathologist, optometrist, Irlen screener, audiologist, psychologist, medical practitioner, etc) containing a diagnosis of a child's learning disability, medical condition or other disorder, and a list of recommendations for

disability adjustments and interventions to support the child in the classroom and/or during tests and exams, teachers and principals invariably unilaterally overrule the professionals' recommendations on a variety of far-fetched and patently specious and irrelevant grounds, for example:

- *You can't have this disability adjustment for your child because I have plenty of other students who are doing worse and they haven't applied for it [in other words, I expect you to feel better about not getting your child's needs met at school, now you know I am not meeting other students' needs either]*
- *You can't have this disability adjustment for your son because I myself have a child with special needs and they are more impaired than your son, but they don't have this adjustment and I have not asked for it. I don't ask my child's teachers to do for my child what you are asking me to do for yours [in other words, I expect you to stop being an effective advocate for your child because I myself have been an ineffective advocate for mine]*
- *The school cannot understand the professionals' reports recommending the disability adjustment and does not know the meaning of some of the words in the reports, so we won't implement the recommendations*
- *The school will not accept the professional's report because the author is a paediatrician or a language pathologist or a psychologist or an occupational therapist, and the author has no teaching qualifications and only teachers understand what children need in the classroom*
- *Disability adjustments simply amount to 'cheating' and it is not in the interests of a child's moral development if they witness their parents encouraging cheating*
- *Your child is already clever and is not failing at school and would probably 'pass' the test even without the adjustments*
- *Your child doesn't need these disability adjustments – he'd soon start to get better marks if you punished him for bringing home bad ones*
- *As a teacher I need to be concerned about **all** my students, not just your child – providing your child with what they need to succeed at school might take my attention away from some of my other students*
- *Allowing the recommended disability adjustments would send the message to your child that they are entitled to 'special treatment' but when they grow up, they won't be getting any 'special treatment' from the telephone company or the tax office*

- *Our school has a policy of not 'labelling' children so we can't accept the diagnoses made by this professional in this report*
- *Allowing the recommended disability adjustments would damage your child's self-esteem by sending the message that there is something 'wrong' with the child. Just as a child who has poor eye sight must come to terms with the need to wear glasses, so a child with a learning disorder must come to terms with the fact that they are just not very bright*
- *If we allow your child to have these disability adjustments he'll be the only student in the school having them and that may cause him stress, as children don't like to be seen to be 'different' [cf. on NSW DEC statistics, 12% of students have disability and/or difficulties in learning, so why in a school of 430 students is this child the only one to have had disability adjustments recommended by a professional?]*
- *The issue diagnosed by the professional was a mere learning 'difficulty' and not a 'real' disability, and accordingly your child is not entitled to the protection of the Legislation*
- *Our school has a policy of not accepting reports from language pathologists so if you want these disability adjustments you'll need to get all the tests re-done by a psychologist*
- *Your child with dysgraphia cannot have access to the recommended laptop in class because another child might trip on the cord, or because 'then everyone would want one', or because the parents of other children might complain since your child is not failing, and the adjustment might be seen as an advantage over other children and hence unfair*
- *Our school has a policy of offering only 5 minutes' extra time per hour and this professional has recommended 15 – so we'll give 5 but not 15 [cf will 5 minutes actually address a child's disability in any meaningful way?]*
- *Yes your child qualifies for separate supervision but we have only one suitable room for that and an intellectually impaired child needs it more*
- *We don't give slow runners and slow swimmers a head start in the Olympics, so why should we give slow thinkers and slow writers extra time and a word processor in school exams*
- *Your child cannot have the recommended disability adjustments because the department of education rang the school and spoke to the school counsellor/guidance officer who said they had never met or heard of the child and therefore the child could not have a*

disability because all children with disability have bad behaviour and are thus always well known to the school counsellor/guidance officer

- *Your child is lazy and you are just making excuses for them. Your child is clearly very bright, and should be able to get by without the disability adjustment which you are requesting and which this professional is recommending. I'm sure he could write faster if he really 'wanted to'*
- *Schools are designed for mainstream needs and cannot cater for children who are either gifted or have learning disabilities (let alone both together)*
- *Disability adjustments are only for low IQ children or for children who are failing or have visible physical disabilities – your child is not failing, and the fact that he is striving to do better, in spite of his disability, is irrelevant*
- *Your child is too smart to have a disability but not smart enough to do better in school – as parents you must lower your expectations for him as he will never be able to live up to them. Face it, your child is just average and there is nothing wrong with average*
- *IQ tests don't mean anything – believe me, I can tell a bright child just by looking, and your child isn't one*
- *We don't have to implement the recommendations in this professional's report because we don't agree with them – after all, who is paying the writer's fees? Some professionals will write anything in reports just to get paid and keep their clients happy*
- *You are an over-protective, pushy, unduly ambitious parent, and by bringing in this so-called evidence of a disability, you are attempting to gain an advantage for your child. Face it – despite all your IQ tests and disability reports, there is nothing wrong with your child – they do not have a disability - they are simply not very bright*
- *Your child may have an IQ in 99th percentile and a processing speed in 35th percentile, but 35th percentile still qualifies as 'average' and so it does not qualify as a 'disability' and accordingly we don't have to do anything about it. At most it's a 'difficulty' or a 'difference' but not a disability*
- *Your child could not have ADHD – he just needs to learn to concentrate more.....*
- *Oh no, there is no appeal for NAPLAN disability adjustments – it's either yes or no and that's that*

-the Disabilities **Act** (sic) **asks** (sic) us to... [ie, the principal who wrote this was purporting to use the Legislation to justify why the child would **not** be receiving disability adjustments, but did not know the correct name of the Legislation and did not understand that legislation does not 'ask' schools to do anything – it **tells**]
- Your child had disability adjustments last year but now her grades are starting to improve so we're not going to let her have them anymore [in other words, the adjustments are obviously working, so let's withdraw them]
- Your son was accelerated from Year 5 to Year 7 and so is in the unusual position of writing NAPLAN two years in a row. We accept that he had disability adjustments for NAPLAN last year in Year 5, but if he is smart enough to be accelerated, then he couldn't have a disability and your professionals' disability reports must be wrong, and so your son cannot have disability adjustments this year in Year 7. By applying for them, you are attempting to obtain an unfair advantage for him
- Disability adjustments are allowed only for certain disabilities – ADHD is not one of them [NB: obvious confusion between heretofore 'funded' disabilities and 'unfunded' ones]
- Before your child can continue to have disability adjustments, we will require updated professionals' reports so that we can be sure that your child's ADHD, dyslexia, etc has not 'gone away' or 'cleared up'
- I am the Principal here and I can pick and choose who in my school gets disability adjustments and who doesn't and which kinds of adjustments I'll grant and there is no appeal from my decision
- I'm sure you wouldn't want us to do anything special for your gifted child when there are so many who are doing worse. How can you justify asking our teacher aide to take time away from a Down Syndrome child to offer your gifted child these disability adjustments?
- No your child cannot have an alternative means of assessment, whether the subject being assessed is English composition or whether it is something else such as science. All assignments for every subject must be done in handwriting, and there is no possibility of other avenues such as PowerPoint or oral assessment/speeches. Anyway, offering alternative means of assessment would make it too hard for me to compare the marks from student to student, and I have to be able to rank them. Presenting a PowerPoint instead of a handwritten essay might advantage your child

- *Your child is only little and doesn't need disability adjustments until they are in high school [However in fact, disability adjustments are available for NAPLAN, ICAS, selective schools entrance tests and scholarship tests, all of whose results may be and regularly are used to make critical decisions regarding the child's whole future. In addition, it is wise to have unambiguous precedents extending as far back as possible, because any disability first documented in late high school for purposes of Year 12 disability adjustments may be regarded with suspicion as the attempt of an overly ambitious parent to fabricate a disability and thus to secure an 'advantage' for an underachieving child.]*
- *Your child must simply learn to handwrite as there will be no possibility of a laptop or scribe or extra time for the Year 12 HSC exams later on. [This response ignores the importance of setting a longstanding precedent for disability adjustments (see point above) and overlooks the fact that individual schools have their own obligations to children with disability under the Legislation and the Standards, independently of the State testing authorities. Each school principal is the ultimate decision maker for in-class adjustments and for test adjustments for all non-State assessments up to and including the Year 12 State exam trials. Disability adjustments will allow the child to proceed through school better able to show what they have learned and what they can do, and accordingly with a higher sense of academic self-concept and self-efficacy. Withholding adjustments for 12 whole years for fear that that they may not be granted at the end of the 12th year is unjustifiable.]*

The above examples constitute attempts by schools to refuse disability adjustments on the grounds that the adjustments are not 'reasonable' (or sometimes seemingly on the grounds that the schools simply can't be bothered). They reflect the fact that some school personnel are unfamiliar with the Legislation and Standards and that their decisions are based capriciously on personal beliefs and prejudices.

Some parents accept such excuses and do nothing. Some don't, and instead decide to pursue the matter at length with the principal or other senior educational administrators etc and, if still unsuccessful at having their child's needs met, some parents go on to lodge an appeal with a testing authority or file a complaint with the HRC.

In all the cases in which I've helped parents in the last few years with such an appeal or complaint (in my capacity as support person, not lawyer), the school has always eventually had to reverse its decision as to whether a proposed adjustment is reasonable – either immediately after the parent appeals or complains, or at or after a HRC conciliation conference.

Even when a case is not resolved at the HRC conciliation conference, negotiations between the parents and the school continue, and in each case the school finally agrees to implement the previously denied disability adjustments. So ultimately the parents do 'win' - but at what cost and stress?

The schools in these cases were not 'forced' by the HRC to implement the disability adjustments (as it is not the role of the HRC to **tell** the parties what to do) but in each case, it became increasingly evident to everyone that what had been professionally recommended for the child was actually eminently reasonable, would not constitute unjustifiable hardship, would not advantage the child with disability, would not disadvantage anyone else, would not interfere with the integrity of the test for which the adjustment had been recommended, and simply should have been implemented in the first place with no arguing and no fuss.

In the vast majority of cases with which I am familiar, the disability adjustments being applied for were pathetically simple (something as time-consuming as enlarging a photocopy of a test so a child with a visual issue could **see** it), and in each case the school ended up looking a tad foolish. No building of expensive ramps or lifts or extra anything, just enlarging a photocopy....

Some schools are told by some educational authorities that the decision as to what is 'reasonable' theoretically rests with the school, but schools are not told that the school must still be absolutely scrupulous in its determination of what is reasonable, and that its decision is always open to challenge.

Unjustifiable hardship is virtually never raised as a defence in the context of GLD children, because what their professionals are recommending (eg, rest breaks, coloured paper, homework being written up on the board as well as being assigned orally etc) is usually simple and costs little or nothing.

Parents who are determined to take the kind of action described above in the face of an initial rejection tend to be feisty, well-educated, well-informed, well-connected, articulate, and skilled at making a nuisance of themselves until the professionally recommended disability adjustments are finally granted.

On the other hand, not all parents take such action. Not all belong to support groups such as GLD Australia. Some parents simply do not have time or are for whatever other reason not inclined to undertake such sustained and stress-producing action. Accordingly, in the face of school rejections, these parents elect to do nothing.

Their children then receive exactly that – nothing.

There is no mechanism to ensure that such inequities do not occur. The squeakiest and most annoying wheels tend to succeed at getting the adjustments.

Inequities seem to be particularly pronounced in the case of parents whose first language is not English, who are low SES or poorly educated, or who may have migrated to Australia from jurisdictions overseas where it is considered generally unwise to ever question or appeal government decisions or to otherwise draw attention to oneself.

Because joining GLD Australia is free, the parents for whom I advocate represent a very **broad spectrum**.

On the one hand, some are quite wealthy and can afford the very best barristers and the very best medical and other professionals. They can and do consult multiple specialists and collect numerous well-written and well-considered reports strongly recommending disability adjustments. Some of these parents have children in private schools but some also have children in State schools.

On the other hand are those parents who rely on Centrelink payments and who must queue for services from medical professionals who bulk bill or from other allied health professionals who work in the public sector and charge little or nothing. These parents tend to have children in State schools.

I have noticed over the years that those in the former (wealthy) category seem to succeed faster and more easily when it comes to applying for disability adjustments, and especially when lodging appeals in the face of rejections of initial applications. I notice that the more professionals' reports a parent is able to accumulate, the better are the chances of initial success, especially when six or seven different kinds of professional are recommending the same or very similar adjustments.

Yet it is not always the case that the children of the wealthy parents are more greatly impaired by their disabilities than are the children of the Centrelink-dependent parents.

Private psychometric and disability assessments by skilled professionals can be very expensive. Some university psychology departments can administer less expensive ones but these tend to be performed by students or interns under supervision. Most public child and adolescent health services cannot or do not offer them.

This **patent inequity based on wealth** is of great concern. A way needs to be found so that all children with disability can have their degree of impairment independently assessed by competent professionals. **It should not be a contest to see who can pay for, collect and thus submit the greatest number of costly reports.** Neither should the result depend on an assessment of the parents' ability to hire legal counsel who will be able

to competently argue against a school's barristers if and when a case proceeds to conciliation at the HRC or ultimately to a court hearing.

2.4 When disability adjustments are notionally granted

Sometimes, after a parent has taken the kind of action described above, after a few days the requested disability adjustment just seemingly miraculously appears on the child's desk or is otherwise furnished without comment.

However, even when disability adjustments are notionally granted, **often the adjustment is short-lived**, and it is eventually forgotten or quietly withdrawn after a brief time, usually without consultation with the parents. Parents are disappointed to discover that, despite all their advocacy and stress, the approved disability adjustments are not being implemented in any sustained or continuing fashion.

In some cases, the adjustments are implemented properly for one year, but then the parent finds that every January they must begin the whole tedious and stressful process all over again. If the former year's teacher has left the school, parents are often told, "Oh no, Mrs XYZ would have never allowed him to use a laptop or have extra time – that would never happen here - you must be mistaken!"

Sometimes when the requested disability adjustments are notionally approved, a formal ILP/IEP/ISP/PLP is drafted and negotiated and signed off on. However parents report that after a short time, the plan is put into a drawer and forgotten. When teachers are asked about this, they invariably say that they were finding the plan 'too complicated and too hard to implement'.

In this connection, parents report:

- My child has to ask for the adjustments for every single test – he has to remind the teachers what the adjustments are and why he needs them – sometimes within the hearing of other students. The teacher can't remember from one day to the next – why should a little child have to self-advocate and negotiate with teachers every day?

- My child was told he could have his extra time for tests, but not if it would interfere with the teachers' lunch hour or breaks – in that case he'd have to finish at the same time as everyone else

- My child was told that he could have the adjustments only if there happened to be enough spare rooms that day or only if someone could easily find a 'clean' computer with spellcheck, etc. already removed, or only if the volunteer scribe 'showed up' in time for the exam - otherwise my child would have to write the exam in the

normal way. We were advised, "Anyway, exams don't really count till Year 12 so let's leave it till then." [by which time the child is invariably so discouraged from years of underachieving and failure that they may have already given up, decided they are 'stupid', quit school, or developed behavioural challenges]

- My child was told that his teacher could 'tell' that his 'disability was not affecting him today' so he didn't need his usual disability adjustments – the teacher said that disabilities come and go, and that his was not there today

- When I finally enquired about the non-honouring of the school's undertaking with respect to disability adjustments, I was told, "Well we tried that for a while and it didn't 'work'- so your child will have to just get along without it." or "Your child did not seem particularly receptive to the adjustment, so we gave it away."

*- My child's teacher cannot identify the symptoms of a disability and instead tends to invariably attribute such symptoms to 'bad' behaviour and then demand that **behaviour** improve before the disability can be "fixed" - instead of other way round*

- My child's teacher suggested that instead of implementing my child's professionally recommended disability adjustments, the whole 'problem' could be solved by shipping my child off to some kind of 'behaviour-disordered' school

- I was told that the school is under no obligation to notify me or any parent of the dates on which there will be in-school tests and exams [which meant that the parent could not remind the child in advance of what disability adjustments to expect, and had no way of checking whether the adjustments are indeed being implemented, or regularly implemented in any meaningful way. Some parents are reduced to asking their child every single afternoon whether there was an assessment and whether the adjustments were offered]

- My son was told by his math teacher that he could not continue to have the disability adjustments unless they were approved by the Head of Department (HOD) of Math. My son was told that he must take a copy of his ADHD report from his developmental paediatrician to the HOD and this he did. On arrival he was asked to wait until she was free to see him and this he also did – for approximately 25 minutes. He sat quietly in the waiting room and did absolutely nothing while he waited. At the end of 25 minutes, the HOD told him, without even glancing at the paediatrician's report, that he could not have disability adjustments on the grounds of ADHD because she had been watching him for 25 minutes and he had been sitting still and not even jiggling his legs, and in her view no child with true ADHD would ever be able to do that – accordingly he didn't have ADHD and did not need the disability adjustments.

[this example highlights the fact that even educators believe the media hype to the effect that ADHD is a behaviour or hyperactivity disorder, and that educators are generally not aware of the Predominantly Inattentive Presentation (PIP) type of ADHD in which the child is just inattentive but exhibits no hyperactivity, impulsivity, defiance or 'bad' behaviour. Interestingly, some educators still regularly equate ADHD and LD with 'bad' behaviour and according believe that quiet, polite, behaviourally compliant children could not possibly have LD or ADHD]

3. Teachers are not the problem

In my experience, the vast majority of teachers do the very best they can for most children most of the time. They are well-intentioned and have chosen teaching largely because they like children, and they seek to have a positive influence on students' lives.

Especially in the case of patently visible physical disability, malformation or disfigurement, the vast majority of teachers will usually do all they possibly can to assist the child. Problems normally arise when the disability is invisible and when the child is patently either very clever or above average in ability.

4. Teacher training on disabilities and disability adjustments

Despite teachers' generally good intentions and willingness to respond to the needs of children with visible disability, GLD Australia anecdotal data suggest that the vast majority of primary and secondary teachers have not been formally trained in learning disabilities – how to identify them in the classroom and how to address them.

They are not familiar with disability literature or with federal or State legislation addressing disability, and are generally unable to read and interpret professionals' reports.

When I lecture on gifted children with disability at the university level to teacher trainees who are about to graduate and become teachers, virtually none of them has ever had any training whatsoever in disability.

Many claim to believe that 'learning disability' is a euphemism for low IQ or intellectual impairment. Others believe that children with disability fall exclusively within the province of teacher aides, and are not the responsibility of fully qualified teachers (ie, that the students with the greatest needs are to be taught by the adults with the least training).

In the case of **gifted** children with disability, if the giftedness is identified but the disability not, the child's underachievement or wildly erratic, inconsistent academic performance is invariably put down to laziness and lack of motivation. Accordingly, the child's report card is simply a litany of all his miserable shortcomings, without any practical suggestions as to how the child can improve.

If a teacher believes that a child with disability is indeed just lazy, it is easy to understand why any mention of the child's rights under the Legislation and the Standards is greeted with surprise and derision. A Queensland study found that of 20 so-called 'lazy' children, 17 were struggling with an invisible and unidentified disability:

<http://eprints.qut.edu.au/29708/1/c29708.pdf>.

When teachers seem to, or profess to, know nothing about the Legislation and their obligations under it, parents tend to resort to printing policies and other documents off the internet and presenting them to teachers and schools to support the parent's argument that disability adjustments are an entitlement, not a privilege or a favour.

Such documents tend to pay lip service to the Legislation and Standards, but fall down in the implementation. Some specious reason is invariably pointed to in an attempt to justify inaction – often a claim that acting in compliance with the Legislation would be just too hard.

5. Lived experiences – GLD children

I have been contacted by parents whose GLD child has reportedly:

- been 'voted out' of the class at the teacher's instigation by the other children because of issues stemming from the child's disability (eg, excessive impulsive blurting out of the [usually correct....] answers without putting up hand);

- been kept in at recess for weeks and weeks, and been told he will not be allowed out to play until he begins to write more neatly, when in the teacher's cupboard there are inches of occupational therapy reports recommending that he needs a keyboard because he can't handwrite and he can't learn to;

- had his mouth taped shut for talking too much and interrupting the class with too many questions (after the child has allegedly received repeated 'warnings');

- been forced to sit on a bench in PE while the other children have been instructed to throw tennis balls at the child until the (14 year old) child cried;

- been strapped to a chair with a belt as punishment for getting out of his seat and walking around (allegedly after being "warned");
- had pages ripped out of his workbook, and had homework and artwork ripped up in front of the class because his work was not 'neat' enough;
- been punished in a particularly humiliating way in front of peers for doing the wrong homework (eg, child had done Exercise 8.7 instead of Exercise 7.8 as child had an auditory processing disorder and had incorrectly recorded the orally-delivered homework in the diary);
- been mimicked and humiliated in front of the class as a result of the child's inability to read aloud, and then when the child has begun to cry, the child has been told not to be a 'cry-baby' and later been taunted and bullied in the playground by classmate witnesses;
- been called 'rude' and/or 'lazy' in front of peers as a result of a symptom of the child's documented disability, when in fact the child is neither;
- been loudly informed in front of peers that 'even a monkey' could do a given task better than the child, and when the child (a boy) began to cry, the teacher replied, "Suck it up, princess";
- asked a teacher to read aloud a math question off the board as the child had dyslexia and felt that they could do the math if only they could **hear** the question, instead of being required to read it. The child reminded the teacher that they had dyslexia, but the teacher felt that the child was just being difficult, told the child that there was no such thing as dyslexia, and even if there were, it would not affect math. The child was then told to stand in the naughty corner for having been rude and difficult;
- been told in front of the child's peers, "It's my job to teach and your job to learn. I've done my job and you haven't.";
- been instructed to move some desks in a certain way and, when the child (who suffers from auditory processing disorder) asked for further clarification, the teacher said within the hearing of other pupils, "With your IQ surely you should be able to rearrange a bit of furniture.";
- been repeatedly bullied by teachers because of his inability to learn to read, eg "You can't even sound out this simple word and yet your mother comes in here saying that you're 'gifted' - ha!";
- been told by his teacher that he was "poor at maths and needed to be placed in the lowest maths group" because he could not complete maths sheets in the allotted time and he could not remember his

*times tables when put under a time limit. The child, who suffered from dyslexia and was simply unable to **read** the maths questions in the time allowed, was subsequently tested by the school counsellor and scored in the 99.5 percentile in a maths diagnostic test. That was the year that the child started referring to himself as 'stupid and dumb'. This same gifted child was told by his teacher that he "had to try to fit in with the rest of the class, and that Einstein's theory of relativity and black holes are not socially appropriate subjects for Year 5. Other students find it boring." On the one hand, the same child is criticised on the grounds of his disability and on the other hand, on the grounds of his giftedness.*

Daily interactions such as the foregoing suggest that serious attention needs to be paid to the possible cause of the allegedly rising statistics with respect to mental health disorders in NSW schools. Psychologists regularly point to the particularly poor outcomes which may be expected for GLD children who are forced to cope for years with the fact that neither their gifted nor their disability needs are being met in the classroom.

6. Lived experiences – parents of GLD children

I have been contacted by parents who:

- have been allowed to sit and cry throughout a 45-minute meeting with school officials, the parent on one side of a board table and 4 school representatives on the other, during which meeting the parent has been repeatedly harshly scolded for 'causing' her gifted child's disabilities, and been told that no one at the school is obliged to read the professional and medical reports or scholarly journal articles which she has brought in;*
- have been told that if the parent alleges that the child has a disability and lodges professionals' reports in support of that allegation, then the child will have to leave the school [admittedly somewhat surprising in a State school when the child resides within the catchment area];*
- have been loudly scolded in front of other adults at parent/teacher night and told, "Your daughter does not have a disability. She is just no good at Math. Most girls can't do Math, and your daughter is no exception. She should learn to be satisfied with a low mark". (The girl in question has a Quantitative Reasoning score on the Stanford-Binet 4 IQ test in the 99.57th percentile.);*
- have been threatened in a rural community that if the parent proceeded to file a HRC complaint against the school for breach of the Legislation, there would be financial consequences with respect to the parent's business, or social consequences with respect to the*

local townspeople, or emotional or grades-related consequences at school for the child with the disability;

- have been told, "All learning disabilities are identified in early childhood. Your child is 12 and accordingly, despite your specialists' reports, your child could not have a disability – or if he did have one, then it must be gone by now";

- have been told that they must 'choose' whether they wanted their GLD child 'registered' as gifted or as having a disability – one or the other, but not both – because the computer could not cope with the same child ticking both boxes simultaneously;

- have been refused disability adjustments on the patently fallacious grounds that the child did not have a 'registered' disability, or that the specialist or doctor providing the disability report was not 'registered' with the Department of Health;

- have been told by teachers, "I have an education degree and you don't. Leave your child's education to us – we know what we're doing here and you have no clue." Or "I had a lecture once on learning disabilities when I was at uni, and I'm here to tell you that your child doesn't have one. This specialist's report is rubbish.";

- have had a school meeting recorded without the knowledge of either the parents or the parents' advocate (not me in this instance). When this came to light later on, the parent was told simply, "Prove that you didn't approve of this recording in advance." Neither the parents nor the advocate had any memory of the subject of recording having ever been mentioned in the meeting;

- have been told by school administrators (in a case where the remedy sought was simply systemic change for students with disability, not damages) that the school would go through the motions of attending the HRC conciliation hearing just to save face, but that no matter what happened there, the school would never agree to any kind of conciliation, settlement or resolution, with the result that the parent's only option would then be to commence court action, and "We are very wealthy and we have unlimited money to throw at this. We will employ [insert name of famous barrister...] and we will win and then you will be responsible for all our costs and that will probably send you bankrupt."

It is arguable, I submit, that at least some of the above examples constitute victimisation, contrary to 42 of the Legislation and section 8.3 of the Standards. Yet such interactions tend to be generally oral rather than written, and hence create evidentiary barriers for parents wishing to rely on the legislative victimisation provisions. One parent drew the school's attention to the relevant victimisation provision in the Legislation and was told simply, "So try proving that I really said it."

Section 8.3 of the Standards imposes onerous obligations on education providers with respect to victimisation of parents who suggest or hint that they are thinking of taking action under the Legislation and the Standards for the purpose of obtaining disability adjustments for their children with disability. This highlights the urgent need for training of teachers and other school officials who are called on to meet with advocating parents. The day is coming when a parent WILL actually be able to 'prove that it was really said'.

7. Lived experiences – applications for selective schools and classes

Parents applying for disability adjustments for entrance tests for selective schools and classes entrance tests have been told:

- *Gifted children never require disability adjustments and if they do, then that means that they are not 'really gifted' and shouldn't be attempting the scholarship test or the selective school/class test in the first place*
- *We have a blanket policy of no extra time for anyone, ever – regardless of your child's professionals' recommendations*
- *Despite your professionals' recommendations with respect to extra time, there will be none for your child. Students who are truly gifted never need extra time for tests – they just 'know' the answers. This is who we want for our selective schools and classes. All students would improve if given extra time – if they had more time to come up with the right answer*
- *We don't need any research to tell us that all gifted students are able to work quickly – we just **watch** them*
- *Parents who apply for disability adjustments for gifted children are trying to obtain an advantage for their child*
- *Students who have slow processing speeds could not be gifted, and even if we were to let them into a selective school or class, they wouldn't be able to compete there as we won't do anything to support them because selective schools and classes are designed for smart children who don't need this kind of support, and doing anything extra for your child might take the teachers' attention away from other students*
- *If your child gets extra time on the entrance test and for in-school assessments, that fact will have to be reported on their results and they will be seen by the selection panel to have had an advantage over others [cf. this was found to be untrue when verified by phone*

*with the NSW DEC which confirmed that the fact that the child had received disability adjustments would **not** show on the results placed before the selection panel]*

Failure to grant disability adjustments to GLD children results in the exclusion of many gifted children from selective schools and classes. In some cases the resulting emotional damage can be immeasurable. The GLD child is forced to witness the acceptance of non-LD classmates who have regularly scored lower on in-class assessments or who have invariably taken longer to understand new class work. This can be soul-destroying. The GLD child is humiliated when constantly asked by classmates why the GLD child is not going into the selective class or proceeding on to the selective school, and when having to admit over and over that, despite their heretofore high grades on untimed assessments, they 'failed' the limited-time entrance test.

8. Lived experiences – selective schools/classes staff once the child is enrolled

Parents with children already enrolled in selective schools or classes have been told:

- There are no children with a learning disability in this school – so the Legislation does not apply to us here. Accordingly we will not even read these medical and psych reports recommending adjustments on the grounds of disability because disability could not exist

- We don't know how your child managed to get into this selective class or school but we can do nothing to support him here so take him out and return him to a mixed-ability setting and they will look after him there. If you leave him here unsupported, it might cause him stress and that would be your fault, not ours

- We understand that your daughter is unable to handwrite and that she needs all her worksheets delivered electronically rather than on paper, but none of our teachers knows how to convert worksheets into PDF documents so accordingly we can't do that here, and she will have to work in handwriting on paper photocopies the same way everyone else [the girl thus had a small fraction as many notes as other students by the time of the exams – thus far less to review in preparation for them]

*- I chose to teach here because I wanted to teach **clever** students. If I'd wanted to teach children with learning disability, I would have trained in special education, not Chemistry*

9. Some proposed solutions

Clearly a growing number of parents, when confronted with the situations described above, may be expected to consider home schooling for their child.

I foresee that this pattern will continue until both teachers and parents can be better informed about the Legislation and the Standards. This section proposes some possible solutions to the problems described above.

9.1 Training of teachers and school leaders

First, teachers and school leaders need to receive systemic and detailed training with respect to their obligations under the Legislation and the Standards and the corresponding entitlements of the children in their classrooms.

An online training module on the Legislation and the Standards has been introduced by the NSW DEC and this is of course a laudable initiative. Undertaking such training however is merely voluntary and accordingly the course is watched by relatively few teachers. As long as such training is voluntary rather than mandatory, the vast majority of teachers and school leaders will continue with the "Oh no, we don't bother with that here..." stance.

No one raises such nebulous objections when the subject matter of training is child protection or fire drills or asbestos or peanut allergies. Everyone takes these topics seriously because the training addressing them is not optional but obligatory.

And of course from a wider perspective, systemic training is needed for all teachers and school leaders, not only on the Legislation and Standards, but also on the importance of identifying GLD children early in their primary schooling.

Early identification of such learners would prevent the inception of the self-fulfilling cycle of poor academic self-concept, low self-esteem, learned helplessness, and chronic underachievement or failure in the early years, all of which contribute to sometimes insurmountable and irremediable problems in later years.

9.2 Pro forma disability adjustments form

Even after receiving training on the requirements of the Legislation and the Standards, many teachers may not immediately feel confident that they will remember, in the case of each child with disability, which kinds of disability adjustments are usually indicated for which kind of disability, or which ones have been specifically recommended for each child.

In this respect, teachers' work might be made easier if they had access to some kind of pro forma one-page disability adjustments form which could be quickly filled out for each child with disability in consultation with parents and perhaps also in consultation with the professionals who have provided disability reports.

9.3 Notices to parents

With respect to information provided to parents, perhaps the NSW DEC could organise for each State school to regularly include in its parent newsletter, or perhaps in the parent section of its website, some kind of notice about the Legislation and the Standards, and the availability of disability adjustments. This could be supported by a separate paper notice or flyer to be taken home by each child and/or distributed at parent/teacher interviews.

One member of GLD Australia lobbied to have the following notice inserted in her child's NSW high school newsletter:

DISABILITY PROVISIONS FOR THE HIGHER SCHOOL CERTIFICATE EXAMINATIONS: Disability provisions in the HSC are practical arrangements designed to help students who could not otherwise make a fair attempt to show what they know in an exam room. The provisions granted are solely determined by how the student's exam performance is affected and may include braille papers, large-print papers, use of a reader and/or writer, extra time or rest breaks. Further information on Disability Provisions may be found on the Board of Studies NSW website <http://www.boardofstudies.nsw.edu.au/disability-provisions/>. If you wish to apply for Disability provisions for your son or daughter, please contact ...

Of course this notice could be re-drafted for disability adjustments for tests and assessments other than the NSW HSC, using appropriate wording which would allow parents to immediately decide if this is something which they might need to investigate for their child.

10. Finally.....

The implications of systemic failure to implement disability adjustments under the Legislation and Standards are serious for all children with disability.

For GLD children, such failure highlights the huge differences between, on the one hand, **achieving** gifted children who will grow up to pursue satisfying careers and will make remarkable contributions to society and, on the other hand, **underachieving** gifted children with disability who go through school feeling angry, misunderstood and frustrated, and who accordingly may later elect to turn their high intelligence to somewhat less worthy pursuits.

In their 2010 testimony before the NSW Parliamentary Inquiry into Students with a Disability or Special Needs, a solicitor representing the NSW Disability Discrimination Legal Centre made reference to school meetings which end with parents, teachers and principals throwing chairs at each other:

[http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/23adca4f37200a06ca257721001bed2c/\\$FILE/100510%20Corrected%20transcript.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/23adca4f37200a06ca257721001bed2c/$FILE/100510%20Corrected%20transcript.pdf) (page 86).

To date I have not attended a school meeting with parents who have thrown chairs, and no chairs have been thrown at me.

Sadly, however, I do understand profoundly how a parent/school relationship might break down to the point that this option may actually seem attractive.

Accordingly, I understand why some parents feel that, instead of throwing chairs, they have no option but to home school.