

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

**Name:** Name suppressed (PC)

**Date received:** 26 February 2017

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Partially  
Confidential

**Submission for  
Inquiry into the provision of education to students with a disability or special needs in government  
and non-government schools in New South Wales**

**Introduction and Background**

The below statement by us to Executive Director \_\_\_\_\_ Director \_\_\_\_\_ and Principal \_\_\_\_\_ sums up, in no small part, our son's story of his primary school years at \_\_\_\_\_ during the period 2013 to 2016 inclusive.

Our letter of 15 December 2016 states: *“As (our son's) advocates it is beyond disappointing to acknowledge the undeniable truth that without our continual commitment, perseverance and tireless efforts in supporting him at (our son) would have been afforded no additional support.”*

Governments over the years have implemented legislation and regulations to include health and safety, disability and discrimination, legislation meant to improve both duty of care and wellbeing needs ensuring all individuals receive due care and assistance, irrespective of their disabilities. This legislation clearly defines the responsibilities and accountabilities of management, individuals and their compliance requirements, noting that individual accountabilities cannot be delegated.

Would this not create an expectation that an individual student's wellbeing and needs would be met by the NSW Department of Education (“NSW D of E”) and that compliance to enacted legislation would, by now be implemented and working?

In this statement, we raise a number of NSW D of E legislative compliance requirements and the detriment these failures have caused to our son together with little regard or concern to the immeasurable harm and damage caused to him and his family.

Our statement will allege that there has been consistent and deliberate non-compliance to legislative requirements by \_\_\_\_\_ and \_\_\_\_\_. We see this non-compliance as a failure of management in meeting our son's needs.

We acknowledge the majority of \_\_\_\_\_ teaching and support staff have been extremely helpful, supportive and compassionate to our son during his primary schooling.

Our son has a medical psychiatric diagnosis of DSM 5 Autistic Spectrum Disorder (ASD) with difficulties including social understanding, rigid thinking, anxiety and impulsivity, together with a psychiatric specialist's recommendation for support and funding within the NSW D of E. Due to his disability, our son is required to be heavily medicated daily and acting upon specific advice from his support team, our son is unaware of his diagnosed disability.

In 2009 we applied for and were offered placement for our son at \_\_\_\_\_ with the knowledge that at that time \_\_\_\_\_ was known within the local community for its inclusion and acceptance of special needs children. Our son commenced Kindergarten in 2010 and completed Year 6 in 2016.

Our \_\_\_\_\_ story is lengthy and is supported by considerable correspondence, including documentation recently obtained via the NSW D of E's GIPA process. Our son has continually been denied basic needs and rights within the NSW D of E together with clear and undeniable failures by \_\_\_\_\_ management together with serious questions raised of the \_\_\_\_\_.

We have experienced consistent and unexplained delays in relation to information requested by us, continual refusal by to provide support and funding for our son, failure to implement basic management plans, failure to acknowledge or act upon our son's medical diagnosis, including continued failure to apply for formal funding, delays by Principal in implementing recommendations and actions as stated by the

There have been serious and significant failures relating to basic health and safety legislated requirements including duty of care and student wellbeing. We see these failures as potential breaches of the Disability Discrimination Act 1992.

Documentation received from our GIPA application includes an email from Principal to Director on 6 April 2016 stating *"I am concerned that staff are feeling uncomfortable (myself included) about meeting with (our son's mother), due to her intimidatory manner towards staff. I am also concerned that (our son's uncle's) behaviour towards staff is also intimidatory"*.

In a telephone conversation on Friday, 29 January 2016, Director stated that we have been very professional in our approach to this process. Principal above reference in relation to the intimidatory manner of our family's perceived behaviour is offensive. The known ongoing failings to our son by the NSW D of E have required us to continually ask and raise questions of statements made by and Director We have acted professionally in our manner and approach at all times.

The continued failures of Principal to ensure our son was provided with the basic requirements, including duty of care, support and student wellbeing has required us to continue our endeavours to obtain required and entitled funding and support for our son.

It is important to note that we, as parents, made a conscious decision not to move our son from to another primary school. This decision was in no small part due to our son's medical diagnoses, the fact that he was settled and in familiar surroundings at allowing us as his parents and himself to better managing his levels of anxiety. Based on discussions with our medical and support team we decided it best for our son's ongoing mental health and wellbeing to allow him to remain at given that in the 2017 year he was be taking a gigantic step into high school. We were also very hopeful that our son would gain a placement at which is situated immediately next door to which our three younger boys would be attending.

In our opinion, the unconscionable conduct of Principal and Director in his capacity as and representing the NSW D of E in what became the total disregard to the ongoing mental health and wellbeing needs of our son and their management of this entire process as being wholly unacceptable.

### **Initial Incident – November 2013 & Implementation of Risk Management Plan Proforma**

The first significant incident involving our son at occurred in the last week of November 2013 following an incident resulting in our son being physically restrained by staff and held in a classroom. A Risk Management Plan Proforma: Student Behaviour ("RMPP") dated 28 November 2013 was implemented. This document describes our son as being aggressive and fails to address the most basic of health and safety compliance needs, including duty of care and the wellbeing of our son. We have raised our concerns with the NSW D of E's Health & Safety Directorate and upon raising our concerns with two Health and Safety Consultants, it was agreed that there are questions as to compliance to legislated incident management processes.

have failed to implement the most basic of actions or plans to address the significant failings associated with this physical restraint and containment incident. The distress and harm resulting from this incident could have been significantly reduced if requested assistance been forthcoming by staff prior to the incident taking place.

Questions we have asked of at numerous meetings include;

- Why did on duty playground teacher, fail to take action when alerted to the playground incident by a student?
- Was aware of our son's disability?
- Had notified appropriate staff of our son's disability and diagnosis?
- Why was there no plan implemented to address our son's disability concerns?

We acknowledge that Principal did not commence until January 2014 and that Acting Principal chaired a meeting in 2013. Then being delegated the role of managing this situation in January 2014 by Principal upon her commencement. At numerous meetings with Principal the first occurring in June 2014, this incident has been raised and discussed in depth and supported by documentation.

At our request, a copy of this RMPP was provided to us on Friday, 22 May 2015, some 18 months after it was prepared. This RMPP has no "planned review date". Counsellor subsequently confirmed to us that this plan was not reviewed by Despite this admission, there is a handwritten notation at the foot of page 1 stating "Reviewed no longer current 22/5/15". Director has confirmed that this handwritten notation was made by Principal Despite this admission, in his letter to us of 2 September 2016, Director states ",, did not commence as principal at until January 2014 and has no knowledge of your allegations ..." and again, in his letter to us of 1 June 2015 Director states "...I am assured by the Principal that there was a plan in use (as provided to you recently), that it was being followed ...".

In our 8 September 2016 reply to Director we noted that "We dispute statement that she has no knowledge of our 'allegations of inappropriate physical restraint ...'. At a meeting chaired by on 1 June 2015 to discuss (our son's) return from suspension ... considerable discussion was had ... regarding the abovementioned Risk Management Plan Proforma: Student Behaviour, implemented as a direct result of (our son's) behaviour, resulting in (our son's) containment and physical restraint.

*We raised many questions regarding this Risk Management Plan Proforma: Student Behaviour including the physical restraint of (our son) and his safe return to with no active or current plan in place. responded to all our questions with 'we need to move on from the past', 'it is important that we move forward' and 'the Risk Assessment is closed and no longer valid ... we need to move forward'. You may wish to direct to these minutes, in particular point 2 to refresh her memory that she was and is aware of our 'allegations ...."*

Despite advising Director in writing on 29 May 2015 and 11 November 2015 respectively of our son's inappropriate restraint and containment, Director first acknowledgment of this information was not until his letter of 2 September 2016 (some 16 months after his initial notification) where he states "If you hold further information, please advise me through my office ... as I am required to refer this matter immediately to the departments Employee Performance and Conduct Unit, but require further explanation and detail from you".

In our response to Director [redacted] above statement, we noted “We are at a total loss to understand why you now deem it necessary to report this matter ‘immediately’ given that you were first made aware of this incident in excess of 12 months ago”. We also referred him to the Risk Management Plan Proforma: Student Behaviour dated 28 November 2013; our email attachment to him of 29 May 2015; and our letter to him of 11 November 2015. To date we have received no response from Director [redacted] nor any other NSW D of E employee explaining this delay.

It is important to note we have never denied the involvement of our son in this incident; our main concern has always been and is that if appropriate actions had been implemented by [redacted] the potential of these incidents would have been greatly reduced or even prevented.

Documentation received by us from our NSW D of E “GIPA” application raises many concerns relating to supporting documentation made available to us and/or retained by [redacted] regarding the abovementioned November 2013 incident. Of great concern to us is the advice received from the NSW D of E Information Access Unit that the only documentation held by [redacted] regarding this incident are the RMPP, LaST Minutes and “Risk Management Forms” all dated 28 November 2013. There are no file notes, playground diary notes or any other documentation supporting the implementation of the RMPP dated 28 November 2013. The lack of documentation held by [redacted] raises serious questions as to the record keeping processes in place at [redacted] and its ability to implement and conduct an independent investigation.

#### **First Meeting with Principal [redacted] re Violent Behaviour Incident – Wednesday, 14 May 2014**

On 8 May 2014 our son observed a serious incident involving violent behaviour and bullying during a lunchtime soccer game. Our son remained with a friend who was kicked in the stomach and our son received verbal abuse from the instigators for supporting his friend. Due to our son’s ASD diagnoses this type of situation can trigger an immediate escalation of his anxiety and his ability to self-regulate.

Given our son’s medical diagnoses, the multiple failures of [redacted] in its management of the November 2013 incident including the highly questionable RMPP and the importance of our son’s wellbeing, at our instigation we met with Principal [redacted] and Counsellor [redacted] on 14 May 2015. At this meeting we expressed our concerns that there were no clear “playing safely” soccer rules and limited student supervision. We requested that “school rules” be put in place for playground soccer.

We raised our numerous concerns around the implementation of the RMPP with Principal [redacted]. By her own admission, Principal [redacted] stated that as she was not Principal at the time the RMPP was raised, she was unable to manage it. We informed Director [redacted] of Principal [redacted] statement and noted that we found her stance on this matter “unacceptable”.

In an email dated 20 May 2014 as a follow- to our above meeting, Principal [redacted] states “(your son) has access to ... (SLSOs) whilst on the playground, even though he is not specifically funded for one-to-one support. We are optimistic that (your son) will seek assistance when required ...”. This level of support is unreasonable and unacceptable given our son’s age and medical diagnoses and was confirmed as being unreasonable by Director [redacted] in a subsequent telephone conversation.

## **Milson Island Camp – April 2015**

Given our son's medical complexities and medication requirements we discussed his attendance and participation at this excursion with his medical and support team, It was agreed that with no support plan in place and the continued refusal by [redacted] to address or acknowledge the issues raised by our son's medical specialist in his diagnosis letter together with the continued failure of [redacted] to address the concerns raised by us regarding the November 2013 physical restraint and containment incident, overnight stays for our son were not an option.

Upon raising these concerns with [redacted] we were informed that our son would not be able to attend the camp unless he stayed overnight. Despite [redacted] initial inflexibility, we were able to negotiate an agreement with [redacted] and Milson Island administration that allowed our son to attend the camp each day before breakfast and return to the mainland each evening after dinner.

The week prior to the camp we were informed by AP [redacted] and School Counsellor [redacted] that a teacher would be nominated to keep safe our son's medication whilst he was on the island. On the first day of the camp before leaving the school via bus, we approached several teachers, including AP [redacted] to ascertain which teacher would be responsible for holding our son's medication. No teacher would accept responsibility for his medication and as a result, we were unable to provide dosage needs and requirements for one of his restricted prescription support medications. We were given no alternative but to place three restricted prescription medications in his carry bag, including two stimulant drugs. Prior to the camp, we were given assurances by AP [redacted] that our son's wellbeing and all his needs would be met.

These assurances disappeared at the end of the first day when our son was boated off the island, accompanied by a [redacted] staff member. His carry bag containing all his restricted essential medication had been left unattended in his designated sleeping quarters on the island occupied by three other students. Again, this raises further serious concerns in relation to [redacted] ability to recognize, acknowledge and meet our son's needs. Let alone if another student had found and ingested this restricted medication.

At subsequent meetings with Principal [redacted] we have requested copies of [redacted] implemented procedures and/or a required Risk Assessment relating to our son's attendance at this camp. Principal [redacted] responses to these requests has been that she would be required to check with "legal branch" regarding the release of this requested information, inferring that this documentation does exist. Additionally, when we raised the issue as to a plan for our son's attendance at this camp, Principal [redacted] stated "(our son) is not entitled to funding or support". This is in opposition to what was inferred to in our previous requests and should in no way, impact the need and/or relevance as to the raising of an appropriate plan.

To date, no documentation relating to these requests has been forthcoming. The only documentation received from our GIPA application is a copy of [redacted] LaST Meeting Minutes dated 11 February 2015 which states: "(our son) ... will require support on camp". We have been advised by the NSW D of E Information Access Unit that [redacted] have advised it is "unable to locate any more records relating to (our son) and the Milson Island Camp." The lack of any documentation supporting our son's attendance at the Milson Island Camp reinforces the truth that no support plan was ever drafted let alone implemented to support our son at this camp again failing to acknowledge or support our son's complex medical diagnoses.

## **Suspension – Classroom Incident – Tuesday 26 May 2015**

We received notification from [redacted] on Tuesday, 26 May 2015 that our son had been suspended for aggressive behaviour in the classroom the same day. A resolution meeting was scheduled for Thursday, 28 May.

On Wednesday 27 May 2015 telephone contact was made with  
to discuss to our son's suspension and our ongoing concerns.

On Thursday, 28 May 2016 we confirmed our attendance at the 28 May resolution meeting to Director  
Director requested that we forward to him our notes following this meeting, advising he would contact  
the following day.

On 28 May 2015 we forwarded documentation to in support of our request to revoke our son's suspension,  
due in no small part to the ongoing failures resulting from Management's inflexibility to meet our son's needs  
and wellbeing.

On 29 May 2015 we forwarded our notes from the abovementioned resolution meeting. These notes included information  
relating to our son's November 2013 physical restraint and containment incident.

Director states in his letter of 1 June 2015 that *"I am not persuaded that the school discriminated or sought to  
unfairly target (our son) and consequently dismiss this particular of your appeal,"*

Director further states in his 1 June 2015 letter " *considered (our son's) age, disability and  
development level before making this decision. has explained in her response that prior behavioural  
incidents involving other students have been followed up and in her professional judgment, did not require suspension.  
has rejected any accusation of discrimination, rather she has reiterated that every case has been judged  
and will continue to be judged on its unique circumstances, according to the department's relevant policies."*

In further support of our discrimination allegations, we refer to email correspondence of 9 September 2015 between  
teacher and Principal (released to us as part of our recent GIPA application)  
where states *"To date, there have been four instances this year in which students were physically violent  
towards teachers or students ...26.05.2015 (our son) hit ... Concerns have been raised that of the above four events only  
one of these resulted in immediate suspension. ... Any student who is physically violent, resulting in injury or whose  
violent behaviour seriously interferes with the safety and wellbeing of others, is to be suspended immediately."*

In our opinion, this clearly demonstrates that at least one staff member has expressed serious concerns relating  
to the *"need for consistency, and with only one of the four cases seeming to warrant suspension there does not appear to  
be consistency present."*

Director did however make the following recommendations:

1. *"A meeting with the Principal, Assistant Principal, School Counsellor, District Guidance Officer, class teacher ...  
and you ... was scheduled on 1 June 2015. Review dates at reasonable intervals should also be scheduled to ensure  
(our son's) plan is current, inclusive and comprehensive ...*
2. *(our son's) Personalised Learning Plan (incorporating any risk management, medical and/or behavioural  
considerations) should be thoroughly updated as part of this meeting (and promptly following it) and support (our  
son's) return to school from suspension.*
3. *(our son's) Personalised Learning Plan must be published and shared with you and its future review dates listed for  
the appropriate personnel – including at least one parent to attend.*
4. *Educational Services staff should, with the appropriate Principal requests as required, be involved in the review of  
(our son's) plan, especially if funding eligibility is required to be evaluated.*
5. *The School Learning Support Team will meet to evaluate the implementation of (our son's) updated Personalised  
Learning Plan and provision of any additional support in the school ...".*

A number of these recommendations are what we had been requesting of Acting Principal/AP since the initial November 2013 incident and Principal from June 2014 to June 2015. Clearly a timelier implementation would have significantly reduced events and distress.

### **Return from Suspension Meeting - Thursday, 28 May 2015**

This Return from Suspension meeting was chaired by AP (delegated this role again by Principal and AP. Our recollection of events and notes taken by us at the meeting clearly support our statement that on at least three occasions we (our son and his mother) were “encouraged” to sign the Return to School from Suspension letter, a very broad and generic letter that did not offer any solutions or ongoing support for our son. This “encouragement” was made regardless to the fact that we stated a request had been made to Director to have our son’s suspension revoked. This and other points discussed during this meeting are disputed by AP in her email of 1 June 2015 however we are confident in the knowledge that our notes are correct and give a true and accurate account of this meeting.

Given AP and AP inability/unwillingness to provide appropriate and adequate support to our son, ensuring his safe return to school and our refusal to sign the Return to School from Suspension letter AP recommended a meeting take place with Principal

Our firm belief that our son was discriminated against when other students also displayed aggressive and violent behaviour and were not suspended has now been confirmed in documentation received via our GIPA application. As noted above, in particular email correspondence of 9 September 2015 from teacher to Principal stating *“To date, there have been four instances this year in which students were physically violent towards teachers or students ...26.05.2015 (our son) hit ... Concerns have been raised that of the above four events only one of these resulted in immediate suspension. ... Any student who is physically violent, resulting in injury or whose violent behaviour seriously interferes with the safety and wellbeing of others, is to be suspended immediately.”*

### **Return from Suspension Meeting - Tuesday, 1 June 2015**

This meeting was chaired by Principal. Discussions included disciplinary and suspension process. As this meeting progressed it became apparent there were inconsistencies with discipline and suspension process. We also discussed with Principal the continued failure of to implement any actions or processes associated with the physical restraint and containment incident of November 2013, including our son’s wellbeing and the school’s failure to act on our son’s medical specialist’s letter recommending funding and support.

We provided all attendees with copies of our son’s medical specialist’s *“psychiatric diagnosis of DSM 5 Autistic Spectrum Disorder (ASD) with difficulties including social understanding, rigid thinking, anxiety and impulsivity”* and recommendations for support and funding within the NSW D of E system.

Principal tabled a copy of the RMPP dated 28 November 2013, implemented as a direct result of our son’s physical restraint and containment incident. Principal stated the document had been reviewed and was no longer current, having been closed on 22 May 2015. We questioned this action as there was no supporting review or closure documentation to support the RMPP closure. Principal response as to our above concerns was that this matter was closed and it was time to move forward.

At this meeting we were given a draft Student Behaviour Support Plan dated 28 May 2015. This draft raised further questions, including the failure to include any of our son’s medical diagnosis information nor any details relating to prior incidents at including the November 2013 physical restraint and containment incident of our son.

We again raised questions of \_\_\_\_\_ attendees at this meeting in relation to the November 2013 incident. For every question we raised Principal \_\_\_\_\_ responded “this matter is closed ... it is time to move forward”.

We questioned \_\_\_\_\_ position regarding correspondence from our son’s medical specialist to the school recommending support funding. Principal \_\_\_\_\_ response was “your son is not entitled to funding or support”. We also asked if a funding request for our son had been submitted. Again, Principal \_\_\_\_\_ response was “your son is not entitled to funding or support”, Our direct questions were not given a direct answer, simply a non-specific response.

At this meeting, we requested copies of the NSW D of E’s process and procedures, together with recommendation and guideline requirements, for our son’s implemented RMPP dated 28 November 2013 and his Student Behaviour Support Plan dated 28 May 2015.

This request was made in an endeavor to assist us in understanding the NSW D of E’s procedural requirements. Principal \_\_\_\_\_ advised she would need to check our request with legal branch. We now see this statement as Principal \_\_\_\_\_ standard practice in an attempt to not provide requested documentation. In most cases we have either not received requested documentation or have been forced to follow up the status of requested documents numerous times in our attempts to have our requests met.

### **Return to School – Wednesday, 3 June 2015**

On our son’s return to school, some 5 days after his suspension he and his mother were met by AP \_\_\_\_\_ who advised our son’s mother that she “*could leave now and go home*” a meeting then took place between AP \_\_\_\_\_ and our son in the Principal’s Office. Our son later informed us that AP \_\_\_\_\_ said that she would accompany him to his classroom. Our son was abandoned by AP \_\_\_\_\_ in the playground on the way to his classroom as she stated she needed to be somewhere else. Our son was left to make his own way to his classroom.

This is a clear breach of duty of care and shows a clear lack of empathy for our son. This situation would be challenging enough for a neuro-typical student let alone a student with a known medical diagnoses of Autism, anxiety and difficulty coping with change or uncertainty. We see this as yet another significant failure by \_\_\_\_\_

### **Meeting - Friday, 16 October 2015 Regarding High School Placement and Concerns Regarding No Follow-Up from \_\_\_\_\_ Regarding Student Behaviour Support Plan**

On Friday, 16 October 2015 we met with \_\_\_\_\_ Counsellor \_\_\_\_\_ and District Guidance Counsellor \_\_\_\_\_ (as Principal \_\_\_\_\_ was on leave at this time) with a view to discussing the best High School options for our son in 2017. We expressed a concern that our son’s recent suspension may negatively impact his High School options.

\_\_\_\_\_ joined this meeting and it was stated and confirmed by all three NSW D of E staff that there was plenty of time to look at High School options for our son. Two High Schools options were briefly discussed, taking into account our son would be an out of area student. At this meeting we were given the clear impression that support would be provided by NSW D of E staff in assisting us gain placement for our son’s at a high school best suited to meet his needs.

We raised our concerns that no review date had been set for our son’s “Personalised Learning Plan” as per Director \_\_\_\_\_ Recommendations #1 and #3 in his letter of 1 June 2015.

We were informed by Counsellor \_\_\_\_\_ that Funding Review Meetings were scheduled for early November 2015 and she would look to include us in those meetings given Director \_\_\_\_\_ above recommendations had not been met.

## **Funding Review Meeting - Wednesday, 4 November 2015**

We received correspondence from [redacted] dated 16 October 2015 stating “A review meeting to discuss (our son’s) progress and funding for the remainder of 2015 and 2016 has been planned for Wednesday, 4<sup>th</sup> November 2015. ... The following people will be attending ...our School Counsellor; ...”

At this meeting we tabled a letter from our son’s treating psychiatrist reconfirming our son’s medical diagnoses and stating “given (our son’s) complex mental health profile, and his vulnerabilities, it is essential that (he) receives funding support to help him socially in the classroom and in the playground, and academically”.

Counsellor [redacted] stated that “given the gravity” of our son’s treating psychiatrist’s diagnosis letter she would attempt to get extra funding. To date, we have received no advice from [redacted] or the NSW D of E that this statement was ever followed through.

During this meeting we asked our son’s co-teacher, [redacted] at what point she became aware that our son and another student were involved in an altercation in the classroom. [redacted] responded that she had not witnessed “the event” despite her acknowledgment that the lead up to this incident could have taken at least 2-3 minutes. Upon hearing this statement our concerns escalated around the circumstances of our son’s suspension. At no time prior to this admission had any [redacted] Executive informed us that this incident had not been witnessed by his class teacher.

It was also noted that our son’s two class teachers “managed him differently” which was evidenced by his four day a week teacher being very supportive of our son and his one day a week teacher giving him no support.

[redacted] also made the statement that she did not see our son as having any issues and did not believe he required any additional support. She further stated that she did not see our son as having a “problem”.

## **Letter to Director [redacted] dated 11 November 2015 and Director [redacted] Response dated 7 December 2015**

On 11 November 2015 we advised Director [redacted] “The class teacher admitted not seeing the event resulting in (our son’s) suspension”. In correspondence received from Director [redacted] dated 7 December 2015 he states “... I have not re-visited the suspension appeal detail in this response and refer you to that letter ... dated 1 June 2015 which includes my findings.” In a telephone conversation on Friday, 26 February 2016 Director [redacted] stated that, in hindsight, he should have looked into this matter further. Director [redacted] above decision has been made despite that fact that [redacted] by her own admission, states in her “Incident Report for Tuesday 26<sup>th</sup> May 2015” that she did not witness the incident. We see this as a clear indication that Director [redacted] did not review this Incident Report prior to advising us of his 1 June 2015 decision to uphold our son’s suspension.

Director                      letter of 7 December 2015 informed us of our rights to “*request one internal review by the Executive Director ...*” On 16 December 2015 we wrote to Executive Director                      requesting an internal review on the grounds that “... *(our son’s) teacher did not witness the incident ... no specific strategies for (our son) have been put in place ... (our son) has received no funding support from the time the new system of funding support was put in place ...*”.

### **Meeting – Wednesday, 9 December 2015**

At this Learning Plan review meeting we were given a copy of a new “Individualised Learning Support Plan – Draft for Consultation”, the third plan in less than 5 months.

We were unable to comment on this new plan as we had not received any of the previously requested NSW D of E Process and Procedures which severely limited our understanding of the requirements associated with the NSW D of E planning process.

The “Individualised Learning Support Plan – Draft for Consultation” presented to us failed to incorporate any of the recommendations made by Director                      in his letter of 1 June 2015, where he states “*(our son’s) Personalised Learning Plan (incorporating any risk management, medical and/or behavioural considerations) should be thoroughly updated as part of this meeting*”.

We asked who our son’s 2016 class teacher would be and were advised by Principal                      that this was yet to be determined, further stating “*this process should be finished by the end of the week*”. We were asked if we had a teacher preference as there would be two Year 6 teachers –                      and a new female teacher commencing January 2016. We requested                      as he was “familiar” to (our son) and felt it beneficial to our son to have exposure to his first male teacher prior to High School.

We stated our need to know who our son’s teacher 2016 would be prior to the end of the 2015 year to assist us in supporting our son as he commenced his final primary school year, with the best possible level of confidence and comfort given his medical diagnoses.

We also asked for copies of all documentation used in preparing this draft plan. Principal                      denied our request stating we were not entitled to this information.

Following this meeting we received an email from Principal                      confirming “*We will let you know (our son’s) class teacher for 2016 by Monday 14 December, and negotiate an arrangement regarding transition for (our son) (eg meeting his teacher and possibly spending some time in the teacher’s class before the end of the year).*” With the exception of being notified of our son’s 2016 Year 6 teacher, no other support or transitioning was provided to our son by                      Despite Principal                      above assurances, no meeting was arranged for our son to meet his 2016 class teacher and no arrangements were made for our son to spend time in the teacher’s class before the end of the 2015 year.

### **Local Member Involvement – Ministerial Representation**

Having little trust in the workings of the NSW D of E due to the continued failures to our son, we contacted the office of our Local Member, Mr Victor Dominello and subsequently met with him on 22 January 2016 to discuss our concerns and the ongoing issues we were experiencing at                      and Director                      management. This meeting resulted in Mr Dominello forwarding our concerns to the then Minister for Education and a Ministerial being forwarded to the Executive Director

### **Request for an Internal Review by Executive Director**

Due to Director \_\_\_\_\_ decision to “not re-visit the suspension appeal detail” requested by us in our letter of 11 November 2015, our request for an Internal Review was forwarded to Executive Director \_\_\_\_\_ on 16 December 2015.

Executive Director \_\_\_\_\_ response of 19 January 2015 states “regarding the decision made by \_\_\_\_\_ ... to dismiss your appeal of the suspension of your son. ...I understand on this occasion new information has come to light. ... I have asked \_\_\_\_\_ ...to conduct this review”.

Interestingly, this “new information” was also made available to Director \_\_\_\_\_ in our letter dated 11 November 2016 and deemed not worthy of revisiting by Director \_\_\_\_\_ in his response to us of 7 December 2015.

### **Internal Review Letter by Director \_\_\_\_\_ 12 February 2016**

In her letter of 12 February 2016, Director \_\_\_\_\_ states “I appreciate the time you have taken to write to me. The wellbeing of students is of paramount importance and I wish to assure you that I have taken the issues in your letter of appeal seriously”.

*“You have ... appealed on the grounds that an unfair decision was made and correct procedures were not followed. ... Having re-examined all of the evidence, which includes new information that has come to hand, I have determined to uphold your further appeal of your son’s suspension.*

*I have identified two components in your appeal and make the following findings and determinations:*

- 1. That correct procedures have not been followed and in light of new information that indicates the decision was made pending insufficient evidence, given the teacher has indicated to you that she did not witness either the incident or the lead up.***

***Findings:*** A review of a range of documentation made available to me indicates that the teacher did not witness the incident. Documentation also indicates that there was inconsistency in (our son’s) verbal to written recount of the incident and also slight variations in incident statements as compared to the final suspension determination outcome. Following a review of documentation available to me I can confirm that the incident in which (our son) was involved included inappropriate behaviour. However, I have determined inconsistency in the evidence on which the decision to suspend (our son) was made.

***Determination:*** Based on the evidence available to me, I have determined that this aspect of your appeal has been upheld.

- 2. An unfair decision was made based on (our son’s) diagnosed disabilities. (Our son) was not afforded the appropriate support to meet his needs therefore leaving him vulnerable in relation to such an incident.***

***Findings:*** A review of a range of documentation made available to me indicates that an updated and current risk management plan was not evident to support (our son’s) behavioural needs. While there is some evidence that a personalised learning plan was used to support (our son), there is little evidence that this plan was developed in consultation with you, reviewed regularly, communicated clearly to you or implemented consistently across the school.

While (our son) was involved in inappropriate behaviour, there is evidence to indicate that inconsistent implementation of a support plan to meet (our son’s) needs may have left him vulnerable in relation to such an incident leading to a short suspension.

***Determination:*** Based on the evidence available to me, I have determined that this aspect of your complaint has been upheld.”

Director further states “As a result of these determinations will ... provide the school with support in regards to the Department’s Suspension and Expulsion Procedures to ensure that they are appropriately implemented in the future ...”

“I would like to acknowledge that in my conversations with he has given an undertaking to work with Principal of to ensure the school implements the recommendations as outlined in his correspondence to you dated 1 June 2016, including working with you to plan (our son’s) smooth transition into high school into 2017.”

These findings clearly highlight an 8 month delay by Principal in implementing the 1 June 2015 recommendations of Director This is combined with yet another significant failure of Director and Principal in their respective undertakings “...including working with you to plan (our son’s) smooth transition into high school into 2017”.

Whilst we appreciated the upholding of our son’s suspension appeal, Director determinations reinforce many of the identified failures we have consistently raised in relation to Principal and Director who, on two separate occasions “dismissed” our appeal and subsequently refused to re-visit our suspension appeal. What became “new information” to us on 4 November 2015 had been available to Director from 28 May 2015 some seven months prior.

### **Failings - Advocating For Our Son**

We do not deny our son’s involvement associated with the classroom incident on 26 May 2015 however, we continually question the failure of to provide the most basic of plans, helping to minimise the potential of further incidents. Given our son’s medical diagnoses, this includes providing him with appropriate funding and support as required by his medical specialist. We understand this is a legislated compliance requirement however, it has clearly not been implemented or managed by the NSW D of E.

These failings have had an immeasurable impact on our son, given his medically diagnosed disability. He has not been afforded the required and necessary assistance to allow him an equal opportunity to succeed and achieve within a highly questionable and policy non-compliant environment.

Having attended numerous meetings at since November 2013 it has become increasingly obvious that there have been considerable and consistent misrepresentations of issues including failure to document/note our questions and points of discussion in the records of meeting minutes. This matter has been raised numerous times with Director and he states in his letter of 7 December 2015 “ is more than happy to ensure that review meetings ... are minuted by an independent minute taker ... . Minute taking procedures and record keeping will follow the internal departmental procedures listed in the Department’s Good Practice When Conducting Interviews document.” Despite Director assurances and Principal agreement, although an “independent minute taker” may be taking the minutes, Principal is still completing, adjusting and forwarding these minutes.

As a result of our diminishing trust that appropriate procedures are being followed at meetings, we made the decision that when attending any future meetings, including the 9 December 2015 plan review meeting, we would have written points for discussion. We typically distributed copies of our “points for discussion to all attendees, including Principal in an effort to clarify some of the ongoing misrepresentations and to have them added as addendums to the meeting records. When realising this had not occurred, we raised the question of Principal who informed us that the addendum matters would be placed in our son’s personal file.

### **First Day of 2016 School Year – Year 6 For Our Son**

At the end of 28 January 2016, day one of the 2016 school year, we collected our son from school to find him in tears, extremely emotional and upset due to the fact that none of his friends were included his class. For the first time since attending Kindergarten in 2010 he stated that he hated school.

As a family, we are still dealing with ramifications and regression of our son as a direct result of the deceit and manipulative actions of Principal [redacted] in relation to his class placement together with the subsequent need for additional support from our son's psychiatrist and psychologist. Of considerable concern was that on the first school day of the 2016 year another unacceptable failure occurred by [redacted] Management in addressing our son's needs and wellbeing.

We sent an email to Principal [redacted] at 8.48am on Friday, 29 January 2016 notifying her that our son would not be attending school that day due to wellbeing concerns associated with his class placement. We requested an urgent email reply from Principal [redacted] regarding our email. No response was received from Principal [redacted] until Monday, 1 February 2016 at 3.42pm stating *"I would like to discuss this further with you during our meeting on Wednesday."*

We spoke with Director [redacted] on Friday 29 January 2016. He asked for the names of our son's three friends and assured us that he would contact Principal [redacted] immediately regarding this matter as he could see no reason why at least one of our son's friends could not be moved across to our son's class.

Now being in possession of GIPA documentation that includes information relating to the Year 6 2016 class placement of our son, it is clear that Principal [redacted] has deliberately misrepresented the true circumstances associated with this class placement. Principal [redacted] made an executive decision to relocate our son without any duty of care or due diligence for his wellbeing and also without any consultation with [redacted] staff delegated the role of Year 6 2016 class placements.

GIPA documentation received by us includes an email from [redacted] (our son's Year 6 teacher) to Principal [redacted] at 3.45pm on Thursday, 28 January 2016 stating *"... (our son) was in tears this afternoon because he has no friends in the class. Great care was taken last year to place students in classes that were balanced in terms of learning needs, behavioural issues and the emotional/friendship needs of the students. This was compromised by an executive decision to move (our son) without adequate consultation or time to make an informed decision on what else needed to be done to maintain the balance we wanted. With his high needs I am very concerned that this will create continuing issues throughout the year."*

An email from Principal [redacted] to [redacted] Year 6 teachers dated Friday, 29 January 2016 at 3.31pm states *"We are currently in the midst of a particularly complex situation regarding the class placement of (our son). As previously indicated, (our son's) class was changed at the end of last year, at the request of the parent, to be in 6L. (Our son's mother) has since indicated that (our son) is not happy with his class placement as many of his friends are in the other class (something I hadn't considered with the change) and would like this remedied as soon as possible. ... I feel the best option, given the complexities, would be to place (our son) in 6I (Simone's class). ... We are meeting with (our son's mother) on Wednesday at 9am and I will propose this change with her at that time."*

In contrast to the above internal emails, in correspondence received from Director [redacted] dated 24 June 2016 Principal [redacted] states *"I asked [redacted] to rearrange the classes ... to include (our son) into his class. It was reasonable for me to assume that [redacted] ... would take into account friendship groups when rearranging the classes ... although I did not explicitly request for this to occur."*

Principal [redacted] has suggested in emails that the resulting circumstances of our son's class placement were caused by our requesting this class placement change. However, our reference to Principal [redacted] stating that we are

responsible for this situation was responded to by Director [redacted] in his letter of 2 September 2016 that “  
*has also stated that she has no recollection or written correspondence where she is alleged to have said  
parents were responsible ...*”.

These totally incorrect and misleading statements in relation to the true circumstances of the events are now clearly supported by documentation obtained from our GIPA application. We see the above situation clearly shows Principal [redacted] not accepting accountability for our son being placed in a class without any of his core friends by shifting the blame to [redacted] teacher,

These actions and the continued failings by Principal [redacted] to ensure our son’s wellbeing and basic duty of care needs is of serious concern and also raises the very real question as to the ability of the NSW D of E to comply with the Government’s Legislated Procedural requirements.

### **Learning Plan Review Meeting – 3 February 2016**

We attended a scheduled 3 February 2016 Learning Plan Review Meeting. At the request of Director [redacted] Learning & Wellbeing Advisor and [redacted] District Guidance Office were also in attendance. We incorrectly assumed that the first item for discussion would be our son’s 2016 class placement however the Draft Learning Plan was a [redacted] priority.

A voicemail left by Director [redacted] at 7.43am on Wednesday 3 February to us states: “... *I have spoken with and I have seen the proposed plan which I think is better but there is a number of things obviously to go through. I have raised with her too about (our son’s) class and I think she will raise that with you as well about whether the teacher or the peers is the better way to go ... that will all unfold and [redacted] ... will be there and I’ve had a good chat about things too so I am sort of optimistic that it will all happen. I know it hasn’t happened yet but, you know, if you will look at it and have your say and make sure it’s bent the right way ... I’m hopeful ... that it will all work through.*”

Despite Director [redacted] assurances of 29 January 2015 that he would see to this matter, our son endured 5 school days of serious personal turmoil, only to be informed by Principal [redacted] that she would not be “*swapping students between 6I to 6L as it may affect many families*” the only “*option available for the parents to consider is to move (our son) to 6I*”

As a result of intentional delays in dealing with this situation, we were left with no other option but for our son to remain in his current class.

### **Termly Review Meeting – Wednesday, 24 February 2016**

This meeting was the first time we were included in the planning process of our son’s plan. We asked a number of questions of the plan, including questioning a statement recorded in previous minutes as to our requesting the “Syllabus”. In clarifying this matter, we stated that we had never at any meeting questioned or asked for copies of the NSW D of E Syllabus. We had simply asked for relevant “syllabus outcomes”.

We also requested that the Draft Plan included our son's medical diagnosis and needs as stated in Director correspondence of 1 June 2015: "*(Our son's) Personalised Learning Plan (incorporating any risk management, medical and/ or behavioural considerations) should be thoroughly updated as part of this meeting (and promptly following it) and support (our son's) return to school from suspension.* Our request has seen the inclusion of the words "*Diagnosis ASD*" inserted in the header of the Learning Plan. Yet another failure to address recommendations.

In an attempt to discuss/raise our concerns regarding the "heavy words" used in our son's Learning Plan given we felt they were highly questionable goals for a student on the Autism Spectrum, including:

- interact **effectively**;
- **Understand** that;
- **Successfully** manage'; and
- **Confidently** working

The response we received was "don't you want your son to achieve?"

Considering the systematic failings by the NSW D of E to date in relation to our son's needs, this was not what could be considered an "appropriate response".

We again requested that formal funding and support be applied for as stated by our son's medical specialist on numerous prior occasions. Up to this date, all previous requests for any form of funding were denied by Principal [redacted]. However, at this meeting [redacted] agreed to apply for formal funding. The NSW D of E procedures and guidelines for formal funding were not explained to us at this time and we left this meeting believing that, finally, formal funding would be applied for. In fact, "*formal funding*" was not applied for - a "*Learning and Support Student Profiling – Informal Advice*" was submitted to State Office and subsequently approved for our son to be supported from within school resources.

Given this recent knowledge, we are of the firm opinion that the continued refusal of Principal [redacted] to apply for any form of funding for the preceding two years, was due to the fact that Principal [redacted] knew she would be required to use [redacted] discretionary funding.

Some ten months after this meeting and following many requests by us for a copy documentation, including the formal funding application, it was finally explained to us by [redacted] on 8 November 2016 that formal funding could not be applied for if State Office deemed the "*student should be supported from within school resources*". We were essentially "led up the garden path" into believing that formal funding had been applied for when it never was.

We also asked what training NSW D of E staff received regarding working with students on the Autism Spectrum. Our question was not answered, however [redacted] stated that it would be "*ideal*" for all [redacted] staff to complete an online training program.

We again requested copies of all documentation used to preparing our son's Individualised Learning Support Plan dated 4 December 2015 which was first presented to us on 9 December 2015. Principal [redacted] stated that she would seek advice from Legal Branch as some documentation is only available through the GIPA process.

Only after a telephone conversation on 21 April 2016 with Director [redacted] was this documentation finally made available to us by way of informal release on Friday, 6 May 2016, some six months after our initial request.

**Letter from Director**

**dated 20 May 2016 and 25 May 2016 Learning Planning Review Meeting**

In correspondence received from Director dated 20 May 2016, he states:

*“At present, [redacted] advises that (our son) currently receives support from a School Learning Support Officer (SLSO) in the classroom on Tuesday afternoons for 40 minutes and in the playground at lunchtime on Wednesdays and Thursdays for twenty minutes. [redacted] also advises that SLSO’s are also available to assist (our son) at other times.*

*However, by the way of further clarification, I am recommending some systems improvements for attention and action:*

- ✓ *That a [redacted] policy for student class placement across each year be collaboratively devised and published after appropriate staff consultation. The aim is to clearly articulate the evaluative process and student well-being process involved and the key responsibilities and roles of relevant staff leaders. This will assist in establishing checks to ensure appropriate and supportive combinations of peers are placed together in all classes.*
- ✓ *That a [redacted] Student Welfare policy carry a brief section for how any student’s Individualised Learning Support Plan is devised and revised at [redacted]*
- ✓ *That the Department of Education’s Wellbeing Framework for schools be explicitly integrated into the required elements of the [redacted] Student Welfare Policy.*
- ✓ *That in an upcoming newsletter in Term 2 2016, a more detailed discussion of the school’s Student Wellbeing Policy and its links to the Department’s recently released ‘Wellbeing Framework for Schools’, be included by a relevant staff member.*
- ✓ *That all ‘targeted (individual student) funding’ review meetings with parents at the school occur separately to any meeting around the ‘low level adjustment for disability’ funding plans for students. In this instance, this requires the school’s internal communication system to clearly note (our family’s) termly review meetings for their son as separate and recurring termly arrangements in 2016. Significantly, upcoming termly review meetings are scheduled for 25 May 2016, 17 August 2016 and 9 November 2016.”*

In response to Director [redacted] letter of 20 May 2016 we noted in our letter of 3 June 2016 that *“it would appear that there are significant inconsistencies in what [redacted] has reported to you. [redacted] states that (our son) receives SLSO support in the classroom on Tuesday afternoons for 40 minutes and in the playground on Wednesdays and Thursdays for 20 minutes. In (our son’s) Individualised Learning Support Plan dated 18 May 2016 (page 3) it states that (our son) receives support “transition back to class after recess and lunch (10mins); SLSO support at specified times throughout the week and support is also available at other times when needed”. In the minutes from the meeting on 25 May 2016, it would suggest that (our son) receives playground support on Tuesday and Wednesday, but there is no specific SLSO support for (our son), however the SLSO is there for a number of students.*

*There appear to be 3 particular versions of (our son’s) SLSO support. Please clarify which one is accurate, so that (our son) can have a clear understanding of the support that he receives and on which days.”*

When we asked Principal [redacted] to explain to us what specific support our son was receiving given his *“SLSO support in the classroom on Tuesday afternoons for 40 minutes ...”* she responded that it was not 40 minute direct time but the time is actually *“accumulative”*. We were unable to comprehend her explanation of the *“40 minute”* time allocation and after seeking further clarification from Principal [redacted] she replied that *“it is your interpretation”*. Any attempt to explain/understand this scenario without confusion is almost impossible. We left this meeting totally confused as to what, if any, SLSO time our son was receiving.

Despite the above correspondence from both Director [redacted] and Principal [redacted] as to the allocation of discretionary funding, our son was failed yet again by the Department of Education. Receiving none of the stated SLSO support or funding for not only the remainder of term two and term three but for the remainder of his 2016 schooling at [redacted]

**Meeting With Director [redacted] – 31 May 2016 & His Written Statements**

On 31 May 2016 (our son’s mother) meet with Director [redacted] to discuss our continuing concerns regarding to ongoing significant failings involving our son. Subsequent correspondence received from Director [redacted] following our meeting states *“there are recommendations that improve systems for all future students in the school beyond (our son), like class placement policies. Unfortunately, this particular recommendation will not assist a Year 6 student like (our son) who is already in an established class in the middle of his final year at the school, but will improve school procedures and policies for the future.*

Director [redacted] above statement clearly indicates to us that although Principal [redacted] failed to implement appropriate processes at [redacted] resulting in immeasurable and unnecessary trauma and harm to (our son) and his family, it is deemed *“acceptable”* because future [redacted] students beyond our son will benefit.

This is not what a parent needs or wants to hear from a high level NSW D of E Employee. We are pleased that processes have finally been implemented at [redacted] however, at the continued detriment and wellbeing of “our son” is unacceptable.

Director [redacted] also states *“At present my recommendations around support, funding status, well-being policies and student reviews will assist all students, including (our son). (Our son) has had his funding reviewed and improvements have been made.”*

Director [redacted] above recommendation around support and funding for (our son) were never implemented as stated above. Continued delays in the implementation of many of Director [redacted] recommendations have failed to be of any benefit to (our son) and the above statement by Director [redacted] is a misrepresentation of the true circumstances of the situation.

The above statements of Director [redacted] further reinforce our concerns in relation to the NSW D of E, specifically compliance to legislative requirements. This includes Director [redacted] incorrect statement that (our son) *“... has had his funding reviewed and improvements have been made”* as any requests for funding have continually been denied by Principal [redacted] since her commencement at [redacted]

**Out of Area High School Applications for 2017**

Despite assurances given by Director [redacted] in the upholding of (our son’s) suspension appeal stating *“I would like to acknowledge that in my conversations with [redacted] he has given an undertaking to work with [redacted] to ensure the school implements the recommendations as outlined in his correspondence to you dated 1 June 2015, including working with you to plan your son’s smooth transition into high school into 2017.*

No support or assistance was forthcoming from Principal [redacted] in the process of High School selection for (our son). In fact, it was quite obvious the opposite was in play. Principal [redacted] failed to even sign, in her capacity as primary school principal, (our son’s) High School Expression of Interest let alone making any comments in support of our Expression of Interest prior to [redacted] forwarding this documentation to our nominated High Schools, and [redacted]

This is despite Principal \_\_\_\_\_ statement that she *“has earnestly and warmly undertaken to continue to work closely with you for the betterment of (our son).”*

We were subsequently notified that our Expression of Interest was rejected by both High Schools. (Our son’s) enrollment application was rejected by \_\_\_\_\_ on the grounds of out of area placement and \_\_\_\_\_ on the grounds that they were our *“Choice 2 school”*.. We were genuinely surprised by these rejections.

On two separate occasions we have asked Director \_\_\_\_\_ for clarification as to why Principal \_\_\_\_\_ failed to sign our son’s Expression of Interest in her capacity as *“primary school principal”* especially given her above undertaking. We also asked Director \_\_\_\_\_ why Principal \_\_\_\_\_ did not *“include comments to assist secondary school principals make placement decisions”*. To date we have received no reply to either of our request from Director \_\_\_\_\_

Following a discussion with Director \_\_\_\_\_ on Friday, 10 June 2016 regarding Principal \_\_\_\_\_ failure to sign our son’s Expression of Interest, he recommended we submit a letter of appeal to \_\_\_\_\_ ensuring our letter met all non-local criteria with a view to seeking a review of the Panel’s decision. On 22 June 2016 we received correspondence from \_\_\_\_\_ advising our appeal was unsuccessful.

In support of our son’s High School application, his treating child, adolescent & family psychiatrist, \_\_\_\_\_, provided us with a letter dated 15 June 2016 in strong support of our two preferred High Schools. In his letter, \_\_\_\_\_ makes the following points regarding (our son):

- *“(Our son) has not found it easy to form connections and to make friends, but has made some connections with peers over the few years. (Our son) is a child who is reserved and a little separate/different, and his cohort in primary school have come to know him, and him them, over time. As you know, a lot of the children from \_\_\_\_\_ are progressing to your school, including some particular children known to (our son) and I feel that it would greatly benefit (our son) to continue with this cohort.*
- *(our son), like many children with Aspergers Disorder, is strongest and happiest when on familiar territory, and finds change difficult. He would benefit from the familiarity and proximity of your school to his previous school, and that which his younger brothers will continue to attend.*
- *(Our son) is likely to need more support than the average high school child for transport to/from school and connection with school. His family is dealing with the stress of raising 4 children. In tat regard, the proximity between our son’s high school and the younger boys’ primary school would be of great benefit to his family.*
- *(Our son) experiences significant anxiety, and is happiest and engages with learning best when he is less anxious. Being with people and in the place that are more familiar, and in the context of less family morning and afternoon stress, will be of great benefit to him.”*

In Director \_\_\_\_\_ letter to us of 2 September 2016 he states *“At this time I would encourage you to make an appointment to visit your local high school, \_\_\_\_\_, and discuss (our son’s) enrolment with \_\_\_\_\_ . I have contact \_\_\_\_\_ and his office who are happy to be contacted by you ...”*

The NSW D of E, \_\_\_\_\_ has yet again failed to act compassionately and appropriately in actioning (our son’s) disability needs, continuing to disregard medical advice and recommendations, directly associated with his transition to High School and his individual schooling needs.

The NSW D of E, \_\_\_\_\_ has, without doubt, ensured the NSW D of E Out of School Area process excluded (our son), an action that raises serious concern as to Director \_\_\_\_\_ commitment given to Director \_\_\_\_\_ as

noted in her letter dated 12 Feb 2016: "... including working with you to plan (our son's) smooth transition into high school into 2017".

Clearly no attempt was or had been made by either Director [redacted] Principal [redacted] or the NSW D of E ensuring that anything ran smoothly for our son, including his transition into High School.

As noted by [redacted], our son "is happiest and engages with learning best when he is less anxious." We were, and continue to be of the view, that it is imperative for our son to begin and continue his high school journey in an accepting, inclusive and caring environment together with the knowledge that some of his [redacted] friends would be attending the same high school. To this end, we applied for and were accepted into [redacted].

### **EPAC Investigation re November 2013 Restraint & Containment Incident**

On 16 September 2016 we received an email from [redacted] EPAC Directorate, Department of Education advising "EPAC is in the process of reviewing information about a matter referred by Director [redacted]"

On 19 September 2016 we received further correspondence from [redacted] stating "Following on from our phone call on Friday, I was hoping you might be able to provide me with some further information, In particular, I am wanting to get some further details about the incident in 2013 in which you have referred to (our son) being physically restrained. I would like to clarify whether this was one incident, or two, and whether there are any other instances in which you are concerned (our son) was physically restrained."

We complied with this request and responded to all questions.

On 9 November 2016 we received the following correspondence from [redacted] Employee Performance and Conduct:

*"I refer to previous emails regarding the allegation that in November 2013 your son, (our son restrained in a classroom by two staff members and that this was inappropriate and unnecessary. The Employee Performance and Conduct Directorate (EPAC) has undertaken extensive enquiries in relation to this matter. It is understood that (our son) was kept in a classroom accompanied by two staff, in response to a preceding incident in the playground between (our son) and another student. It appears that at no time was (our son) left unattended in the classroom. It is understood staff believed (our son) may cause harm to another student or to himself, and that this action was the least restrictive option available. It has been assessed that the action taken was reasonable for the purposes of care and management to ensure the safety of (our son) and other students. It has been determined that the conduct does not fall within the definition of reportable conduct. EPAC has now finalised its consideration of this matter."*

In our opinion as noted previously in this submission, the above advice received from EPAC is not a full and thorough investigation into this incident. At a minimum, there is no reference to the failings of the on-duty playground teacher.

In an email from [redacted] to Director [redacted] dated 9 November 2016 obtain by us via our GIPA Application, [redacted] states: "Due to the lack of records maintained by the school in relation to this incident, it is recommended that you provide clear advice to the school regarding the need to document and retain records in relation to such incidents."

The above statement by [redacted] once again highlights the lack of implementing and following appropriate NSW D of E policies and procedures.

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