

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

Name: Name suppressed (PC)

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Partially
Confidential

I am submitting for your consideration and review recommendations and the details of our experiences upon enrolling our daughter, into her local government school. Our daughter has autism. She was five years old at the time of her enrolment. The school provided a transition program. She did brilliantly according to therapists, her future Kindergarten teacher and employees of the department who came to observe her within the classroom. Our child was happy, settled, confident, compliant, anxiety-free and excited to be with the other children. In February of 2016, our daughter began her Kindergarten year at [redacted]. Unfortunately, things quickly deteriorated and the consequences of that enrolment have forever changed the course of her life.

The following is a summary and dates of some of the more egregious and troubling conduct by the school and school officials over the two weeks that our daughter attended [redacted].

On 5 February 2016 our daughter left the classroom. She was alone. She was screaming. She was unattended at the school gate. I secured my car and made my way to the gate. As I watched, a staff member found my daughter. The staff member picked up a large stick, covered in leaves and off shoot branches, and proceeded hitting it over our daughter's head. After a few times of this, our daughter struck the woman's arm and the stick fell to the ground. I had made it to the gate at that point. I asked the staff member what happened. She stared at me for a moment. She answered, "Were you in the red car?" I answered "Yes." She was quiet and then said, "I don't know. I didn't see it. I was helping another child." The school's principal and the Kindergarten teacher arrived at that point. I requested a meeting to talk about safety issues and what had transpired at the gate. The principal agreed to a meeting and would get back to me with a time. I calmed myself as I had begun to cry. I calmed my daughter. I was determined this would be handled and we would move forward with our daughter's education. I asked that we take my daughter back to the classroom for a few minutes so she would not associate the gate with escape, and then I would take her home for the day. The principal thought this was a good idea. As the days followed, I waited to hear back from the principal about a meeting time to discuss events. My daughter, however, was extremely fearful of being in the class. After 5 February 2016, both I and a psychologist from Life Start, entered the classroom to facilitate successful re- entry into Kindergarten. A meeting was set for 11 February 2017 in order to discuss the incident at the gate.

On 10 February 2016, while I was in classroom with my daughter, I witnessed the classroom teacher use force against a small child who was suffering separation anxiety. When I later told the principal of what I saw, she said nothing. I then acted it out for her. She said, "Let's just stick to (your daughter)."

11 February 2016. The day of the meeting arrived. The following people were present: myself, my husband, [redacted] (Life Start, Psychologist), [redacted] (R/Principal and L&ST co-ordinator), [redacted] (Learning and Wellbeing Officer), [redacted] (classroom teacher) and [redacted] (AP-Kindergarten).

I began the meeting saying, "I called this meeting to discuss my daughter's safety and what happened at the gate..." [redacted] then interjected, in summary, the following: I know what happened at the gate. Unfortunately, [redacted] couldn't make this meeting, but she told me

all about it. She was making a certificate for your daughter when your daughter escaped the classroom. She decided to follow your daughter to see what she would do.

This was a lie. I was at that gate. That is not what happened at the gate. And it was not what the staff member herself told me on the day.

The meeting moved on. For much of the rest of the meeting, I took copious notes, but did not try to redirect the conversation as things quickly became very strange. A large portion of the meeting became dedicated to how the people present could find an alternative placement for our daughter instead of . Below are some of the statements made during the meeting taken directly from the notes made at the time:

1. “Kids think we are gods.”
2. “I wear many hats, one of them being child welfare.”
3. “The good thing about being in this job so long, I can get anyone to write what I need.”
4. “If anyone tries to homeschool one of these kids, I’ll make one call and they’ll be in jail.”
5. “Look at her (pointing to my daughter)... Who would believe she can go to school one hour a day if she presents this way.”

(This was in response to my daughter’s attendance at school, which was to be one hour a day. When I asked if my daughter could please participate in Sports Day, because she loved it, said only if would volunteer her time to watch over her. When I asked if I should contact my old paediatrician in regards to my daughter, said no need. then decided we should go through Tumbutin instead. After this 11 February meeting, Tumbutin initiated contact with me via phone. The woman on the phone told me Tumbutin would not review my daughter, they did not originally diagnose her—although I have an official letter from them saying my daughter in their opinion is autistic-- that they would only do what the school asked of them, and if I pursued the matter I could lose my daughter’s diagnosis. I was informed by the woman on the phone several times to contact and do exactly as advised.)

6. “Can I drag her?”

Towards the end of the 11 February meeting, a formal plan for my daughter’s safety and official handover was made. I said to the room at large that I did not want my daughter touched. After this meeting, my husband and I were very frightened. We decided to proceed with caution and try to find out what our daughter’s legal rights were, and what we could do to ensure her safety. We decided to move forward with the trial run on the 16th and then I would remove our daughter from class and speak again with about our concerns for her safety.

16 February 2016 was our daughter’s trial run. It quickly escalated into a dangerous situation for her. Nothing from the meeting was followed except line-up and photos. Instead of being a trial run, she was violently yanked and dragged into the classroom without any preparation. She did nothing to deserve this use of force. She was being quite lovely and compliant. She was even

smiling at everyone. It was shocking. My daughter looked confused and panicked at being suddenly assailed. She screamed for me. The teacher got her forcefully through the door and the door was shut. I was left standing in the hallway stunned. An unknown employee then ordered me off campus. My daughter was screaming from within the classroom. I said nothing. The employee then said "You better leave now!" Her face was only inches from mine, her manner threatening and aggressive. I said "I will not leave. My child was just dragged into that room." The woman left. My daughter continued to scream and cry hysterically from within the classroom. I stayed in the hall. I started to text my husband for help. At one point, I heard her screaming "Let go me! Let go me!" She continued to scream nonstop for over 40 minutes. Half way through that time someone turned off the lights and the classroom was in darkness. My daughter was screaming now in the dark. I could not see into the classroom as the door was locked and the windows were largely covered with art work. _____, a school employee, came and stood with me in the hallway through some portion of this time. After the lights were turned off I said "What are they doing???" _____ said to me "Do you think this is fair to the other children? Isn't there a place that takes these kinds of kids?" After 40 minutes of screaming, my daughter quieted. _____ gave me a thumbs up through the top of the window. I went outside to wait for my daughter. When she was brought out to me, she was traumatised. She had a box of crayons as a gift and was shaking and saying quietly over and over "[I] not cry. [I] not cry now. [I] not cry. [I] not cry now." My daughter had a pink arm. As this faded you could see three handprints. One at her wrist, one further up, and one on the back of her upper arm. Upon taking off her uniform, she had marks above her right underarm. She had a reddened torso and terribly reddened side. I asked my daughter if Teacher did this. She said "Yes. [I] not cry. [I] not cry now." By the next day, 17 February, most had faded, but the marks above her armpit and the one at her side were still there. By 18 February, they had turned purple.

17 February 2016. I walked into _____ office and told her of everything that had happened. I told her the staff appeared panicked. That they did not follow the formal, agreed upon plan. That the school was in desperate need of training. That my daughter had bruising from the event. That she screamed and cried from within the classroom nonstop for over 40 minutes, half of that time in the dark. The principal said nothing. I waited. I said my daughter would not be coming back to school. She said nothing. I said I needed time to think. She said of course and to take my time.

Our family was in panic mode. All the words from the 11 February meeting were running through our heads. Threats of jail and bragging of professional power had been thrown about. Professionals had talked about how to organise alternative solutions to my daughter's enrolment. A professional had bragged about how to manipulate the system and call in professional favours. A kindergarten teacher had asked for permission to drag a her. I had seen abuse and negligence and misconduct, at the school gate, within the classroom and in the meeting itself. We were very worried. We were not sure what would happen to us if we did not bring our daughter back to school. We were terrified what would happen to her. We trusted no one. Our daughter's condition was rapidly deteriorating. She had complete school refusal. She became increasingly distraught. She could not sleep. She would not go close to doors and would dissolve into hysteria when doorways became unavoidable. She screamed hysterically when her sister was dropped off

at school. She refused to leave my side even when I needed to use the toilet. She would duck and flinch when people tried to cuddle her. She could no longer function in public areas like shopping. In the end, the only way we could see out of this mess was to take the school's suggestion and find an alternative placement for our daughter.

16 February 2016 was our daughter's final day of Kindergarten.

In February 2016, I sent an email to the principal, _____, with an official withdrawal letter as per her request. We also contacted the new principal, _____, at _____ to inform her of what transpired and that we would be homeschooling our daughter going forward.

Consequences:

This situation has done irreparable harm to our family and to our daughter, psychologically, financially, emotionally. We must forgo two incomes for the foreseeable future. I am now homeschooling our daughter, giving up our dreams of owning a home. And our daughter will never be the same. Two weeks within her local government school was enough to change the entire trajectory of one little girl's life. We have called out of area schools. No one will take her. Without moving to a new home, we currently have no other choice, but to homeschool. And, to be honest, we're very doubtful our daughter will ever settle into a formal classroom environment again. Our faith and trust in other people in regards to her care and in particular the school system is non-existent. Our daughter, herself, is adamant that she will never go to "big" school again. Her chances have become more limited. Her challenges have become more burdensome. And as her only witness and advocate, I have utterly failed her. I will never be able to put her screams out of my head. I hear them every night, and it's been a year since this happened. I will for the rest of my life see her eyes imploring me to help her as she was forced into that room.

Action taken:

What could we do about all of this? We didn't know. What laws were broken? We still don't know. So, we appealed for help to other people who might know. Thinking someone would care, we applied to the old principal, as well as the new one, to make a change. To acknowledge. To inform. To care. About the abuse happening in their school. We received no communication back from either. I contacted a lawyer. We were advised not to pursue it. We talked to advocates, all of whom advised us to move on with our lives as best we could. None of them were shocked at what had happened. Every single one of them said they had heard similar or worse. We went to KLC for help, but were told again they unfortunately could not help us. We were referred to other lawyers who steadfastly advised us again against pursuing the matter. Things we were told: Our daughter's damage did not meet the threshold. The case was not financially viable. You don't have video. The system can sue you in return. These cases aren't winnable. The burden of proof is too high. The schools investigate themselves.

And so we have taken everyone's advice. We have tried to go on with our life as best we can... But it is a life with much larger challenges and much smaller dreams.

Recommendations:

What could be done to help parents?

1. Provide parents with an information pack detailing the disabled's rights within NSW schools to be handed out or downloaded during orientation or on the first day of school. Information to be included:

- When restraint is legal. And when it is not.
- When seclusion is legal. And when it is not.
- When force is legal. And when it is not.
- What level of access is a legal right.
- What to do when things go wrong, including an outline of the complaint process, numbers to call, people to contact.
- What constitutes abuse and reportable conduct. What does not.
- A summary of things to do in order to meet the burden of proof when a child experiences abuse at school. (Ex: Immediately visit a hospital if your child is bruised or harmed, take photos, make sure all contact is written or via email, record meetings, take a trusted third party as a witness to any communication with a school employee, etc.)
- A helpline number. A number to call to discuss a child's situation should schools be engaging in questionable conduct, one that can deal with questions about what is legal, with referrals to access, help and information.

This would be invaluable. We were completely in the dark about the laws, what we could do, where we could go, how to get help. I am hopeful that the details of any child's rights can be explicitly listed or related to parents and carers. With that information, a person's rights will actually be rights. Please, consider making information, guidelines and guidance proactively and easily available.

2. Place cameras in classrooms. Or allow children to wear cameras or recording devices in school, especially the very young or where communication of the student is limited. This protects both the staff and the students.
3. Make it policy that schools must detail to parents and carers how the school is spending a child's funding. Create an appropriate appeals process should a parent or other professional disagree with how funds are spent. Why was our daughter allotted only one hour a day? Was it because the existing school's aide could only dedicate one hour of her

time? Why couldn't our daughter participate on Sports Day? Why was it agreed to only if an independent professional volunteered her time to come supervise? Were these all funding issues? I'll never know. What I do know is that after we left the school, the back gate got a total revamp, new foundation, new fencing, new cemented area, a double locking two gate system, and the front gate got overhauled with a new combination lock. Our daughter, unfortunately, was no longer there to benefit. Please, make funding a transparent process that involves disclosure, letting parents and carers know how much is being allocated for their child and where that money is going. Allow them to be informed participants in the process.

4. Educate schools and teachers as to the letter of the law around restraint. According to the NSW government, Legal Issues Bulletin, No. 9, reviewed June 2012, "Any decision taken by staff to physically restrain a student should be exercised only in those circumstances where there is real and immediate threat of injury to a person or serious damage to property and there is no other practical way of preventing likely injury or damage." At present, some schools seem to think any and all restraint is legal. They are using restraint for behaviour modification and behaviour control. They are dominating and using force for expediency. That is not my reading of the law. From my understanding restraint should be used when there is "real or immediate threat of injury."
5. Revamp the current complaint and investigation process. Make it independent and impartial. When things go wrong, schools are being made the gatekeepers of their own mistakes, abuse, incompetence, and/or negligence. This system doesn't work. For any institution. Examples of inherent problems: personal and professional conflicts of interests, the pressures of institutional silence, cronyism, blindness to one's own school culture which may not see what they're doing as abusive or simply may not care, and fear of retribution, personal and professional. An independent complaint and investigation process that allows the abused and marginalised to appeal to someone other than the school system is essential.

Summary:

Our daughter deserved a fair go at school. She is a remarkable person, gentle, bright, loving. Please believe me when I say what happened in that school had nothing to do with our daughter as a human being. It did not originate from some terrible behaviour problem on her part. Ask anyone who saw her during her transition, ask the people who came in to witness her in the classroom, ask her past or present therapists. Ask anyone who knows her. Any investigation would reveal the truth of her character. What then was her crime? Autism. Autism made her an easy target for the bad practice of other people. It made her vulnerable. It made her different. It provided people with an excuse. And what happened at _____ was not just a loss for our daughter, or for our family. It was a loss for all the children who were told to be quiet and keep their eyes forward, and all the children who were sitting in the dark that day as a classmate screamed for help. Please help us. Improve transparency and accountability in NSW public schools and implement an independent complaint and investigation process.