

**Submission
No 115**

**INQUIRY INTO STUDENTS WITH A DISABILITY OR
SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS**

Organisation: Mr David Roy

Date received: 19 February 2017

Inquiry into Students with disability or special needs in New South Wales schools

Submission

Name: David Roy
Date: 19/02/17

Table of Contents

| | |
|--|-----------|
| INTRODUCTION | 1 |
| GENERAL FINDINGS ON EDUCATION, DISABILITY & ABUSE | 3 |
| NSW EDUCATION ISSUES | 5 |
| FUNDING | 7 |
| ABUSE IN EDUCATION | 10 |
| ACCOUNTABILITY | 11 |
| SUMMARY | 13 |
| REFERENCES | 15 |

INTRODUCTION

I am Academic in Education, and I was a teacher for over 17 years, working in Primary, Secondary and now Tertiary. I have been employed in Public schools, as well as the Catholic and Independent systems. I have a child with a disability whom is now homeschooled, with his sibling attending public school. I am currently a member of the NESA Homeschooling Consultative Group.

Whilst undertaking research in supporting diverse learner needs in all education systems working with colleagues internationally, I have become increasingly disturbed by the widespread allegations of systemic abuse of children in our school systems and the inability/refusal of system managers and society to protect the most vulnerable children in our community. In particular, it appears NSW may have issues.

I have multiple incidents of Parents, teachers and students informing (unofficially) of abuses observed yet feel powerless to enact through a culture of suppression of truth, and protection of abusers. There is a widespread acceptance that the systems fail to report abuse, fail to enact neither policy nor legal protections for children; and indeed is seems to be designed to perpetuate the culture of protection of education managers and senior executives. No-one appears to beheld accountable.

Disability Advocacy Groups and parents argue that reported incidents of abuse of disabled children in the public system is so widespread, and dismissed by the same accused public bodies that the time is now pertinent for there to be a Royal Commission into said alleged abuses. T

There are some startling international statistics in relation to abuse between the disabled and non-disabled children. One in 10 nondisabled children experience abuse in comparison to 1 in three children with a recorded disability. In Australia, there is difficulty in finding any records of abuse from the public system. Either we are a unique country with no abuse or there is something seriously wrong that is being ignored either through a deliberate cover-up or inaction. Currently there is a Royal commission into the Sexual abuse of children. There needs to be a Royal Commission into the

physical, mental, sexual and emotional abuse of disabled children in the public education system in Australia.

All allegations of abuse or teacher justification for 'physical prompts' and so called 'time-out rooms' directly relate to the support and staffing provided through the funding or lack of, to schools to support children with complex, educational needs; due specifically to their disability. The ACT case of the caged child is symptomatic of a systemic culture of abuse in the public schools of disabled/special needs students. There are deep concerns as to the public school investigative processes in all States and Territories and accountability of their Employee Performance and Conduct Directorate (EPAC) of the alleged incidents. The public schools system and their internal investigative groups such as EPAC, appear to dismiss such complaints as hearsay and close any potential investigation. There is no outside body that appears to be able or willing to challenge any of the public schools on their findings. Non-verbal, pre-school disabled children are the most vulnerable in our schools. Who will be their voice?

More and more non-verbal and disabled children are now home-schooled; as the parents do not believe they are safe in the NSW DEC public school system or indeed in other states.

Non-verbal, disabled children are the most vulnerable in our society, however teacher's aides, as stated by the Australian Education Union, provide the majority of support. These untrained staff members are financially cheaper to employ.

Under the *Disability Discrimination Act 1992* discrimination on the basis of disability occurs when a person who experiences disability is:

- treated less favourably than a person who doesn't experience disability in circumstances that are not materially different (direct discrimination)
- made to comply with a general requirement or condition which the person is unable to comply with because of their experience with disability, and which leads to the person being disadvantaged (indirect discrimination)
- subjected to the imposition of unreasonable terms or conditions on an activity
- denied access to a place, activity or service
- subject to unjustified termination of an activity
- asked discriminatory questions or subjected to harassment.

The Act prohibits unlawful discrimination against people who experience disability and promotes an inclusive approach whenever possible, rather than the provision of separate or parallel services. Until we fund disabled children fully in the education system, this discrimination will continue.

GENERAL FINDINGS ON EDUCATION, DISABILITY & ABUSE

1. One in three children with an identified disability for which they receive special education services are victims of some type of maltreatment (i.e., either neglect, physical abuse, or sexual abuse) whereas one in 10 nondisabled children experience abuse. Children with any type of disability are 3.44 times more likely to be a victim of some type of abuse compared to children without disabilities. (Sullivan & Knutson, 2000).
2. Looking specifically at individuals with intellectual disability, they are 4 to 10 more times as likely to be victims of crime than others without disabilities (Sobsey, et al., 1995). One study found that children with intellectual disability were at twice the risk of physical and sexual abuse compared to children without disabilities (Crosse et. al., 1993).
3. Children may not report abuse because they don't understand what abuse is or what acts are abusive. Communication problems that are inherent in many disabilities also make it difficult for children to understand and or verbalize episodes of abuse (Knutson & Sullivan, 1993). Those with limited speaking abilities have had no way to talk about or report abuse. Only recently have pictures demonstrating acts of abuse and sexual anatomy been added to communication boards to help non-communicative children and adults (or those with limited communication) report acts of abuse.
4. A number of studies have found that different types of disabilities have differing degrees of risk for exposure to violence. For example, Sullivan (2003) reported that those with behaviour disorders face greater risk of physical abuse, whereas those with speech/language disorders are at risk for neglect.
5. Sullivan & Knutson (1998) also found that out of all the types of disability, children with behaviour disorders and children with intellectual disability were both at increased risk for all three forms of abuse (neglect, physical abuse and sexual abuse) compared to those children with other types of disabilities (speech/language disorders, hearing impairments, learning disabilities, health impairments and Attention Deficit Disorder).
6. Children with disabilities face greater risk of abuse going unnoticed if their behaviour change can be attributed to their disability instead of the abuse. Also, children with intellectual disability may be viewed as easily suggestible or untrustworthy, especially when the report involves abuse that seems improbable.
7. Provision of service is sporadic and lacking consistency. No records or statistics are kept. Children are often labelled as incapable of learning and not provided with any meaningful teaching or support. Public schools actively encourage parents not to enrol their children claiming lack of ability to meet their needs despite State, Federal and International legal requirements to do so. There is no excuse for abuse, and whilst funding and training is required, Australia is currently under investigation by the UN in regards to its treatment of disabled children and education. All children have individual learning needs that need to be supported by trained teachers, not unqualified and untrained teacher's aides.
8. Both inquiries state that abuse is widespread but the real numbers of instances are unknown. If there were 552 allegations of sexual abuse by staff against students in NSWDEC schools alone between 2013 and 2015, what are the statistics for physical assaults against all children, let alone children with a disability. There needs to be a Royal Commission now.
9. A 2015 published research study looking at 20 years of research concluded that Teacher Assistants lower academic achievement of pupils with Special Educational Needs (Webster, 2015)
10. <http://maximisingtas.co.uk/assets/content/berj35sysobs.pdf>
11. The academic article from the UK analysed data from the last 20 years of pupils with Special Educational Needs (SEN). Webster's findings found that 'pupils receiving the most TA (Teacher Assistant) support made less progress than similar pupils who received little or no TA support'

It concluded that *'over the last 20 or so years, mainstream primary schools in England have drifted towards a situation where unqualified, non- teaching staff have taken on the role of 'primary educator' for children with often complex learning needs.'*

and

'it is unlikely we would allow such an educational regime for pupils without SEN.'
Webster, R. (2015)

NSW EDUCATION ISSUES

1. A fundamental rethink needs to happen with our Victorian schooling system if we are to have a 21st Century schooling for our 21st Century children. Staffing cutbacks, Piccoli's vision of 'mega' schools (which will only exacerbate sensory processing issues and inequity), and a limited focus on 'robotic worker skills' rather than knowledge acquisition skills are not the answer. There are outstanding teachers (and some outstanding teacher's aides) who need to be celebrated and supported and most importantly, along with the parents of children with disabilities - listened to.
2. Schools are deliberately disregarding disability standards through rejecting school places, denying the opportunity of access to activities and offering minimal, if any, support to children with disabilities.
3. And research shows that this is becoming more of a concern.
4. Early education expert Kathy Colgan's report on inclusion for Children and Young People with a Disability Australia, as well as the findings of two recent Senate inquiries released in November 2015 and January 2016, have all commented on the exclusion of children with a disability from education.
5. According to recent research from Gill Rutherford, a special needs education expert at the University of Otago *"Essentially we value the normal over the abnormal, thus our resources are aimed at normalising. The normalising approach of special education, therefore, is one that conceals the rights of students in and of themselves as human beings not regardless of difference but because of difference."*
6. In the UK, research shows that teacher assistants (TAs) are being used as substitute teachers for those kids with the greatest pedagogical needs and this leads to those children having diminished outcomes.
7. The New South Wales auditor-general's report published in May 2016 was a further reinforcement of how schools, and more importantly education systems, are failing children with a disability across Australia but specifically in NSW. Concern was raised that one in four of the 300 respondents said they had been told there was no place for their child at their local school. When children were given a place, the report found that teachers often refused or were reluctant to make adjustments, due to poor attitudes towards disability. The reasoning being that students with disability do not need an adjustment, despite individual student medical reports demonstrating otherwise.
8. In addition to these issues, there were accounts of bullying by staff, of support teachers not having appropriate training and qualifications, and school principals not being held accountable for ensuring adjustments were made for students.
9. The report recommended that the Department of Education should provide guidance on reasonable adjustments, encourage more teachers to complete both modules of the disability standards training and use school learning and support officers more effectively in the classroom.
10. Simple measures such as ensuring prospective teachers' understanding of support for students with disability and reviewing how schools support the behavioural needs of students with disability were also suggested. Such measures seem obvious.
11. This is not a simple funding issue. It is the cultural attitudes towards children with a disability that lead to exclusion. If we fail to recognise all children as learners and having capability, our low expectations will perpetuate attitudes of discrimination and failure.
12. A public education should be for all, not only those with acceptable criteria. It is a recognised human right.
13. In a comment made by the former NSW Education Minister Adrian Piccoli about the need to

spend more money on supporting disadvantaged students to keep them out of jail, he said
“Prisons are not filled with kids who went to \$30,000 private schools; they’re full of people with speech problems and autism, who had a pretty poor experience at school. This is an equity issue.”

14. His blanket labeling of children with autism as criminals is unhelpful and highlights the attitudinal ignorance reported in the auditor-general’s report. But it also points to a wider problem within the education system.

FUNDING

1. All the political parties are correct in their respective policies of a need for increased funding and/or accountability both for education in general and specifically for children with a disability.
2. It is clear pre-service training needs to be re-looked at. A specialist course in 'Special Needs' Education just reinforces the concepts of 'other' for children with a disability. All children are diverse and should be supported based upon learning need rather than 'label' of 'special needs'. Thus all the pre-service training courses (on average 4 a Semester/8 a year/32 over a 4 year degree - including discipline knowledge) should have diverse learner pedagogies embedded throughout.
3. The funding issue as reported in the survey is maybe a slight misdirection. Schools need more funding, of that there is no question. However, there is multiple evidence that suggests that 'diverted' funding by principals to support students with recognised needs is not actually directed in a method that supports the student need, but rather removes the student need from distracting the other 'normal' learners. Funding teacher aides to support students is not the answer. One might consider that the children with the greatest pedagogical needs would be better supported by the staff with the deepest pedagogical training; rather than the all too common practice of the least trained staff being left to support those with the most complex needs.
4. Increased funding will provide materials and staffing to allow adjustments to allow children to access the curriculum and schools. Funding will support staff training in the means and methods to implement tailored support for all students; but schools and education authorities need to be held accountable for their funding to ensure it does support the students it is aimed for.
5. Two Senate committee reports published in the last year deal substantially with the education of children with a disability. The conclusion is stark: Australia is the unlucky country if you are disabled and a child. The reports portray a Dickensian world where our schools are the poor house. We must take stock and look for positive solutions to the multiple issues being illuminated, without ignoring the current failings in our system.
6. Both reports note that children with a disability are being denied education. Schools are not providing them a curriculum or meaningful learning experience, and they are being separated from their peers without disabilities and labelled as intellectually incapable of learning. They are often being bullied and abused by students and staff, or being restrained and 'caged'.
7. To be sure, there are teachers and schools demonstrating outstanding, inclusive practice, where children with a disability are treated with respect, given a meaningful education and included within the mainstream 21st century classroom, which systems worldwide recognise as the path to the best pedagogical results for all students, with or without a disability. However, these instances appear to be a minority. As both recent reports state, Australia needs a National Consistent Collection of Data for students with a disability.
8. The January 2016 report *Access to real learning: the impact of policy, funding and culture on students with disability* showed a lack of consistency in application or support within and across states and territories in Australia for children with a disability. As chief executive of Children with A Disability Australia, Stephanie Gotlib, states, "To have any chance of accessing your basic education rights in Australia, students with disability must rely on fierce advocacy – usually by families – and the stars aligning."
9. The report rightly comments on the need for increased funding to be at least maintained, but goes further by commenting on the basic human right for all children to have access to an education, something that, despite legislation, is not happening.
10. There is a need for data. There is a need for increased support and training; however, the report did not deal with the fundamental issue – the cultural attitudes to children with a disability in Australia.

11. The other recent paper does address this. The November inquiry report states, “The committee is greatly concerned with what appear to be systemic problems within the education system that are leading to many of the inappropriate practices described in this section. Many of the systemic problems that lead to the use of restrictive practices reinforce an attitude that facilitates the mistreatment of children with disability, because they are viewed as different,” states the November inquiry report, titled: *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability.*
12. Recommendations have been made that not only should pre-service teachers be fully trained but also education system leaders and principals. Training helps, but attitudes and labelling are the keys to a seismic shift to treating children with a disability as equal members of our society. One key fact that has been overlooked is that these are not ‘children with a disability’, they are just children. Like all children, they have educational needs. A good teacher and a good school will want to support and develop all children in their tutelage to help them achieve their highest potential. We must not view children as mere labels before they even enter the classroom; yet, it seems, that is what some schools and education systems are doing.
13. The most disturbing aspect of the two reports is the level of violence that children have suffered in schools, often at the hands of teachers, and even more often from teacher’s aides. In December 2015, 37 instances of violence against children with a disability were reported in NSW public schools. As horrific as those numbers are, those were just the cases deemed reportable.
14. A 2015 report published in the *British Educational Research Journal* analysing the experiences of children with special educational needs in mainstream primary schools between 1976 and 2012 found that those children who were segregated from class or received teacher’s aide support regressed in their learning. It seems to be common sense that those children with particular learning challenges (whether labelled with a disability or not) should be supported by the adult with pedagogical expertise – the teacher – not an unqualified teacher’s aide.
15. What can be done? The recommendation for a Royal Commission into the problems is compelling, but there is no requirement to enact any of the Senate inquiries’ recommendations. However, there is some hope. The two inquiries highlight issues and bring to the forefront the need for reform. All political sides have had responsibility for the failures and working together they can provide solutions.
16. Schools must be funded to support students, including continuing commitments to the Gonski recommendations. Also, pre-service teachers need extended training in supporting diverse learner needs. Some universities do offer full semester courses. However, if we continue to label these courses as special education, we are causing socially constructed divisions in learning, when the best pedagogy works for all learners and their diverse needs.
17. As both reports highlight, teachers do struggle with understanding how to support student behaviour. But locking up a child or placing them in a ‘time-out’ room similar to the kind of solitary confinement our most violent criminals receive is not a solution. If children have sensory issues, confining them only exacerbates the condition, along with being an affront to human rights. If a child using a wheelchair does not partake in gymnastics as part of their physical education lesson, we do not discipline them. Therefore if a child with an infantile emotional control, because of their disability, regresses into themselves and cannot complete a task – why is it acceptable to chastise or isolate them?
18. We need to rethink the structure of our schools for the 21st century, rather than relying on 19th century modes of learning delivery. Professor John Fischetti and Dr Scott Imig of the University of Newcastle, writing for *EduResearch Matters*, stated “Australia will need a lot more than fiddling at the edges of education policy if we are to have a successful future as a nation ... There are many impressive innovations occurring in Australia and around the world that we could be using more widely. These reform-based models are offering meaningful

education experiences for students, often with little fanfare.”

19. We need to look at these models and apply them for all, including those children with a disability. Models such as The Big Picture School, Advancement via Individual Determination or the US Early College model, offer opportunities for alternative methodologies. Neuroscience and project-based learning or indeed the international baccalaureate offer insights to alternative learning.
20. Funding is an issue, but it is not the only issue.
21. We need to offer all students access to an education that supports their learning, rather than highlighting their deficits. We need to apply the recommendations of both Senate inquiries. Students need to be able to access their local schools as a human right. Finally, systems need to stop protecting managers, principals, teachers and teacher’s aides who abuse children with a disability. In many cases, they need to be charged and prosecuted. Only then will children with a disability get a fair go. Luck has nothing to do with education for the disabled. Deliberate choice by all of us as a community is what will make the difference.
22. We should treat all children as if they were our own.

ABUSE IN EDUCATION

1. There are continual reports of children who are disabled being caged or imprisoned in schools in Australia. Whether it is NSW, Queensland, Victoria and the ACT. The mainstream media is outraged, disability advocates are outraged, parents are outraged. And teachers? One needs only to read the comments posted on news sites to hear their defences: these children are aggressive, they have behaviour issues, schools are understaffed and underfunded, these are isolated incidents.
2. But these are not isolated incidents, teachers are properly trained, and not all autistic children are aggressive.
3. Many alleged cases of abuse of disabled children happen to those who have communication challenges, who can't tell tales on the abuser. This is not abuse undertaken by teachers who have reached the end of their ability to cope. We should all be outraged but not shocked or surprised. Abuse of the most vulnerable groups in our society is well documented and has been going on for years. Non-verbal children with disabilities are just the latest victims of a society that celebrates perfection and castigates all those who don't conform to what is viewed as the norm. It takes only a brief Google search to find multiple cases of abuse of disabled children in our school systems, yet no one seems to want to address the issue.
4. Cages, and martial arts training for staff to subdue children, have to be purchased. And anyone who works in education knows there are multiple documents to complete to get any funding for any resources, whether it be a pencil or a cage.
5. The terminology for excusing abuse in schools is also interesting. Staff do not request funding for cages, but for 'containment areas'. Staff do not assault children, they use 'physical prompts'. Equivocation at its best.
6. Many children with disabilities do have behaviour challenges but that is not a euphemism for aggression. When teachers and schools comment upon 'disruptive behaviour', are they referring to children's responses due to Sensory Processing Disorder (which is a symptom of many neurological conditions), or are they oblivious to this? Children who have SPD can, and often do, become highly stressed due to hypersensitivity. It's not necessarily a deliberate attempt at defiance or non-compliance. Non-verbal children (such as those with dyspraxia, autism, cerebral palsy and apraxia) who are unable to vocalise their stress and discomfort, can sometimes be disciplined because of their disability, rather than their deliberate misbehaviour. In doing so, schools and teachers would be in breach of the *Disability Discrimination Act 1992*.
7. Those teachers who do make a stand and speak up are too often disciplined for being whistle-blowers. Teachers are trained to support diverse learners and inclusion does work, but once student teachers enter the system, they learn quickly that keeping quiet and ignoring observed abuses will allow them to gain further employment. It gives the impression that the executives of education systems, area managers and principals see no evil and hear no evil and want their staff to speak no evil. How ironic that it appears the education establishment lives in ignorant bliss.
8. I live in hope that the majority of teachers are horrified by the few bullies and abusers in their midst, but if they don't speak up they may be seen to be complicit. If the executive directorates of education don't seek a root-and-branch investigation, then should they not be held culpable? How can we ever expect children to learn if they are not safe in schools from the very people we trust with our children?

ACCOUNTABILITY

1. There is a dichotomy in the systemic running of NSW education and schools through the separation of responsibility. NSW has three basic school systems, Public, Catholic and Independent. However the issue lies within the separation of government oversight and the public system. Both are one and the same, the Department of Education. NSW Education Standards Authority (NESA), whilst monitoring all three systems has direct responsibility to deal specifically with misconduct issues in the Independent and Catholic systems. When recent abuse of student allegations were revealed in both public and independent schools by the ABC 7.30 Report, NESA immediately dealt with the Independent school, whilst the Department of Education was left to internally investigate itself.
2. Recent Senate Inquiries into institutional responses to misconduct, as well as the current Royal Commission has shown the dangers of systems that self regulate and the potential for systemic cover-up. Public schools investigate themselves and the concern is that too often they appear to find themselves at no fault.
3. If you contact any outside authority such as Family and Community Services or even indeed the police, you are informed that the Department of Education investigates itself, usually through the internal section of EPAC – Employee performance & conduct <http://www.dec.nsw.gov.au/about-us/how-we-operate/how-we-handle-complaints> .
4. It is EPAC that decides if a complaint should be reportable and thus investigated or only a matter for local area management inquiry. In effect this usually means a principal of a school investigates her or his own school. It is therefore of little surprise to find that often a principal will find little to no fault over how they run their own school. In August 2016 when the former Minister Adrian Piccoli released information on cases of reportable conduct, multiple families and teachers found their reports of serious abuse and assaults on children were not listed as reportable. If the internal investigative body, EPAC, does not find unexplained bleeding to faces and adult bruising of children reportable there is clearly a problem in accountability and potential systemic cover-up that needs to be challenged.
5. Recent media reports of the treatment of children in schools have alluded to concerns of this being the case within the NSW public school system. With the long desired change of Minister for Education, the time is now prescient to have a fundamental change in the monitoring and accountability of the public school system. There is a valid argument that the Minister for Education should have a separation from the public school Department of Education. Currently if you have an issue with the public school system, the highest authority to whom you can complain is the Minister and thus there will be no independent body until there is a separation between the Ministry for Education and the Department of Education. Too often I have had allegations of the previous Minister referring complaints back to the very people in the Department of Education to whom the complaint was about. Mr. Stokes, the new Minister for Education has an opportunity to break this cycle of internal collusion.
6. The benefits of such a separation would be to parents, staff and management. As well as the Ministry. Through removing the conflict of self interest, all parties involved in the complaints process could have a greater assurance of transparency and that the findings are valid. The current NSW Parliamentary Inquiry Into Students With A Disability Or Special Needs In New South Wales Schools, was initiated in part due to the concerns of many over the potential impartiality of investigate procedures for complaints in NSW.
7. Whilst some might argue the NSW Ombudsman already has such a role, the terms of reference for the Ombudsman is to ensure that procedures are undertaken correctly, not to look at any potential conflicts of interest or impartiality. In addition, through separating the Ministry for the Department of Education, it allows parliament to have a transparent oversight over all education in NSW, and offers some protection to the Minister from accusations of corruption and cover-up if ever there are found to be any.

8. Such separation of accountability and investigation is apparent in other systems across the world. The different education systems found through the UK are all subject to HM Inspectorate. This creates a confidence in the community that the system is robust and trustworthy. Public School uptake is significantly higher in those countries where public schools are independently monitored. Having a similar body, separate to the body that sets the curriculum, allows for the protection of children and staff as well as ensuring that curriculum delivery is of a standard to be expected.
9. Currently in NSW all these areas are meshed so that those that set the curriculum, and those that review the quality of teaching are intertwined.
10. If there is no outside overview, there is the potential for a lack of perspicuity.
11. As a staff member of NSW Department of Education in EPAC once stated to me when I asked about the lack of transparency in their investigative procedures, 'Well they are transparent to us'.
12. Children, parents and staff have the right to open and fair protection. NSW Department of Education investigates itself, and appears to be accountable only internally, just like the Catholic Church. Until there is an independent body to investigate complaints of abuse, no child is safe.

SUMMARY

There are several key points to make in relation to the Terms of Reference for this Inquiry

1. Equitable access to resources for students with a disability or special needs in regional and metropolitan areas
 - i) Resources and funding for children with a disability needs to be ring-fenced to only be used for the purposes provided, with Principals held accountable for usage of said funding.
 - ii) Resources needed for learning adjustments equipment/materials.
 - iii) Pedagogically trained teachers in Special Needs.
 - iv) Improved Initial Teacher Training in Special Needs embedded into all courses, rather than a stand-alone course of c.40 hours in a 4 year degree.
 - v) Re-education of current teachers through meaningful professional development
 - vi) Resourcing Independent complaints body.
 - vii) Fully supporting the Ombudsman office in their oversight of education and disability.

2. The impact of the Government's 'Every Student Every School' policy on the provision of education to students with a disability or special needs in New South Wales public schools
 - i) Whilst ideal in principle it has not been implemented.
 - ii) Principals need to lead by example.
 - iii) Students should not be disciplined because of their disability.
 - iv) Any classroom/school exclusion of students with a disability should be fully documented and justified with evidence, and parents informed before exclusion can be undertaken.
 - v) Isolation/timeout rooms must only be used in extreme situations. Said rooms must be fully supervised at all times. Detailed records of times and reasons for use must be kept and made available to any interested party. A published, available policy must be provided by all schools choosing to use such extreme, potentially abusive device. Isolation/timeout rooms must be clearly marked on school plans. If found to be inappropriately used, staff and schools need to be investigated for potential abusive practices of children with a disability.
 - vi) Real, meaningful inclusion in classroom learning must take place.
 - vii) All students must have an agreed IEP with parents and children. Parents must be fully involved in the education of their child with a disability, and listened too.
 - viii) Schools should heed advice of medical experts.

3. Developments since the 2010 Upper House inquiry into the provision of education to students with a disability or special needs and the implementation of its recommendations
 - i) Increased creation of specialist units which isolate students with disabilities from mainstream classes in wooden demountables enclosed with fences (similar to 1930's Germany) has become widespread and is increasing. This needs to be reversed and phased out.
 - ii) Standardised testing needs to take into account learner needs more so than labels. A neurological disability may have physical impacts in accessing the curriculum.

4. Complaint and review mechanisms within the school systems in New South Wales for parents and carers.
 - i) Mechanisms fail to be fully implemented. There is an ongoing distrust of the independence and honesty of said mechanisms by parents and teachers.
 - ii) NESAs, to a degree, investigate complaints in the Catholic and Independent system.
 - iii) The Public school system appears to investigate itself.

- iv) Too often it appears that physical abuse is deemed 'administrative' and the Ombudsman and EPAC use the flawed 'class and kind agreement' which exempt schools from having to notify to my office certain allegations.
 - v) In any investigation, the child's voice (or representative) must be listened to carefully. Due to the vulnerability of said children, a higher degree of investigation and evidence of school innocence must be applied.
5. Any other related matters.
- i) Teachers whom whistle blow must be protected
 - ii) Abusers should be prosecuted
 - iii) Those that cover up abuse/enable abuse should be prosecuted
 - iv) Teachers whom are alleged should be abused should be transferred away from vulnerable children whilst investigation processes are being undertaken
 - v) All policies in relation to students with a disability needed to be reviewed in the light of the recommendations for the protection of vulnerable victims as specified in the Royal Commission into Child abuse.
 - vi) NSW recognises that issues with the treatment of children with a disability are not limited to NSW but are potentially systemic across Australia and I would encourage this Committee to recommend the need for a wide ranging Royal Commission into the treatment of children with a disability in Australian Schools.

REFERENCES

- Crosse, S., Elyse, K. & Ratnofsky, A. (1993). *A report on the maltreatment of children with disabilities*. Washington, DC: National Centre on Child Abuse and Neglect, U.S. Department of Health and Human Services.
- Knutson, J. & Sullivan, P. (1993). Communicative disorders as a risk factor in abuse. *Topics in Language Disorders, 13* (4), 1-14.
- Rutherford, G. (2016). Questioning special needs-ism: Supporting student teachers in troubling and transforming understandings of human worth. *Teaching & Teacher Education, 56*, 127-137
- Roy D. (2016) We must do more to protect and educate children with disabilities, *Education Review*, Jan 2016, 12-13
- Roy, D. & Dock, C. (2014) Dyspraxia, drama and masks: Applying the school curriculum as therapy, *Journal of Applied Arts & Health, 5* 369-375
- Sobsey, D. (1992). *Violence and abuse in the lives of people with disabilities: The end of silent acceptance?* Paul H. Brookes Publishing Co: Baltimore, MD.
- Sobsey, D., Wells, D., Lucardie, R. & Mansell, S. (1995). *Violence & disability: An annotated bibliography*. Baltimore: Brookes Publishing.
- Sullivan, P.M. (2003). *Violence against children with disabilities: Prevention, public policy, and research implications*. Conference Commissioned Paper for the National Conference on Preventing and Intervening in Violence Against Children and Adults with Disabilities (May 6-7, 2002), SUNY Upstate Medical University, NY
- Sullivan, P. & Knutson, J. (2000). Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse & Neglect, 24* (10), 1257-1273.
- Sullivan, P. & Knutson, J. (1998). The association between child maltreatment and disabilities in a hospital-based epidemiological study. *Child Abuse & Neglect, 22* (4), 271-288.
- Webster, R. (2015) 'The classroom experiences of pupils with special educational needs in mainstream primary schools—1976 to 2012. What do data from systematic observation studies reveal about pupils' educational experiences over time?' *British Educational Research Journal (BERJ)* 41(6) p. 992-1009