

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

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Partially
Confidential

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General Purpose Standing Committee No. 3

Inquiry into Students with disability or special needs in New South Wales schools**Submission: - 23/02/2017**

Request : Because of the severity and complexity of our case spanning from 2009 until the present day and because the Education Department has spent considerable public money on perpetuating a grave injustice against my family to the detriment of my children who both have disabilities I request than in addition to this written submission that I be given the opportunity to make an oral submission and take part in a “hearing” if that is possible. Please retain my actual name if possible as prefer not to be anonymised. It is personally important to me that in having a voice, I am recognized.

A Principal should not have the authority to disregard expert professional medical advice that involves the welfare and safety of a child. If children with disabilities are accepted into mainstream schools then the Education Dept must accept and respect the outside professional expertise of the specialists involved in those children’s care. There is an urgent need for policies and protocols to cover this gaping hole in the system when teachers, Principals and departmental officers feel entitled not just to oppose specialist advice but to denigrate and minimize it .No parent should be asked to compromise the well-being of their child and no school should be prepared to do so.

Policies should be put in place to ensure that Student Support Team and other Departmental Staff including teachers and Principals **A)** do not oppose family court orders, agencies such as DOCS, Police and/or Professional medical advice from Psychologists, Psychiatrists, Doctors, Child and Adolescent mental health unit etc unless they are aware of new information and immediate evidence placing that child at risk & **B)** Understand that their personal bias or preference for one parent over the other is irrelevant and must not influence their decision making and that the welfare of the child is paramount .

Policies should be put in place to ensure that a school counselor can't provide opinions about a child that **a)** has no direct involvement with or **b)** that contradicts the expert advice/opinion /recommendations of outside professionals treating the child

Not responding to letters is endemic. There needs to be an 'Official Complaints Form' created with spaces for both the title and date that accompanies correspondence to and from the Department with **A)** spaces for signatures from both parties to acknowledge the sending and receipt of the material **B)** a space for signing if a response was sent or not **C)** a comments section where actions taken or not can be recorded. Both the Department and parent keep a copy. This would provide a record of how complaints and/or concerns are being addressed (or not). The Complaints -Form would address the additional problem that is endemic within the Department of pretending complaints have been addressed previously to avoid providing any resolution but then branding any parent who complains about this lack of democratic process or procedural fairness as vexatious in order to send out a letter stating that any further complaints will be filed unread. Parents are then unable to raise problems or advocate for their child.

This modus operandi by the ED Dept of re-writing complaints and altering the text of documents (even their own) to suit their own agenda enables the Dept to avoid accountability and robs the complainant of any procedural fairness and a voice by:-

- a)** removing the evidence of your actual complaint
- b)** Allows the Department to act in the future as if your matter has been investigated when it hasn't
- c)** creates unnecessary confusion and complexity
- d)** forces the complainant in the unenviable position where they need to create additional complaints about the way the matter has been handled which allows the Education Depart to unjustly brand the complainant as "vexatious" or a "Repetitive complainant " when in reality the complainants actual complaint or concern has never been addressed
- e)** Makes it impossible for any other agency or other Departmental officer to successfully navigate their way through the Education Departments misinformation and the facts of the matter, or separate the lies from the truth.

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Strict Laws and Regulations (and severe penalties) need to be put in place preventing the Department from : **A)** imposing an Internal Review on external bodies without their permission or consent & **B)** designating another sure-name to a relative for improper purposes & **C)** failing to adhere to administrative law in regards to complaints & **D)** failing to follow Privacy Commissioner guidelines requiring Internal Reviews involving health, privacy or personal information to be conducted under s53 of the Privacy and Personal information Protection ACT and failing to notify the Privacy Commission **E)** Re-writing or changing the complainants complaints in order to avoid addressing the actual complaint **F)** Failing to address misconduct

There needs to be new legislation and policies created to prevent the Education Department from exploiting a loophole in the Privacy ACT that allows the Education Department an option to affix material to a document rather than make appropriate corrections, deletions and amendments . In this way they can continue to rely upon and misuse material they know to be false and inaccurate and can disregard the affixed or attached material. Currently there is no onus under the ACT that requires the Department to be honest or to correct serious misinformation even if by failing to do so causes serious ongoing harm to families to the detriment of the children. The Department should NOT have this choice.

The Department utterly failed its duty of care and as a result my children have been unable to return to Mainstream Education System. I have home-schooled them for 4 years via Long Distance Education.

Despite being aged 17 and 18 the Departments actions have meant that my children have had to undertake year 11 and 12 over a period of 4 years. **They both have 3 years of schooling remaining.** During this period I have attempted to resolve these issues with the Education Department so my children could return to school but have unsuccessful.

The Education Department has gone to great lengths over the years to suppress the evidence of what has happened to my family, denying us a voice or any means of resolution and redress ; spending hundreds of thousands of tax payers money in what amounts to a sustained cover-up of the abuse and persecution of my family to the detriment of my 2 sons who have disabilities . My children have been denied the educational and social opportunities that are the right of every child in Australia. They have been robbed of the education they deserved and had the right to expect and their chance to develop to their optimum potential destroyed. The Departments actions have ensured that they have lost the experience of what is usually seen as “the best years of your life”; deprived of the childhood and teenage years they should have had with their peers! No opportunity for parties, friendships, school excursions, camps and all the other experiences that attending a school offer.

That time can't ever be recovered. It is gone forever. My children feel that the world is an unsafe place in which their autism means they have no human rights and can expect to be treated with discrimination, hostility and prejudice. Instead of holding a Principal and other Departmental officers accountable for their actions my children and I and my family have been sacrificed .My children have been treated as if they do not matter; as if their well-being and their future is expendable. Both education Ministers and Deputy Director Generals and Deputy Director Generals and The Departments Legal Directorate from 2009 to 2015 have aware of the facts of this case but chose to take deliberate actions to ensure that staff engaged in misconduct were protected rather than acting to protect an innocent family ; a family with disabilities. If we had been able to have open, honest and transparent communication and a face to face meeting with the relevant Departmental staff who followed the guidelines, policies and procedures from the beginning or at any stage during this “nightmare” the matters could have been resolved in our children's best interests. This should have been the case. Our local M.P was unable to help us. He should have helped.

Legislation and laws need to be created so that if a Department generated document/report/Internal Review/ Investigation can be shown to have either a) failed to follow administrative law b) failed to provide procedural fairness c) contains demonstrable errors and/or misinformation and/or fabrications c) Failed to follow the instructing memorandum d) causes unjust and unreasonable harm to a family e) has either broken the law or misapplied the law or f) or purports to be related to documents that do not exist or g) contains hostile non evidence based conjecture or opinion treated as fact or h) unsubstantiated allegations treated as fact i) contains text that has been tampered with j) failed to warn the applicant and /or complainant that adverse findings would be made about them , it should be seen as reasonable and not vexatious for a body or bodies to ask that the document/report/Internal Review/ Investigation to be set aside and/or over- turned and that this action should be taken

No family with children with disabilities is safe if the Education Department is allowed to behave this way. I have documents to support all my allegations. I am fully prepared to give oral or written evidence to support my submission. What happened to us should be impossible in Australia.

Cassandra Kavanagh

